

**CHARTER TOWNSHIP OF BREITUNG**

**ARTICLE IV  
GENERAL REGULATIONS**

**Section 401 Height, Bulk and Placement Regulations**

Except as otherwise specifically provided in this Ordinance, no structure shall be erected or maintained between any lot line and the pertinent setback distance listed below in the Schedule of Regulations and no structure shall be erected or maintained which exceeds the height limit specified below.

<b>Schedule of Regulations</b>							
Zoning Districts	Min. Lot Size (sq. ft.)	Min. Lot Width (feet)	Minimum Set Backs (feet)			Max. Height (feet)	Min. Building Width (feet)
			Front	Side	Rear		
R-1	20,000 <sup>A</sup>	100	30	10 <sup>B</sup>	10 <sup>C</sup>	30 <sup>D</sup>	20
RR-1	1 Acre <sup>F</sup>	150	40	30 <sup>B</sup>	30 <sup>E</sup>	30	20
<b>RR-2</b>	<b>2.5 Acres <sup>F</sup></b>	<b>200</b>	<b>40</b>	<b>30<sup>B</sup></b>	<b>30<sup>E</sup></b>	<b>30<sup>D1</sup></b>	<b>20</b>
<b>RR-3</b>	<b>5 Acres <sup>F</sup></b>	<b>300</b>	<b>40</b>	<b>30<sup>B</sup></b>	<b>30<sup>E</sup></b>	<b>30<sup>M</sup></b>	<b>14<sup>L</sup></b>
SP	10 Acres <sup>F</sup>	300	40	40	35 <sup>G-1</sup>	30	20
RP	10 Acres <sup>F</sup>	300	40	30	30	30 <sup>M</sup>	14 <sup>L</sup>
C-1	20,000	100	30	<sup>J</sup>	30	30	14 <sup>L</sup>
C-2	20,000	100	30	<sup>J</sup>	30	30	14 <sup>L</sup>
I	1 Acre	150	40	<sup>J</sup>	20	<sup>K</sup>	14

- A. Minimum lot size is 10,800 square feet where either municipal water or sewer service is provided to the lot. No more than 30% of the lot area may be covered by buildings. On lots less than 20,000 square feet the setbacks shall be reduced to 25' minimum front, 6' minimum side and 6' minimum rear. The minimum lot width shall remain 100 feet.
- B. An accessory building or structure may be located 6 feet from a side lot line.
- C. An accessory building or structure may be located 6 feet from a rear lot line.
- D. An accessory building or structure shall not exceed 18 feet in height.**
- D<sub>1</sub>. An accessory building or structure shall not exceed 18 feet in height where the property abuts a watercourse or a body of water.**
- E. An accessory building or structure may be located 20 feet from a rear lot line.
- F. For unplatted lots of large lot size (5 and 10 acres), the determination of a lot size when it adjoins a road shall be made as if the road was part of the lot in question. For example, if a 10 acre parcel fronting on a road loses one-half acre in the road right-of-way, the parcel size is 9.5 acres. However, the lot will still conform to the 10 acre minimum lot size requirement.
- G. Customary accessory buildings or structures may be located 30 feet from a rear (waterside) lot line.

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- H. Where the property abuts a watercourse or a body of water, the waterside is the rear lot line.
- I. Where the property abuts a watercourse or body of water, the rear setback shall be 250 feet.
- J. ***No minimum, however, all structures shall be provided with or otherwise guaranteed, access to their rear yard, with a minimum of 12 feet clear and unobstructed access way or easement which may be provided by an alley.*** Setbacks from the existing residential parcels shall be: 50 feet for all buildings; 25 feet for driveways, entrances or exits; and 10 feet for all parking areas.
- K. Height at any point on a structure shall not exceed the horizontal distance to any lot line.
- L. ***All mobile homes shall meet or exceed the 1993 HUD standards for mobile homes.***
- M. Agricultural use buildings such as silos, etc., are exempt from the 30' maximum providing that airport zones are not violated.

### Section 402 Depth to Width Ratio

Lot width shall be measured at front setback line and shall not include any perimeter encumbrances, easements or other such restrictions the use of which is restricted and non-usable to the owner or occupier of the land in question. The purpose of this provision to obtain the maximum depth of properties in connection with the required maximum depth to width ratio shall be four to one regardless of actual lot size.

### Section 403 Minimum Building Floor Area

***Every single/two-family dwelling, excluding recreational structures, shall have a floor area of not less than 840 square feet, exclusive of basements, garages, porches and breezeways. Every unit in a multiple family dwelling shall have a minimum floor area of at least 500 sq. ft.***

### Section 404 Accessory Buildings and Uses

Where a lot is devoted to a permitted principal use, customary accessory uses and buildings are authorized except as prohibited specifically or by necessary implication in this or any other ordinance. The following special rules are applicable:

- (A) An accessory building, including carports, attached to the principal building shall be made structurally a part thereof, and shall comply in all respects with the requirements of this Ordinance applicable to the principal building. Breezeways, as an attachment between the garage or carport and the main building, shall be considered a part of the main building, but shall not be considered livable floor space.
- (B) An accessory building, unless attached and made structurally a part of the principal building, shall not be closer than ten feet to any other structure on the lot.
- (C) The floor area of accessory buildings located within Districts R-1, RR-1, **RR-2** and SP, shall not exceed the ground floor area of the main building. Zoning certificates are required for sheds and accessory structures above 192 S.F. (Adopted 5/28/02)
- (D) An accessory building, unless attached and made structurally a part of the principal building, may not be located in the front yard within Districts R-1. Accessory buildings located in the front yard within Districts RR-1, RR-2, , RR-3 and SP require a

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Conditional Use Permit. Accessory buildings are permitted to be located in the front yard within Districts RP, C-1, C-2, and I.

- (E) *A semi-trailer, mobile home, travel trailer or other recreational vehicle shall not be used as a storage facility in R-1, RR-1, RR-2, RR-3, SP and RP Districts, except on a temporary basis during a construction period.*

Section 405 Home Occupations

Customary home occupations are authorized upon application for and issuance of a Conditional Use Permit as provided for in Article VII. In addition, home occupations shall meet the terms as identified.

(A) **Within Districts R-1, RR-1, RR-2, RR-3 and SP:**

1. Home occupations shall be located within the principal dwelling unit. The use of the dwelling units for home occupation shall be clearly incidental and subordinate to its use for residential purpose by its occupants. Such home occupation shall not use more than 25 percent of the usable floor area of the dwelling for the conduct of a home occupation.
2. Home occupations shall employ only those members of the family residing on the premises and not more than one outside employee.
3. There shall be no outdoor storage and there shall be no exterior evidence of the conduct of home occupations, other than an approved sign.
4. Specifically excluded are the storage, display and sale of merchandise not produced by such home occupations.
5. No traffic shall be generated by such home occupation in greater volumes than would be normally expected in that residential neighborhood, and any need for parking generated by the conduct of such home occupation shall *meet the requirements of this ordinance*.
6. No equipment or processes shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.
7. A sign advertising the home occupation shall not exceed six square feet and shall not be illuminated or have working parts *and shall not interfere with vision of persons exiting the building*.

(B) **Within Districts RP:**

1. *Home occupations shall employ only those members of the family residing on the premises and not more than one outside employee.*
2. *There shall be no outdoor storage and there shall be no exterior evidence of the conduct of home occupations, other than an approved sign.*
3. *Specifically excluded are the storage, display and sale of merchandise not produced by such home occupations.*
4. *If the home occupation is conducted in an accessory building, it shall not exceed 14 feet in height, and shall occupy not more than 300 square feet of said accessory building.*

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5. *No traffic shall be generated by such home occupation in greater volumes than would be normally expected in that residential neighborhood, and any need for parking generated by the conduct of such home occupation shall meet the requirements of the ordinance.*
6. *The use of the dwelling unit for home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and if such home occupation is conducted in the principal dwelling, not more than 25 percent of the usable floor area of the dwelling shall be used in the conduct of home occupation.*
7. *No equipment or processes shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.*
8. *A sign advertising the home occupation shall not exceed six square feet (2' x 3' or 1' x 6') and shall not be illuminated or have working parts.*

### Section 406 One Principal Structure or Use Per Lot

No more than one principal structure or use may be permitted on a lot, unless specifically provided for elsewhere in this Ordinance.

### Section 407 Variance of Requirements for Lots of Record

Minimum lot size and lot width regulations do not apply to any nonconforming parcel of land shown as a lot in a map recorded with the County Register of Deeds, or described in a deed or land contract or lease agreement which has been perpetual, executed together with an affidavit or acknowledgment of a Notary Public, prior to the effective date of this Ordinance, and which lot actually exists as shown or described. No vested right shall arise to the property owner for any parcel created in violation of any preceding Breitung Township Zoning Ordinance.

- (A) Allocation and Reduction of Lot Area: No portion of a lot shall be used more than once in complying with the provisions for lot area and yard dimensions for construction or alteration of buildings.

No setback area or lot existing at the time of adoption of this Ordinance shall be reduced in dimensions or area below the minimum requirements. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established herein.

- (B) Height Requirement Exceptions: The following are exempted from height limit requirements, provided that no portion of the excepted structure may be used for human occupancy:

1. Those purely ornamental in purpose such as church spires, belfries, domes, ornamental towers, flagpoles and monuments;
2. Those necessary appurtenances to mechanical or structural functions, such as chimneys and smokestacks, water tanks, radio towers, television antennas and satellite dishes, wire transmission structures, and cooling towers;
3. Public utility structures; and

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4. Agriculture related structures such as barns, silos, elevators and the like.

(C) Access Through Yards

Access drives may be placed in the required front, side or rear yards so as to provide access to accessory or attached structures. Further, any walk or other pavement serving a like function shall not be considered a structure and shall be permitted in any required yard.

Section 408 Use of Yard or Open Space

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In a residential district it is prohibited to use the open space surrounding a dwelling for the open air parking, disposition, storage, wrecking, dismantling, accumulation or abandonment, either temporary or otherwise, of disused, discarded, worn out, wrecked, or dismantled vehicles, machinery, implements, apparatus, furniture, appliances, junk, or any other personal property.

**Section 409 Off-Street Parking Requirements**

***Off-street parking shall be provided for motor vehicles, and the minimum number of parking spaces to be provided is shown in the following list. These parking spaces must be located to assure clear vision areas at street intersections and be located in a manner that will not create a traffic problem.***

<b><i>Parking Requirements</i></b>	
<b><i>Land Use</i></b>	<b><i>Space Required</i></b>
Single and two family dwelling, recreational structures	2 per dwelling unit
Mobile/manufactured home parks	2 per dwelling unit
Rooming houses, fraternities, sororities, dormitories, convalescent homes and housing for the elderly	.4 times maximum lawful number of occupants
Hotels and motels	1.2 per room in addition to spaces required for restaurant facilities
Apartments and townhouses	2 per dwelling unit
Churches, theaters, facilities for spectator sports, auditoriums, concert halls	.35 times the seating capacity
Golf courses	7 per hole
Barber shops and beauty parlors	2 plus 1.5 per chair
Bowling alleys	5 per lane in addition to spaces required for restaurant facilities
<b><i>Day-care centers</i></b>	<b><i>2 per dwelling unit plus 1 additional space per 5 children of licensed authorized capacity</i></b>
<b><i>Fast food take-out establishments, drive-in restaurants</i></b>	<b><i>1 per 150 square feet of floor space plus 1 space per 2 employees per shift, plus a minimum of spaces stacking capacity if a drive thru exists</i></b>
<b><i>Restaurants (except drive-ins)</i></b>	<b><i>1 per 150 square feet of floor space plus 1 space per 2 employees per shift</i></b>
<b><i>Furniture and appliance stores</i></b>	<b><i>1 per 300 square feet of floor space</i></b>
<b><i>Household equipment, carpet and hardware stores, repair shops including shoe repair, contractor's showrooms and other, museums and galleries</i></b>	<b><i>1 per 200 square feet of floor space</i></b>
Funeral parlors	1 per 50 square feet of floor space
Gas stations	1 per pump, plus 2 per lift (in addition to stopping places adjacent to pumps)
Automotive service centers	1 per employee plus 2 per service bay
<b><i>Laundromats</i></b>	<b><i>1 per washing machine</i></b>

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<i>Parking Requirements</i>	
<i>Land Use</i>	<i>Space Required</i>
Doctor's and dentist's offices	1 per 100 square feet of waiting room area and 1 per doctor or dentist
<i>Banks</i>	<i>1 per 300 square feet of floor space</i>
<i>Warehouses</i>	<i>1 per 1,500 square feet of floor space or 1 per employee at peak shift, whichever is greater</i>
<i>Retail stores and service</i>	<i>1 per 200 square feet of floor space and outdoor sales space</i>
Offices	1 per 300 square feet of floor space
<i>Other businesses and industrial uses</i>	<i>.75 times the maximum number of employees on the premises at any one time</i>

Where calculation in accordance with the foregoing lists results in requiring a fractional space, any fraction less than one-half shall be disregarded and any fraction of one-half or more shall require one space.

Required off-street parking shall be provided on the lot or adjacent to which it pertains.

The use of any required parking space for the storage of any motor vehicle for sale, or for any other purpose other than the parking of motor vehicles is prohibited.

***Within each parking lot, signed and marked barrier free spaces measuring twelve (12) feet in width shall be provided at a convenient location, in accordance with the following table.***

***Barrier Free Parking Space requirements shall be in accordance with the Michigan Department of Labor, Construction Code Commission, Barrier Free Design Division.***

<i>Total Spaces</i>	<i># Required</i>	<i>Total Spaces</i>	<i># Required</i>
<i>1-25</i>	<i>1</i>	<i>101-150</i>	<i>5</i>
<i>26-50</i>	<i>2</i>	<i>151-200</i>	<i>6</i>
<i>51-75</i>	<i>3</i>	<i>201-300</i>	<i>8</i>
<i>76-100</i>	<i>4</i>	<i>301-400</i>	<i>12</i>

Section 410 Required Planting Screens

In Districts General Retail (C-1), Commercial/Light Industrial (C-2), and Industrial (I), wherever any parking lot, trash collection, outdoor storage, merchandising, or service area lies within 50 feet of any Residential (R-1), Rural Residential (RR-1 or RR-2) or Scenic Preservation (SP) Districts, or adjoins a residential dwelling within the C-1, C-2, or I Districts, ***a screen of vegetation or opaque fencing*** shall be required except where the view is blocked by a change in grade or other natural or man-made features.

Section 411 Planting Screen Specifications

All planting screens required by this Ordinance shall consist of plants, at least 30 inches high when planted, maintained in a healthy condition and so pruned as to provide maximum opacity from the ground to a height of five feet.

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### Section 412 Parking Lot Planting

*Off-street parking areas containing ten (10) or more parking spaces shall be provided with landscaping in accordance with the following regulations:*

- (A) *The parking area shall have a minimum of 30% landscaped green space, exclusive of fire lanes and traffic ways. Landscaped green space shall be deemed to be at a minimum: lawn, trees or shrubs or a mixture of the three.*
- (B) *Other materials may be substituted with the approval of the Planning Commission or Building Inspector.*
- (C) *The following varieties of trees are prohibited in meeting the requirements of this Ordinance: poplars, willows, American elm, seed-bearing locusts, and box elders. All plant materials shall be kept pruned to maximize visibility through them.*

### Section 413 Time of Completion

All plantings required by this Ordinance shall be installed prior to occupancy or commencement of use. Where compliance is not possible because of the season of the year, the Zoning Administrator shall grant an appropriate delay. Any Zoning Compliance Permit may be revoked, after 30 days written notice to the person assessed for taxes on the affected lot and to the occupant, whenever plantings are not maintained as required in this Ordinance.

### Section 414 Waterfront Setback

All structures on lots abutting any body of water, as defined in Act No. 346 of the Public Acts of 1972, including, but not limited to, inland lakes, rivers, streams, and impoundments, shall maintain a minimum setback of 75 feet in *the RR-2 District* or 250 feet in the SP District as measured from the river's bank or lake's bluff line.

The part of that setback which lies within 30 feet of the water's edge shall be maintained in its natural condition. Trees and shrubs in a space 50 feet wide may be trimmed or pruned for a view of the fronting waters and for access thereto. No change shall be made in its natural grade. A lot shall be regarded in its natural condition when there is at least one tree or shrub having a height of at least 15 feet for each 100 square feet of area thereof in wooded areas or sufficient natural ground cover in open areas. All uses shall be subject to this setback except private bathing facilities, saunas, storage sheds, and associated facilities, as permitted within the district, shall maintain a minimum setback of 30 feet as measured from the river's bank or lake's bluff line.

### Section 415 Mineral Extraction

*Mineral extraction is regulated by the State of Michigan by Act No. 451 of the Public Acts of 1994, the Natural Resources and Environmental Protection Act, and Part 631 and Part 632, as amended. As used in this part, "Mineral" means any substance to be excavated from the natural deposits on or in the earth for commercial, industrial or construction purposes, including gypsum, limestone, dolostone, sandstone, shale, metallic mineral or other solid materials. Mineral does not include clay, gravel, marl, peat, inland sand or sand mined for commercial or industrial purposes from sand dune areas regulated by Part 637.*

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**Section 416 Application for Sand and Gravel Extraction Permit**

***It is the intent of these regulations to provide for the proper environmental management during the site planning, operational and reclamation stages of sand and gravel pits and to provide for the right to extract from and operate sand and gravel pits where located, provided the standards, regulations and conditions set forth in this Ordinance are met.***

***The applicant shall submit the following documents, including a cover letter with the signature of the applicant or the applicant's authorized agent to the Zoning Administrator.***

**(A) Site Plan Requirements: A Site Plan at a scale adequate to illustrate the proposed operation shall include:**

1. A legal description of the lot; the name, address and telephone number of the owner, developer and designer;
2. Date, north point, and scale;
3. The actual dimensions of the proposed developed area (as shown by a surveyor or engineer, with the survey stakes visible) showing the relationship of the subject property to abutting properties;
4. The location of all existing and proposed structures on the subject property and all existing structures on land immediately adjacent to the site within 100 feet of the sites parcel lines;
5. The location of all existing and proposed drives and parking areas;
6. The location of right-of-way widths of all abutting streets, alleys, and private easements;
7. The location of proposed planting and screening, fencing, signs and advertising features;
8. The height and floor area of all proposed structures;
9. The size and location of all existing and proposed public and private utilities and required landscaping;
10. Proposed location, area extent, estimated depth of excavation;
11. Proposed location of any other permanent or temporary facilities used in extraction;
12. Describe the general groundwater conditions and the possible impact of mining operations upon adjacent groundwater levels and quality. The operator must identify plans to alleviate possible problems in the groundwater supply to adjacent landowners.
13. Any other information necessary to establish compliance with this Ordinance.

**(B) Operation Plan Requirements**

1. A narrative description outlining the estimated time span which the operation will cover; the type of material to be extracted; the type of mining operation and processing equipment to be used; measures to control noise, vibration, and pollution from the operation; ***negative effects*** on groundwater condition; proposed travel routes to be used to transport the mined material to processing plants or markets, and the proposed steps to be taken to relieve adverse effects.
2. ***Sight buffers as reasonable and practical along all boundaries of the mining operation that abut R-1, RR-1, RR-2 or RR-3 zoning districts. These buffers***

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*shall be so constructed as to screen the mining operation from view and protect individuals from injury.*

3. The following techniques may be used, but not limited to the following screening methods:
    - a. Buffer Zone: An area of sufficient depth as to screen the operation from view from adjoining properties.
    - b. Earth Berms: Earth berms, constructed to a height of at least six feet above the mean elevation of the center line of the public highway adjacent to the mining property, or six feet above the general level of terrain along property lines. These berms shall have slopes not in excess of one foot vertical to three feet horizontal, and shall be planted with trees and shrubs.
    - c. Plantations: Plantations of coniferous or other suitable species in rows parallel to the boundaries of the property with the spacing of rows and the spacing of trees in the rows sufficient to provide effective screening.
    - d. Fencing: Solid fences or masonry walls constructed to a height of six feet and inconspicuous as compared to color.
  4. A description of the measures to be taken to assure that any dangerous excavations, pits, pond areas, banks, or slopes be adequately guarded or fenced and posted with signs to prevent injury to individuals.
  5. Identify plans for utilities, access roads, drainage, traffic plans, and other site improvements showing appropriate measures that have been, are, or will be provided.
- (C) Reclamation Plan Requirements: A reclamation plan shall include a map and description showing:
1. Final grading, final slope angles not in excess of one foot vertical to three feet horizontal, wall reduction, benching and terracing of slopes, slope stabilization and revegetation, erosion control, alternative future land uses ***and returning land to a condition that can appropriately be used within the guidelines of existing zoning districts.***
  2. Description of topsoil stripping and conservation during storage and replacement.
  3. Plan and description of anticipated final topography, water impoundments, and artificial lakes on property.
  4. Plans for disposition of surface structures, roads, and related facilities after cessation of mining.
  5. A timetable for completion of reclamation requirements.
- (D) ***The Planning Commission, when deemed necessary, shall require the applicant to post a bond for compliance with the Township Clerk, the amount of said bond to be determined by the Planning Commission to insure that all provisions of this Ordinance are complied with.***
- (E) ***No sand and gravel extraction shall be undertaken without first obtaining a sand and gravel permit from the Charter Township of Breitung Planning Commission and upon payment of a reasonable fee established by the Township Board. The Zoning Administrator, upon receipt of the application for a sand and gravel extraction permit, shall provide them within 30 days to the Planning Commission for their review and***

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*action. The Planning Commission shall review the application for mineral extraction permit at a public hearing to be scheduled and in accordance with the provisions of Sections 417 and 1002 and approve, approve with conditions, or reject the sand and gravel extraction permit with explanation. If any of the application information is available in the form of an Environmental Impact Assessment or other appropriate documents that are required to be submitted to various County, State and/or Federal agencies, a copy of that information may be submitted in place of appropriate sections.*

- (F) *All new sand and gravel pits established after the adoption of this Ordinance must have an extraction permit on file with the Zoning Administrator.*
- (G) *Mining and mineral extraction permits shall be reviewed on a five (5) year basis. Permits may be revoked if not in full compliance with all ordinances, laws, regulations and conditions applicable to the current permit, including site, operation and reclamation plans. The review process shall include the updating of the information and requirements set forth in this Section as well as compliance with the standards established in this Ordinance.*

### Section 417 General Standards

The Planning Commission shall review the particular facts and circumstances of each Application for a Mineral Extraction Permit in terms of the following standards and shall find adequate evidence showing that the proposed use:

- (A) Will be harmonious with and in accordance with the general policies or with any specific objectives of the Comprehensive Plan;
- (B) Will provide adequate site drainage so that waters will not adversely affect neighboring properties;
- (C) Will not be hazardous or cause serious consequences to existing neighboring uses, including, but not limited to, its affect from noise, traffic, smoke, fumes, glare, or odors;
- (D) Will be served adequately by essential public facilities and services;
- (E) Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community; and
- (F) Will protect the public health, safety and welfare of the community.

### Section 418 Fence Regulations

- (A) Intent and Purpose: It is hereby determined that regulation of the placement, size and construction of fences is necessary to prevent hazards to life and property; protect and preserve the general character of residential neighborhoods and waterfront areas; to ensure the continued attractiveness of the community as a whole; to protect the general health, safety and welfare of the community by preserving visibility for vehicles, pedestrians, and children on our public streets, sidewalks and right-of-ways.
- (B) General Regulations:
  - 1. Location: All fences must be located on the property of the owner constructing them, unless adjoining property owners jointly sign a letter stating the agreement to construct and maintain a fence on the property line.

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The owner of a fence or visual screen, consisting of materials requiring painting, staining or other significant periodic maintenance, shall be the responsible for all maintenance of the fence.

No fence shall be permitted to encroach upon a public right-of-way, such as a street or alley.

Hedges or living fences shall be maintained so as not to encroach upon neighboring properties, sidewalks, right-of-ways or hinder the vision of a vehicle driver.

- 2. Materials: For all fences and walls erected after the effective date of this amendment, the finished face of such fence or wall shall face outside the property, with any visible posts or supports being located inside of the fence or wall.

~~Fences within or abutting a residential area shall not contain barbed wire, electric current, chain link type fence with sharp wire edges exposed, or any other materials with sharp protruding points or edges.~~

~~All fences shall be constructed so that should a fire occur on the premise, Firemen shall have access.~~

- ~~3. Swimming Pools: All swimming pools shall be enclosed by a solid wall or fence, chain link fence or wrought iron fences having vertical bars of at least one half inch diameter, spaced no farther apart than four inches.~~

~~No portion of the wall or fence shall have an open area exceeding four inches vertically or horizontally.~~

~~The wall or fences shall not be less than five feet, nor more than six feet in height.~~

~~All gates shall have self latching latches, which shall be not less than four and one half feet above the ground to be inaccessible to small children from the outside.~~

- 4. Construction Sites: All open excavations, foundations and basements shall be fenced when unattended until filled or completely enclosed.

- 5. Clear Vision Areas: Clear vision areas shall be maintained at all intersections of public roads, alleys and driveways.

***Fences and visual screens shall not exceed 4 feet in height within 25 feet of the intersection of corner lot lines or within 15 feet of a driveway intersection with a lot line to provide visibility for vehicles.***

(C) Zoning District Regulations

**R-1 and RR-1 Zoning Districts**

Maximum Height of Fences in Feet (From Grade)		
Front Yard	Side Yard	Rear Yard
4	6	6

***Fences shall not exceed 4 feet in height within 30 feet of a water body to preserve the visual appearance of the waterfront area.***

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Fences, within the RR-1 district, for containing horses and livestock that abut a residential property may consist of barbed wire or be electrified, provided obvious and adequate warning signs are placed on the fence.

**RR-2, RR-3, RP and SP Zoning Districts**

Maximum Height of Fences in Feet (From Grade)		
Front Yard	Side Yard	Rear Yard
4*	6	6

\*Fences enclosing agricultural lands may be 6 feet.

Fences for containing horses and livestock that abut a residential property may consist of barbed wire or be electrified, provided obvious and adequate warning signs are maintained on the fence.

**C-1, C-2 and I Zoning Districts**

Maximum Height of Fences in Feet (From Grade)			
District	Front Yard	Side Yard	Rear Yard
C-1	4	6	6
C-2	6*	8	8
I	8*	8	8

***\*Fences shall not exceed 4 feet in height within 25 feet of the intersection of corner lot lines adjacent to a public street to provide visibility at intersections.*** Fences perpendicular to a driveway shall not exceed 3 feet in height within 15 feet of the driveway intersection with the lot line.

All non-residential construction sites within 300 feet of a residential dwelling shall be enclosed by a perimeter fence prior to ground breaking to impede unauthorized access to the site.

Barbed wire fencing is allowed in the C-2 and I zoning districts, provided the barbed wire is a minimum of six (6) feet above the ground. (*Section 418 - Adopted 3-22-99*)

**(D) Construction**

- 1. Fences within or abutting a residential area shall not contain barbed wire, electric current, broken glass, or chain link type fence with the sharp wire edges exposed.***
- 2. All swimming pools shall be enclosed by a solid wall or fence, chain link fence or wrought iron fences having vertical bars of at least one-half inch diameter, spaced no farther apart than four (4) inches. No portion of the wall or fence shall have an open area exceeding four (4) inches vertically or horizontally. The walls or fences shall not be less than five (5) feet nor more than six (6) feet in height. All gates shall have self-latching latches, which shall not be less than four and one-half (4 ½) feet above the ground to be inaccessible to small children from the outside.***
- 3. A fence shall not be constructed within two feet of an already existing fence on a lot line.***

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4. *All fences shall be placed no less than two feet from the property line, except living fences. Hedges shall not be planted within three feet of the property line.*
5. *A fence (common fence) may be constructed on a joint property line if both property owners sign a letter stating the agreement.*
6. *All fences shall be constructed so that should a fire occur on the premise, Firemen shall have access.*

Section 419 Wireless Communication Facilities and Structures.

- (A) Location Requirements. Communications towers are permitted by conditional use permit in the Residential (RR-1, RR-2 **and RR-3**), Agriculture, Commercial and Industrial districts.
- (B) Site Requirement: A minimum site of three (3) acres.
- (C) Buffering Requirements: The communication tower shall be located so that there is sufficient radius of clear land around the tower so that its collapse would be completely contained on the property. The base of the tower and wire/cable supports shall be fenced with a minimum six (6') foot woven fence with 3 top strands of barbed wire.
- (D) Performance Standards.
  1. The tower shall be located at the height of the tower or more from all property lines and at least two hundred (200') feet from any single family dwelling.
  2. All towers shall be equipped with an anti-climbing device and fence to prevent unauthorized access.
  3. A building permit is required for the tower. The tower drawing shall be prepared and stamped by a professional engineer (State of Michigan) to certify that all the support structures meet the wind speeds and icing conditions under the worst conditions for this area.
  4. The communication tower shall meet all the requirements of the FCC and FAA and provide documentation to the staff.
  5. Whenever possible the structure shall be of monopole construction.
  6. Accessory structures are limited to uses associated with operation of the tower.
  7. Free-standing towers in excess of one hundred (100') feet in height above grade level shall be prohibited within a two (2) mile radius of a public airport.
  8. All the on-site accessory buildings shall meet all the zoning requirements for building, including height and setback requirements.
  9. Metal towers shall be constructed of, or treated with, corrosive- resistant material. Wood poles shall be impregnated with rot-resistant substances.
  10. Antennae and metal towers shall be grounded for protection against a direct strike by lightning and shall comply, as to electrical wiring and connections, with all applicable local statutes, regulations and standards.

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11. Towers with antennae shall be designed to withstand a uniform wind loading as prescribed in the building code.
12. All signal and remote control conductors of low energy extending substantially horizontally above the ground between a tower or antenna and a structure, or between towers, shall be at least eight (8') feet above the ground at all points, unless buried underground.
13. The tower shall be located, operated and maintained in a manner which does not interfere with radio, television, audio, video, electronic, microwave or other reception in nearby areas.
14. Towers shall be located so there is room for vehicles doing maintenance to maneuver on the property.
15. The base of the tower shall occupy not more than five hundred (500) square feet and the top of the tower shall be no larger than the base. Minimum spacing between tower locations shall be one (1) mile measured by a straight line to encourage co-location.
16. Height of the tower shall be the minimum height demonstrated to be necessary by the radio frequency engineer of the applicant but shall not exceed three hundred (300') feet from grade.
17. Towers shall not be artificially lighted unless required by the Federal Aviation Administration and, if so required, lighting shall be the minimum provided for under the regulations, subject to the Township's approval and orientated inward so as not to project onto surrounding property. Strobe lights shall not be used.
18. Existing on-site vegetation shall be preserved to the maximum extent practicable. Landscaping is required to provide screening and aesthetic enhancement to the base of the structure and accessory buildings.
19. There shall not be display advertising or identification of any kind intended to be visible from the ground or other structures.
20. The color of the tower shall blend in with the surrounding environment.
21. Structures shall be subject to any state and federal regulations concerning non-ionizing electromagnetic radiation. If more restrictive state or federal standards are adopted in the future, the antenna shall be made to conform or the special use permit will be subject to revocation by the Township Board. Cost for testing and verification of compliance shall be borne by the operator of the antenna.
22. There shall be no employees located on the site on a permanent basis to service or maintain the antenna. Occasional or temporary repair and service activities are excluded from this restriction.
23. The tower shall be designed to allow for the co-location of additional providers in the future; also, space for police, emergency warning system and fire service antennas at a minimal cost to the community.
24. Whenever possible, proposed wireless communication facilities shall co-locate on existing buildings, structures and existing wireless communication structures. If a

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provider fails to or refuses to permit co-location, such a structure shall be a nonconforming structure and shall not be altered or expanded in any way.

25. In the event the tower is discontinued for 12 months, the tower and all accessories shall be removed within six months. After the complete demolition and removal, the premises shall be restored with six inches of topsoil, seeded and mulched. ***The applicant will post a bond to the Township in the amount of 50% of the construction cost to ensure removal of the tower.***
26. The site shall have legal documented access to a public road.
27. Dust control shall be maintained on the gravel access road using a non-petroleum based product.
28. The applicant shall provide a maintenance plan for the tower or a maintenance agreement with a third party which details a maintenance schedule to ensure the tower and site will be maintained in a neat and orderly fashion.
29. The operator shall comply with applicable federal and state standards relative to the environmental effects of radio frequency emissions. (*Section 419 - Adopted 5-28-02*)

### Section 420: Open Space Preservation

#### Section 420A: Intent

- A. It is the intent of this article to offer an open space preservation option to developers as authorized by Act 177 of 2001 for the purpose of:
  1. Assuring the permanent preservation of open space, agricultural land, and other natural resources;
  2. Allowing innovation and greater flexibility in the design of residential developments;
  3. Encouraging a less sprawling form of development, thus preserving open space.
- B. For the purpose of this article the term "open space" shall refer to a natural state preserving natural resources, natural features, or scenic or wooded conditions; agriculture use; or a similar use of condition.

#### Section 420B: Eligibility Criteria

- A. To be eligible for open space preservation consideration, the applicant must present a proposal for residential development that meets each of the following:
  1. **Minimum Project Size.** The minimum size of an open space preservation development shall be five (5) acres of contiguous land.
  2. **Unified Control.** The proposed development shall be under single ownership or control, such that there is a single person or entity having proprietary responsibility for the full completion of the project. The applicant shall provide sufficient documentation of ownership or control in the form of agreements, contracts, covenants, and/or deed restrictions that indicate that the development will be completed in its entirety as proposed.
  3. **Guarantee of Open Space.** The applicant shall guarantee to the satisfaction of the township Planning Commission that all open space portions of the development will be maintained in the manner approved. Documentation shall be presented

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that binds all successors and future owners in fee title to commitments set forth in the applicant's proposal. This provision shall not prohibit a transfer of ownership or control, provided notice of such transfer is provided to the Township and the land uses continue as approved in the open space preservation site plan.

### Section 420C: Project Design Standards

A. A proposed open space preservation project shall comply with the following project design standards:

***The open space preservation option is applicable only in the R-1, RR-1, RR-2, RR-3 and RP districts.***

1. The open space preservation option is restricted to residential development.
2. Unless specifically waived or modified by the Planning Commission, and excepting the minimum lot area, lot size may be reduced up to 50% of the required lot size and lot width may be reduced up to 33% of the required lot width in the zoning district, all Zoning Ordinance dimensional requirements for the underlying zoning district and other township regulations shall remain in full force.
3. The developer shall maintain a minimum of fifty percent (50 %) of the gross area of the site as dedicated open space. Land dedicated for open space does not include a golf course, street rights-of-ways, or submerged land areas but may include a recreational trail, picnic area, children's play area, green way or linear park. The dedicated open space may be, but is not required to be, dedicated to the use of the public.
4. The dedicated open space shall be set aside by the developer through an irrevocable conveyance that is found acceptable to the Planning Commission, such as:
  - a. Recorded deed restrictions in perpetuity,
  - b. Covenants that run perpetually with the land, or
  - c. Conservation easement established per the State of Michigan Conservation and Historic Preservation Act, Public Act 197 of 1980, as amended (M.C.L. 399.21).
5. Such conveyance shall assure that the open space "will be protected from all forms of development and shall never be changed to another use." Such conveyance shall:
  - a. Indicate the proposed allowable use(s) of the dedicated open space.
  - b. Require that the dedicated open space be maintained by parties who have an ownership interest in the open space.
  - c. Provide standards for scheduled maintenance of the open space.
  - d. Provide for maintenance to be undertaken by the Township of Breitung in the event that the dedicated open space is inadequately maintained, or is determined by the Township to be a public nuisance, with the assessment of costs upon the property owners.
6. The dedicated open space shall forever remain open space, subject only to uses set forth on the approved site plan. Further subdivision of open space land or its use for other than recreation or conservation shall be strictly prohibited.

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7. Accessory structures related to a recreation or conservation use may be erected within the dedicated open space, subject to the approved open space preservation site plan. These accessory structures shall not exceed in the aggregate, one percent (1%) of the total required open space area or the maximum size of 1,500 SF.
8. The number of dwelling units allowable within an open space preservation project shall be determined in the following manner: The applicant shall prepare and present to the Planning Commission, a design of the area with the same number of dwelling units on a portion of the land as allowed by the zoning district. The Planning Commission shall review the design and determine the number of lots that could be feasibly constructed on the property. This number, as determined by the Planning Commission, shall be the maximum number of dwelling units allowable for the open space preservation project.
9. To encourage flexibility and creativity consistent with the open space preservation concept, the Planning Commission may grant specific departures from the requirements of the Zoning Ordinance for yard, lot, and bulk standards as a part of the approval process. Any regulatory modification approved by the Planning Commission shall result in a higher quality of development than would be possible using conventional zoning standards. The regulatory modifications are not subject to variance approval of the Zoning Board of Appeals. No part of an open space preservation site plan may be appealed to the Zoning Board of Appeals.
10. Direct access onto a County road shall be required for all developments receiving approval under the open space preservation option.
11. Construction of publicly dedicated roads as a means of providing access and circulation is encouraged.
12. The development shall be designed to promote the preservation of natural features. If animal or plant habitats of significant value exist on the site, the Planning Commission, as a condition of approval, may require that the open space preservation site plan preserve these areas in a natural state and adequately protect them as nature preserves or limited access areas.
13. The dimensions and area of each lot in a residential development may be reduced below the minimums ordinarily required by the zoning district. The overall dwelling unit density and total number of dwelling units in a residential development will not exceed those of a traditional residential development of the same area.

### Section 420D: Project Standards

- A. In considering any application for approval of an open space preservation site plan, the Planning Commission shall make the determination on the basis of the standards for site plan approval set forth in Article VI Site Plan Review as well as the following standards and requirements:
  1. Compliance with the project design standards in Section 603.
  2. The open space preservation project shall be designed to minimize the impact of traffic generated by the proposed development on surrounding uses.

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3. The proposed open space preservation project shall be protective of the natural environment.
4. Compliance with all applicable federal, state, and local regulations.
5. If municipal water and sewer is not available in the area, a hydrogeologic investigation shall be conducted by a licensed engineer. The findings of the investigation shall address soil types, groundwater depth, direction and quality. The investigation shall also address the ability of the development to accept the projected waste loads and protect the groundwater and surface water quality.
6. A soil erosion and storm water management plan shall be prepared by a licensed engineer. The plan shall address the management of storm water during construction and final design.

### Section 420E: Application and Approval Process

- A. The application for approval of an open space preservation proposal shall be in accordance with procedures for consideration of a conditional use permit. The required materials and fees shall be submitted to the Township Zoning Administrator.
- B. Approval of an open space preservation proposal shall be upon issuance of a conditional use permit. All improvements and uses of the site shall conform to the approved open space preservation site and comply fully with any conditions imposed by the Planning Commission.
- C. The applicant shall record an affidavit with the register of deeds containing the full legal description of the project site specifying the date of final Township approval, and declaring that all improvements will be carried out in accordance with the approved open space preservation site plan unless an amendment is adopted by the Township Planning Commission. In addition, all deed restrictions and easements shall be duly filed with the register of deeds of the County and copies of recorded documents presented to the Township.
- D. Following final approval of the open space preservation site plan by the Planning Commission, a zoning compliance permit may be obtained. It shall be the responsibility of the applicant to obtain all other applicable Township, County, State or Federal permits.
- E. If construction has not commenced within twenty-four (24) months of final approval, all Township approvals become null and void. The applicant may make written application to the Planning Commission for an extension, not to exceed twelve (12) months. A maximum of two (2) extensions may be allowed.
- F. The Planning Commission may require that a performance bond be deposited with the township to insure completion of improvements.

### Section 420F: Revision of Approved Plans

- A. Minor changes to an approved open space preservation site plan may be permitted by the Planning Commission following normal site plan review procedures outlined in Article VI, subject to the finding of all of the following:
  1. Such changes will not adversely affect the initial basis for granting approval;
  2. Such minor changes will not adversely affect the overall open space in light of the intent and purpose of such development as set forth in this Article;
  3. Such changes shall not result in the reduction of open space area as required herein.

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- a. Changes which are a substantial departure from the approved site plan or alter the character or intent of the development will require the resubmission of the proposal to the Planning Commission. (*Section 420 - Adopted 12-9-02*)

**Section 421 Outdoor Wood Burning Boilers and Appliances**

**(A) Boilers/Units and outside wood burning are a Conditional Use in the RR-1, RR-2, RR-3, C-1, C-2, I and RP Zoned Districts.**

1. **Conditions for approval:**
  - a. *Lots of 2.5 acres or larger;*
  - b. *A setback of 75 feet from any and all lot/property lines, easements and right-of-ways;*
  - c. *Minimum chimney height of 15 feet, measured from grade to chimney top or 2 feet higher than the nearest neighboring principal dwelling, within 1000 feet, whichever is higher;*
  - d. *No fuel other than natural wood without additives, wood pellets without additives and agricultural seeds in their natural state may be burned and no outdoor wood burning boiler or appliance may be used as a waste incinerator;*
  - e. *Any fuel source other than natural wood without additives, wood pellets without additives and agricultural seeds in their natural state shall require a variance;*
  - f. *Unit shall not be located in the front yard;*
  - g. *A grant of Zoning Compliance Permit constitutes an agreement between the land owner and Breitung Township, that the Zoning Administrator, at any reasonable time, may enter the property for purpose of inspection to determine compliance with above conditions.*

**(B) Outdoor Storage of Wood**

1. *The storage of wood shall be adequately secured against rolling or falling and may not be stacked or placed higher than six (6) feet.*
2. *Stored wood must be located in the rear (front for waterfront properties), or side of the property. The stored wood shall not be located within the area of the front setback nor located in front of the principle structure. No wood shall be stored or placed upon any property within ten (10) feet of the shoulder of an alley where there is no public sidewalk.*
3. *On corner lots, no wood shall be stored or placed so as to interfere with the clear vision from a street or alley to an intersecting street or alley. Clear vision shall be maintained at no less than three and one-half feet in height from the grade of the street or alley for a continuous length of fifteen (15) feet from the curb or shoulder of the intersecting street.*

**Section 422 Fabric Structures**

**(A) Fabric storage structures as defined in this ordinance may be permitted on any lot as an accessory structure.**

1. **Conditions for approval:**

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- a. *A zoning permit is required to allow the erection of a temporary storage structure.*
- b. *The maximum size of a temporary storage structure is one hundred ninety-two (192) square feet.*
- c. *One temporary store structure per zoning lot is permitted.*
- d. *A temporary storage structure shall comply with setback requirements for accessory structures.*
- e. *The structure shall be sufficiently anchored to withstand overturning, uplifting or sliding from a 50 mile per hour wind.*
- f. *The structure shall be able to withstand a fifty (50) lb. snow load.*
- g. *The structure shall be properly maintained.*

**Section 423 Sexually Oriented Businesses**

**(A) Intent and Purpose:**

1. *The Board of the Charter Township of Breitung acknowledges that there are some uses of land which because of their sexually oriented nature are recognized as having serious unique objectionable characteristics and deleterious and adverse effects and consequences on surrounding properties. Special regulation of these sexually oriented businesses is needed to fulfill the goals of the Township's Comprehensive Plan to prevent the adverse effects, i.e. blight and urban deterioration, reductions in value of surrounding property, social disorder and crime, the negative effects on community standards for aesthetic values and the Township's tax base associated with the location and operation of sexually oriented businesses. The Township Board believes that the purpose and intent of this section will best be accomplished by requiring that sexually oriented businesses may be located only in those areas of the Township which are zoned industrial and then only upon the Planning Commission holding a public hearing and issuing a conditional use permit after having determined that the proposed use meets the requirements of Article VII of this Ordinance.*

**(B) Definitions:**

1. *Sexually Oriented Business Use – Any use of land, whether vacant or combined with structures or vehicles thereon, by which said property is devoted to displaying or exhibiting material for entertainment, a significant portion of which includes matter, actions depicting, describing or presenting “Specified Sexual Activities” or “Specified Anatomical Areas”. Sexually Oriented Business uses shall include but not be limited to the following:*
  - a. *An Adult Motion Picture Theater is an enclosed building with a capacity of fifty (50) or more persons used for presenting material which has a significant portion of any motion picture or other display, depicting, describing or presenting “Specified Sexual Activities” or Specified Anatomical Areas” for observation by patrons therein.*
  - b. *An Adult Mini-Motion Picture Theater is an enclosed building with a capacity for less than fifty (50) persons used for presenting material which has as a significant portion of any motion picture or other display*

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- depicting, describing or presenting “Specified Sexual Activities” or “Specified Anatomical Areas.”*
- c. *An Adult Motion Picture Arcade is any place to which the public is permitted or invited wherein coin or slug operated or electronically or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images to five (5) or fewer persons per machine at any one time and where a significant portion of images so displayed depict, describe or relate to “Specified Sexual Activities” or “Specified Anatomical Areas.”*
- d. *An Adult Book or Supply Store, Adult Novelty Store or Adult Video Store is defined as a commercial establishment having ten percent (10%) or more of all usable interior, retail, wholesale or warehouse space devoted to the distribution, display, storage, sale, or rental of any form of sexually explicit materials or adult novelty items. Also, an establishment with a significant portion devoted to the sale or display of sexually explicit materials or adult novelty items.*
- e. *An Adult Cabaret is a nightclub, theater or other establishment which features live performances by topless and/or bottomless dancers, “go-go” dancers, exotic dancers, strippers, or similar entertainers, where a significant portion of such performances show, depict or describe “Specified Sexual Activities” or “Specified Anatomical Areas.”*
- f. *Adult Smoking or Sexual Paraphernalia Store is an establishment having, as a substantial portion of its stock in trade and offers for sale, for any form of consideration, paraphernalia designed or usable for sexual stimulation or arousal or for smoking, ingesting or inhaling marijuana, narcotics or other stimulating or hallucinogenic drug-related substances.*
- g. *Massage Parlor is an establishment having a substantial portion of its space devoted to massages of the human body or parts thereof by means or pressure, imposed friction, stroking, kneading, rubbing, tapping, pounding, vibrating or otherwise stimulating the same with hands, other parts of the human body, mechanical devices, creams, ointments, oils, alcohol or any other means of preparations to provide relaxation or enjoyment to the recipient. The following uses shall not be included in the definitions of a massage parlor:*
- i. *Establishments which routinely provide such services by a licensed physician, a licensed physician’s assistant, a licensed chiropractor, a licensed osteopathy, a licensed physical therapist, a licensed nurse practitioner, a therapeutic massage practitioner as defined in this Ordinance or any other similarly licensed medical professional;*
- ii. *Fitness center;*
- iii. *Electrolysis treatment by a licensed operator of electrolysis equipment; and*
- iv. *Hospitals, nursing homes, medical clinics or medical offices.*



7. *Sexually Oriented Business Merchandise/Products – Sexually oriented business merchandise/products means any book, magazine, periodical, slide, picture, photograph, drawing, sculpture, software, video cassettes or discs, video reproductions, or motion picture film, activity or other printed, electronic recorded or visual representation or image or novelty item which has as a significant portion of its content or exhibit matter of actions depicting, describing, or relating to “Specified Sexual Activities” or “Special Anatomical Areas”, such as but not limited to, depiction of uncovered or less than opaquely covered human or animal genitals or pubic areas, human sexual intercourse, human or animal masturbation, oral or anal intercourse, human-animal intercourse, excretory functions, physical stimulation or touching of genitals or pubic areas, or flagellation or torture by or upon a person who is nude or clad in revealing costumes in the context of sexual stimulation. The merchandise/products shall be judged without regard to any covering which may be affixed or printed over the merchandise/products or activity in order to obscure genital areas in a depiction which otherwise would fall within the definitions of this section. Works of artistic, anthropological, scientific, library or medical significance, which taken as a whole have serious literary, artistic, political or scientific value, are not intended to be included within the definitions of this subsection. This definition is intended to include any merchandise/products which result from any technology, whether that technology is available on the effective date of this amendment or becomes available after that date.*
8. *Adult Novelty Items – Adult novelty items means any object, substance, instrument, paraphernalia, item or devise offered for sale which is distinguished, designed, or characterized by an emphasis on matters relating to “Specified Sexual Activities”, or sexual stimulation or arousal of “Specified Anatomical Areas”.*

**(C) Dispersal Regulations:**

1. *No sexually oriented business shall be located within one thousand (1000) feet of any other sexually oriented business or within one thousand (1000) feet of any of the following uses:*
- a. *Any Class “C” establishment licensed by the Michigan Liquor Control Commission;*
  - b. *Pool or billiard halls;*
  - c. *Coin operated amusement centers;*
  - d. *Teenage discos or dance halls;*
  - e. *Ice or roller skating rinks;*
  - f. *Pawn shops;*
  - g. *Indoor or drive-in movie theaters;*
  - h. *Any public park;*
  - i. *Any church;*
  - j. *Any public or private school having a curriculum including kindergarten or any one or more of the grades one through twelve (1-12);*
  - k. *Any childcare center or nursery;*



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- c. *Any signs advertising the existence of any sexually oriented business shall not be illuminated by any type of flashing, blinking or strobe lights;*
- d. *Any signs advertising the existence of any sexually oriented business shall not be located within the public right of way;*
- e. *Any signs advertising the existence of any sexually oriented business shall not be illuminated or located in any manner which causes it to be a traffic hazard or have a negative or detrimental effect on any surrounding land use; and*
- f. *Any signs advertising the existence of a sexually oriented business shall only be located on the property for which a conditional use permit to operate a sexually oriented business has been granted.*

**Section 424 Fees in Escrow**

- (A) *Any application for rezoning, site plan approval, a Special Land Use Permit, Planned Unit Development, variance, or other use or activity requiring a permit under this Ordinance above the following threshold, may also require the deposit of fees to be held in escrow in the name of the applicant. An escrow fee may be required by either the Zoning Administrator or the Planning Commission for any project which requires a traffic impact study under Section Two or Three, or which has more than twenty (20) dwelling units, or more than twenty-thousand (20,000) square feet of enclosed space, or which requires more than twenty (20) parking spaces, or which involves surface or below surface mining or disposal of mine materials. An escrow fee may be required to obtain a professional review of any other project which may, in the discretion of the Zoning Administrator or Planning Commission create an identifiable and potentially negative impact on public roads, other infrastructure or services, or on adjacent properties and because of which, professional input is desired before a decision to approve, deny or approve with conditions is made.*
- 1. *The escrow shall be used to pay professional review expenses of engineers, community planners, and any other professionals whose expertise The Charter Township of Breitung values to review the proposed application and/or site plan of an applicant. Professional review shall result in a report to the Planning Commission indicating the extent of conformance or nonconformance with this Ordinance and identify any problems which may create a threat to public health, safety or the general welfare. Mitigation measures or alterations to a proposed design may be identified where they would serve to lessen or eliminate identified impacts. The applicant will receive a copy of any professional review hired by The Charter Township of Breitung and a copy of the statement of expenses for the professional services rendered, if requested.*
  - 2. *No application for which an escrow fee is required will be processed until the escrow fee is deposited with the Treasurer. The amount of the escrow fee shall be established based on an estimate of the cost of the services to be rendered by the professionals contacted by the Zoning Administrator. The applicant is entitled to a refund of any unused escrow fees at the time a permit is either issued or denied in response to the applicant's request.*

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3. *If actual professional review costs exceed the amount of an escrow, the applicant shall pay the balance due prior to receipt of any land use or other permit issued by The Charter Township of Breitung in response to the applicant's request. Any unused fee collected in escrow shall be promptly returned to the applicant once a final determination on an application has been made or the applicant withdraws the request and expenses have not yet been incurred.*
4. *Disputes on the costs of professional reviews may be resolved by an arbitrator mutually satisfactory to both parties.*

Draft