

Charter Township of Breitung

Draft

Zoning Ordinance

(June 2009)

CHARTER TOWNSHIP OF BREITUNG

ARTICLE I PURPOSE OF ZONING

Section 101 Purpose

An Ordinance to establish zoning districts and regulations governing the development and use of land within the Charter Township of Breitung, in accordance with the provisions of *Act 110 of the Public Acts of 2006*, as amended; to provide for regulations governing nonconforming uses and structures; to provide for a Board of Appeals and for its powers and duties; to provide for permits, fees, penalties and other administrative provisions to enforce this Ordinance; and to provide for regulations regarding conflicts with other ordinances or regulations.

Pursuant to the authority conferred by the Public Acts of the State of Michigan, this Ordinance has been established for the purpose of:

- A. Promoting and protecting the public health, safety, and general welfare;
- B. Protecting the character and the stability of the agricultural, residential, and non-residential areas within the Township of Breitung and promoting the orderly and beneficial development of such areas;
- C. Providing adequate light, air, privacy and convenience of access to property;
- D. Regulating the intensity of use of land and lot areas and determining the area of open spaces surrounding buildings and structures necessary to provide adequate light and air to protect the public health;
- E. Lessening and avoiding congestion on the public highways and streets;
- F. Providing for the needs of agriculture, housing, and commerce in future growth;
- G. Protecting the public and adjacent uses from fire, explosion, noxious fumes or orders, excessive heat, dust, smoke, glare, noise, vibration, radioactivity, and other health and safety hazards;
- H. Preventing the overcrowding of land and undue concentration of buildings and structures so far as possible and appropriate in each zoning district by regulating the use and bulk of buildings in relation to the land surrounding them;
- I. Enhancing social and economic stability in the Township;
- J. Enhancing the aesthetic desirability of the environment throughout the Township; and
- K. Conserving the expenditure of funds for public improvements and services to conform to the most advantageous uses of land.

Section 102 Short Title

This Ordinance shall be known and may be cited as the Zoning Ordinance of the Charter Township of Breitung, Dickinson County, Michigan.

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**ARTICLE II
DEFINITIONS**

Section 201 Construction of Language

The following rules of construction shall apply to the text of this Ordinance:

- (A) All words and phrases shall be construed and understood according to the common and approved usage of the language; but technical words and phrases that have a peculiar and appropriate meaning in the law, shall be construed and understood according to such peculiar and appropriate meaning.
- (B) The particular shall control the general.
- (C) In case of any difference of meaning or implication between the text of this Ordinance and any caption or illustration, the text shall control.
- (D) The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- (E) When not inconsistent with the context, words in the present tense shall include the future and words in the singular number shall include the plural.
- (F) The word "building" includes the word "structure," and the word "dwelling" includes the word "residence." A "building" or "dwelling" includes any part thereof.
- (G) The words "used" or "occupied" include the words "intended," "designed," or "arranged" to be used or occupied.
- (H) The word "person" includes any firm, association, organization, partnership, trust, corporation, or similar entity, as well as an individual.
- (I) The word "lot" includes the words "plot" and "parcel."
- (J) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or," "either...or," the conjunction shall be interpreted as follows:
 - 1. "And" indicates that all connected items, conditions, provisions, or events shall apply.
 - 2. "Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
 - 3. "Either...Or" indicates that the connected items, conditions, provisions, or events shall apply single but not in combination.
- (K) Words in the singular number shall include the plural number and words in the plural number shall include the singular number. The masculine gender shall include the feminine and the feminine gender shall include the masculine.

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- (L) Whenever a reference is made to several sections and the section numbers are connected by the word "to," the reference includes both sections whose numbers are given and all intervening sections.
- (M) In computing a period of days, if the first day or the last day of any period is a Saturday, Sunday, or legal holiday, the period is extended to include the next day which is not a Saturday, Sunday, or legal holiday.

Section 202 Definitions

For the purpose of this Ordinance words pertaining to access, building, property, land use, building use, building measurement, and enforcement shall have the following meaning:

1. **Access:** *A way or means of approach to provide vehicular or pedestrian entrance or exit to a property from an abutting property or a public roadway.*
2. **Access Management:** *The process of providing and managing reasonable access to land development while preserving the flow of traffic in terms of safety, capacity, and speed on the abutting roadway system.*
3. **Access Point:** *a) The connection of a driveway at the right-of-way line to a road.
b) A new road, driveway, shared access or service drive.*
4. **Accessory Building:** A building or structure customarily incidental and subordinate to the principal structure and located on the same lot as the principal building.
5. **Accessory Use:** A use customarily incidental and subordinate to the principal use of the land or building and located on the same lot as the principal use.
6. **Agriculture:** Any land or building use for pasturage, floriculture, dairying, horticulture, forestry, and livestock or poultry husbandry.
7. **Airfield:** A privately owned parcel of land that is used for the landing, take off, or parking and fueling of aircraft.
8. **Airport:** An area of land that is used for or incidental to the landing, take off, and parking of aircraft, including buildings and facilities. For the purposes of this definition airport related buildings and facilities may include control towers, passenger terminal buildings, fixed base operators, hangars, rental car facilities, air cargo facilities, visual and electronic navigational aids, meteorological equipment and stations, airport maintenance facilities and buildings, automobile parking for employees and passengers, viewing areas and contiguous reserve land held for such uses and purposes.
9. **Alley:** A public or legally established private thoroughfare, other than a street, affording a secondary means of vehicular access to abutting property and not intended for general traffic circulation.

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- 10.** Alterations: Any change, addition or modification in construction or type of occupancy; any change in the structural members of a building, such as walls or partitions, columns, beams, or girders; or any change which may be referred to herein as "altered" or "reconstructed."
- 11.** Apartment: A dwelling unit in a "dwelling, multiple family," as defined herein.
- 12.** Automotive Repair Garage: A premise where the following services may be carried out in a completely enclosed building: general repairs, engine rebuilding, rebuilding or reconditioning of motor vehicles; collision service such as body, frame or fender straightening and repair; painting and undercoating of automobiles.
- 13.** Basement: That portion of a building, which is partially or wholly below grade, but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement shall not be counted as a story.
- 14.** Berm: A man-made, formed, earth mound of definite height and width used for obscuring purposes; the intent of which is to provide a transition between uses of differing intensity.
- 15.** Block: The property abutting one side of a street and lying between the two nearest intersecting streets (crossing or terminating) or between the nearest such street and railroad right-of-way, unsubdivided acreage, lake, river, stream, or other barrier to the continuity of development.
- 16.** Bluff Line: The edge or crest of the elevated segment of the shoreline above the beach or beach terrace which may be subjected to wave attack, and normally presents a precipitous front and inclines steeply on the water side. (Dunal terraces that accrete and erode depending on water levels are not considered bluff lines.)
- 17.** Breezeway: A covered structure connecting an accessory building with the principal dwelling unit. For purposes of determining yard and area requirements, such buildings shall be considered as one integral unit.
- 18.** Buffer Yard: A strip of land, including any specified type and amount of planting or structures which may be required to protect one type of land use from another, or minimize or eliminate conflicts between them.
- 19.** Building: Any structure having a roof supported by columns or walls for the shelter, support, enclosure of persons, animals or property. When such a structure is divided into separate parts by one or more unpierced (fire) wall(s) extending from the ground up, each part is deemed a separate building, except for minimum side yard requirements as hereinafter provided.

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20. **Building Area**: The area (square footage) included within surrounding exterior walls (or firewalls) exclusive of vents, elevator or other shafts, courts, or courtyards. Areas of the building not provided with surrounding walls shall be included in the building area if included within the horizontal projection of the floor above.
21. **Building Height**: The vertical distance measured from the established grade to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs; to the average height between eaves and ridge for gable, hip, and gambrel roofs. Where a building is located on sloping terrain, the height may be measured from the average ground level of the grade at the building walls.
22. **Building Line**: A line parallel to the front lot line, which for purposes of this Ordinance, a minimum building line is the same as the minimum required front setback line.
23. **Building, Principal**: A building in which is conducted the main or principal use of the lot on which said building is located.
24. **Campground**: Any area that is occupied or intended or designed or improved for occupancy by transients using recreational vehicles, motor homes, tents, or mobile trailers for dwelling, lodging, or sleeping purposes and is held out as such to the public. Campsite does not include and manufactured housing community.
25. **Carport**: A partially open structure, intended to shelter one or more vehicles. Such structure shall comply with all yard requirements applicable to private garages.
26. **Caretaker Residence**: *A single dwelling unit occupied by an employee responsible for the operation at the commercial facility. (Adopted 7-28-97)*
27. **Certificate of Zoning Compliance**: A certificate issued by the Zoning Administrator to a party intending to initiate any work or change any use of property in the Township.
28. **Church**: A building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose.
29. **Clinic**: A place where four or more doctors or dentists furnish medical or dental care to persons on an outpatient basis.
30. **Club**: An organization of persons for special purposes or for the promulgation of sports, arts, science, literature, politics or similar activities, but not operated for profit and open only to members and not the general public.

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31. Co-location: The location of two or more wireless communication providers of wireless communication facilities on a common structure, tower, or building, to reduce the overall numbers of structures required to support wireless communication antennas within the township.
32. Comprehensive Plan: The statement of policy by the Township Planning Commission relative to the agreed upon and officially adopted guidelines for a desirable physical pattern for future community development. The plan consists of a series of maps, charts and written materials representing in summary form, the soundest concept for community growth to occur in an orderly, attractive, economical and efficient manner thereby creating the very best community living conditions. *May also be referred to as a Master Plan.*
33. Conditional Use Permit: A permit issued by the Planning Commission to a person or persons intending to undertake the operation of an activity upon land or within a structure and for those uses not specifically mentioned in this Ordinance which possess unique characteristics and are found to be not injurious to the health, safety, convenience, and general welfare of the Township's inhabitants.
34. Contiguous Property: Any portion of an individual's lot or property which can be identified as one parcel, including those properties in the same ownership which would otherwise be touching except for a public right-of-way or easement running through them.
35. Deck: An open platform with or without railings, constructed of wood or other material which is not screened or enclosed that is also either attached, part of, or adjacent to and with direct access to or from a building.
36. Density: The number of dwelling units situated on developable land expressed on a per acre basis. Maximum permitted density is the number of dwelling units that may be permitted per acre as determined by consideration of size, setback and other requirements in this ordinance affecting the number, size and placement of dwelling units on developable land.
37. District: An area of land for which there are uniform regulations governing the use of buildings and premises, density of development, yard requirements and height regulations.
38. Driveway: a) A passage providing access to an individual's property along which vehicles may be driven, comprised of suitable base as determined by the Zoning Administrator or his designated agency or person. If these driveways cross an existing roadside ditch, the property owner shall obtain a permit from the Dickinson County Road Commission to install a culvert (minimum length is 24 feet) of sufficient size to carry, unimpeded, the flow of water in the ditch. *b) Any entrance or exit used by vehicular traffic to or from land or buildings abutting a road.*

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39. Driveway Offset: *The distance between the centerline of two driveways on opposite sides of an undivided roadway.*
40. Driveway, Shared: *A driveway connecting two or more contiguous properties to the public road system.*
41. Dwelling, Single-Family: A structure, including a mobile home, containing not more than one dwelling unit designed for residential use.
42. Dwelling, Two-Family: A building containing two separate dwelling units designed for residential use and conforming in all other respect to the standards set forth in the definition of single-family dwelling.
43. Dwelling, Multiple Family: A structure containing more than two dwelling units each designed for residential occupancy by one family, including condominiums.
44. Dwelling Unit: One or more rooms with bathroom and principal kitchen facilities designed as a self-contained unit for occupancy by one family for living, cooking and sleeping purposes.
45. Easement: The legal right to use property owned by another for specific purposes or to gain access to another property. The easement may be for a portion or all of the property and can be deemed as under, on, or above said property.
46. Earth Sheltered Home: A building that is partially or entirely below grade and is designed to be used as a single-family dwelling.
47. Efficiency Apartment: A dwelling unit with a bathroom and principal kitchen facilities designed as a self-contained unit for living, cooking and sleeping purposes and having no separate designed bedroom.
48. Erected: The word "erected" includes built, constructed, reconstructed, move upon, or any physical operations on the premises required for a building. Excavations, fill, drainage, and the like, shall be considered part of erection.
49. Essential Services: The erection, construction, alteration, or maintenance by public utilities or municipal departments of underground, surface or overhead gas, communication, telephone, electrical, steam, fuel or water transmission or distribution systems, collections, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar accessories which are necessary for the furnishing of adequate service by utilities or municipal departments for the general public health, safety, convenience, or welfare, but not including office buildings, substations, or structures which are enclosures or shelters for service equipment or maintenance depots.
50. Excavation: Any breaking of ground, except common household gardening, general farming and ground care.

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51. Family: An individual or two or more persons related by blood, marriage or adoption, or parents along with their direct lineal descendants, and adopted or foster children, or a group not to exceed three persons not related by blood or marriage, occupying a premises and living as a single housekeeping unit with single cooking facilities. Every additional group of three or less persons living in such housekeeping unit shall be considered a separate family for the purpose of this Ordinance. Said definition shall not apply in instances of group care centers, or state licensed residential facilities as established under P.A. 395 of 1976, as amended.
52. Farm: Any parcel of land containing at least five acres, which is used for agricultural purposes. It includes the necessary farm structures and the storage of equipment used. It excludes the raising of fur bearing animals, commercial dog kennels and riding academies.
53. Fence: A linear structure erected to divide or enclose yard areas.
- a. Fence - Perimeter: A fence located on or near a property line to prohibit or impede access to property.
- b. Fence - Visual Screen: A fence, wall, hedge or living fence consisting of such materials as to obscure the vision beyond the fence line by greater than 50%. Visual screens, on or near the property line, are perimeter fences. *(Adopted 3-22-99*
54. Filling: The depositing or dumping of any matter into or onto the ground except common household gardening and general maintenance.
55. Flag Lot: A lot which has minimum frontage on a public or private street, which is reached via a private drive or lane and whose width some distance back from the street right-of-way, meets all ordinance requirements.
56. Floor Area, Gross: The sum of all gross horizontal areas of the several floors of a building or buildings, measured from the outside dimensions of the structure. Unenclosed porches, courtyards, or patios, whether covered or uncovered, shall not be considered as a part of the gross floor area unless used for commercial purposes, such as nursery beds or sales of outdoor equipment.
57. Floor Area Ratio: An intensity measurement denoted as a ratio, derived by dividing the total floor area of a building by the property area.
58. Floor Area, Usable: For purposes of computing parking requirements, is that area to be used for the sale of merchandise or services, or for use to serve patron, clients or customers. Such floor area which is used or intended to be used for the storage or processing of merchandise, for hallways, stairways and elevator shafts or for utilities or sanitary facilities shall be excluded from this computation of "usable floor area." Measurement of usable floor area shall be the sum of the horizontal areas of the several floors of heated living areas of the

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building, measured from the interior faces of the exterior walls, including private garages.

59. Free-Standing Tower: A trussed (microwave tower) or single pole (cell phone tower) constructed of lattice steel or aluminum which is supported by a concrete base and/or guy wires extending at angles from the structure to ground anchors.
60. ***Frontage Road or Front Service Drive: A local street/road or private road typically located in front of principal buildings and parallel to an arterial for service to abutting properties for the purpose of controlling access to the arterial.***
61. Garage, Private: An accessory building, or portion of a principal building, designed or used solely for the storage of non-commercial motor vehicles, boats, and similar items or equipment, and having no public sales or shop services in connection thereof.
62. Gasoline Service Stations: A structure used for the retail sale or supply of fuels, lubricants, air, water and other operating commodities for motor vehicles, and including the customary space and facilities for the installation of such commodities on or in such vehicles, and including space for storage, minor motor repair, or servicing, but not including bumping, painting, refinishing, or conveyor-type car wash operations.
63. Grade: A ground elevation established for the purpose of controlling the number of stories and the height of any structure. The building grade shall be determined by the level of the ground adjacent to the walls of any structure if the finished grade is level. If the ground is not level, the grade shall be determined by averaging the elevation of the ground for each face of the structure.
64. ***Greenhouse, Commercial: A building used for the cultivation and exhibition of plants under controlled conditions for commercial sale.***
65. Home Occupation: Home occupation means a use or occupation conducted on the premises either within the main residential dwelling or an accessory building which is clearly incidental and secondary to residential occupancy and does not change the character thereof and meets the standards set out in Section 405 and Section 704.
66. Inoperable or Abandoned Motor Vehicle: Any wheeled vehicle which is self-propelled and/or intended to be self-propelled, and which by reason of dismantling, disrepair or other cause is incapable of being propelled under its own power. This definition shall not be deemed to include farm machinery other than automobiles or trucks.
67. Junk: For the purpose of this Ordinance, the term "junk" shall mean an inoperable motor vehicle, machinery, appliances, products, or merchandise with

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parts missing or scrap metals, building debris, or other scrap materials that are damaged or deteriorated.

68. Junkyard: Any land or building used for abandonment, storage, keeping, collecting, or baling of paper, rags, scrap metals, other scrap or discarded materials, or for abandonment, demolition, dismantling, storage or salvaging of automobiles or other vehicles not in normal running condition, machinery or parts thereof.
69. Kennel, Commercial: Any lot or premises used for the commercial sale, boarding, or treatment of dogs, cats, or other domestic pets.
70. Kennel, Private: Any lot or premises used for the private maintenance of up to four dogs, cats, or other household pets, four months of age or older, not involving any commercial activities. The keeping of more than four animals shall be considered a commercial kennel regardless of ownership or species of animals.
71. Loading Space: An off-street space on the same lot with a building, or group of buildings, for one temporary parking of a commercial vehicle while loading or unloading merchandise or materials.
72. Lodge: A single building or facility that holds regular meetings and that may, subject to other regulations controlling such uses, maintain dining facilities, serve alcohol, or engage professional entertainment for the enjoyment of guests with or without sleeping facilities.
73. Lot: Land occupied or to be occupied by a building, structure, land use or group of buildings together with such open spaces of yards as are required under this Ordinance and having its principal frontage upon a street.
74. Lot Area: The total horizontal area within the lot lines of a lot.
75. Lot, Corner: A lot that has at least two contiguous sides abutting upon a street for their full length.
76. Lot, Depth of: The average distance from the front lot line of the lot to its opposite rear line measured in the general direction of the sidelines of the lot.
77. Lot, Interior: A lot other than a corner lot.
78. Lot Line(s): Any of the lines bounding a lot as defined herein.
a. Front Lot Line: In the case of an interior lot, it is that line separating said lot from the street. In the case of a through lot, it is both lines separating said lot from either street. In the case of a corner lot, the shorter street line shall be considered the front lot line, except in the case of both street lines being equal, the choice may be made at the discretion of the property owner. Once declared and

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- so indicated on the building permit application, the designated front lot line shall remain as such.
- b. Rear Lot Line: That lot line opposite and most distant from the front lot line. In the case of an irregularly shaped lot, the rear lot line shall be an imaginary line parallel to the front lot line not less than ten feet in length, lying farthest from the front lot line and wholly within the lot.
- c. Side Lot Line: Any lot line other than the front lot line or rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.
79. Lot of Record: A lot which is part of a subdivision, the map of which has been recorded in the Office of the Register of Deeds, Dickinson County, Michigan, or a parcel or lot described by metes and bounds, the deed to which has been recorded in the Office of the Register of Deeds, Dickinson County, Michigan, prior to the adoption of this Ordinance.
80. Lot, Through: A double frontage lot, not a corner lot, having a street for both front and rear lot lines.
81. Lot, Width: The straight line horizontal distance between the side lot lines, measured at the two points where the building line, or setback line, intersects the side lot lines.
82. Major Thoroughfare: An arterial street that is intended to serve as a large volume traffic-way for both the immediate area and the region beyond.
83. Marquee: A roof-like structure of a permanent nature projecting from the wall of a building.
84. ***Membrane Storage Structure: A structure consisting of a frame that is covered with a plastic, fabric, canvas, aluminum or similar non-permanent material, which is used to provide storage for vehicles, boats, recreational vehicles or other personal property. The term shall also apply to structures commonly known as hoop houses, canopy covered carports and tent garages but shall not apply to boat lifts and canopies that are placed in public waters and temporary tents or canopies used for special events such as weddings or graduations.***
85. Mini-Storage-Warehouse: A building designed and built for retail rental of space for the storage of various types of goods, products, household items, automobiles, boats, etc.. This does not include the storage of hazardous materials including chemicals.
86. Mobile Home: A structure designed or used for residential occupancy built upon or having a frame or chassis to which wheels may be attached by which it may be moved upon a highway, whether or not such structure actually has, at any given time, such wheels attached, or is jacked up or skirted.

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87. Mobile Home Park: Any lot, parcel or tract of land under the control or management of any person, occupied or designated for occupancy by more than two mobile homes and including any accessory buildings, structures or enclosures comprising facilities used by park residents.
88. Modular (Pre-Manufactured) Housing Unit: A dwelling unit constructed solely within a factory, as a single unit, or in various sized modulares or components, which are then transported by truck or other means to a site where they are assembled on a permanent foundation to form a single-family dwelling unit or multiple-family unit, and meeting all codes and regulations applicable to conventional single-family home or multiple family unit construction.
89. Motel: A series of attached or detached rental unit containing bedroom, bathroom and closet space. Units shall provide for overnight lodging, are offered to the public for compensation, and shall cater primarily to the traveling public.
90. Nightclub: A commercial establishment dispensing alcoholic beverages for consumption on the premises and which dancing and musical entertainment is provided.
91. Nonconforming Building (Nonconforming Structure): A building or structure (or portion thereof) lawfully existing at the time of adoption of this Ordinance or a subsequent amendment thereto, that does not conform to the provisions of this Ordinance relative to height, bulk, area, placement or yards for the zoning district in which it is located.
92. Nonconforming Use: A use of a building or structure or of a parcel or tract of land, lawfully existing at the time of adoption of this Ordinance or subsequent amendment thereto, that does not conform to the regulations of the zoning district in which it is situated.
93. Nuisance: Is an offensive, annoying, unpleasant, or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeated invasion of any physical characteristics of activity or use across a property line which can be perceived by or affects a human being, or the generation of an excessive or concentrated movement of people or things including but not limited to:
- a. noise;
 - b. dust;
 - c. smoke;
 - d. odor;
 - e. glare;
 - f. fumes;
 - g. flashes;
 - h. vibration;
 - i. objectionable effluent;
 - j. noise of a congregation of people, particularly at night;
 - k. passing traffic; or

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- I. invasion of street frontage by traffic generated from an adjacent land use which lacks sufficient parking and circulation facilities.
94. Nuisance, Attractive: A use, practice, structure or condition that meets the criteria as contained in the "Classic Statement of the Doctrine of Attractive Nuisance" (2 Restatement of Torts, 2d 339, p. 197; Gilbert v Sabin, 76 Mich. App. 137, 142 June(1977).
95. Nursery School (Day-Care Center): A public or private school, kindergarten or child care facility wherein day-care, or day-care and education is provided for five or more minors.
96. Nursing Home: An installation other than a hospital, having as its primary function the rendering of nursing care for extended periods of time to persons afflicted with illness, injury, or an infirmity.
97. Open Space Ratio: The proportion of a site consisting of required open space as defined and specified in Section 401, and which shall be calculated using the property area.
98. Open Space, Required: The yard space of a lot which is established by and between the street, or the lot lines and required setback line and which shall be open, unoccupied and unobstructed by any structure or any part thereof, except as otherwise provided in this Ordinance.
99. ***Outdoor Wood Furnace: A wood-fired boiler, stove or furnace that is installed, affixed or situated outdoors for the primary purpose of combustion of fuel to produce heat or energy used as a component of a heating system.***
100. ***Overlay Zone or Overlay District: A zoning district that encompasses one or more underlying zones and that imposes additional requirements beyond those required for the underlying zone.***
101. Parking Space: An area of not less than 180 square feet in area, exclusive of drives, aisles or entrance giving access thereto, and shall be fully accessible for the storage or parking of permitted vehicles.
102. Planned Unit Development: A tract of land developed under single ownership or management as a separate neighborhood or community unit. The development shall be based on an approved Site Plan that allows flexibility of design not available under normal zoning district requirements. The plan may contain a mixture of housing types, common open space and other land uses.
103. Planning Commission: The Township Planning Commission of the Township of Breitung.

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104. Porch: A roofed open area, which may be screened and is usually attached to, or part of, and with direct access to or from a building.
105. Principal Use: The main use to which the premises are devoted and the principal use for which the premises exist.
106. ***Private Road (Township Approved): A privately owned and maintained road constructed on a privately maintained easement serving four (4) or more parcels of land or residential building sites.***
107. Public Utilities: Any person, firm or corporation, municipal department, board or commission duly authorized to furnish and furnishing under federal, state or municipal regulations to the public, gas, steam, electricity, sewage disposal, communication, television, telegraph, transportation or water via the public road right-of-ways under the jurisdiction of the Township. (Adopted 5-28-02)
108. ***Rear Service Drive: A local street/road or private road typically located behind principal buildings and parallel to an arterial for service to abutting properties for the purpose of controlling access to the arterial.***
109. ***Recreational Structure: A cabin, cottage, camp, hunting camp, mobile home or other similar structure used intermittently for recreational or vacation purposes and which is not a permanent place of domicile or residency.***
110. Resort: A building or series of buildings under common ownership that provides interrelated visitor and vacation amenities and are intended to serve the community and the travel needs through the area. Typical uses include but are not limited to: overnight accommodations, meeting rooms, convention and banquet facilities, administrative facilities, maintenance facilities, resort operation facilities, and restaurant and retail uses which are compatible with such a development.
111. Restaurant, Fast Food: An establishment whose principal business is the sale of food and/or beverages in a ready-to-consume state, for consumption with a drive thru:
- a. within the restaurant building;
 - b. within a motor vehicle parked on the premises; or
 - c. off the premises as carry-out orders, and whose principal method of operation includes the following characteristics; food and/or beverages are usually served in edible containers or in paper, plastic or other disposable containers.
112. Restaurant, Standard: An establishment whose principal business is the sale of food and/or beverages to customers in a ready-to- consume state, without a drive thru and whose principal method of operation includes one or both of the following characteristics:

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- a. Customers, normally provided with an individual menu, are served their food and beverage by a restaurant employee, at the same table or counter at which food and beverage are consumed;
 - b. A cafeteria-type operation where food and beverage generally are consumed within the restaurant building.
113. Right-of-Way: A street, alley, or other thoroughfare or easement permanently established for passage of persons, vehicles, or the location of utilities. The right-of-way is delineated by legally established lines or boundaries.
114. Roadside Stand: A structure which is used seasonally for display and sale of agricultural produce. The operation of a roadside stand shall not constitute a commercial use.
115. Sanitary Landfill: A method of disposing of refuse on land without creating nuisances or hazards to public health or safety, by utilizing principles of engineering to confine the refuse to the smallest practical area, to reduce it to the smallest practical volume, and to cover it with a layer of suitable cover at the conclusion of each day's operation or at more frequent intervals, as necessary and maintained in accordance with the provisions of Act 641 of 1978, as amended.
116. Screen: A structure providing enclosure, such as a fence, and a visual barrier between the area enclosed and the adjacent property. A screen may also be non-structured, consisting of shrubs or other growing materials.
117. Seasonal Dwelling: A residential building, whether temporary or permanent and may include mobile homes constructed prior to the Department of Housing and Urban Development's Mobile Home Construction and Safety Standards, being 24 CFR 3280. Where "seasonal dwelling" is provided as a principal permitted or Conditional Use in this Ordinance, it is intended that governmental services including snow plowing, road construction or maintenance, utilities, school bus service, and other like services may not be customarily be provided to the geographic area in which such dwelling or use is located. Anyone building a residential building in a zone designated for "seasonal dwellings" shall be informed in writing by the building inspector or Zoning Administrator that the "seasonal dwelling located in an area where the above governmental services are not customarily provided, such services may not, therefore, be available to that building or use.
118. Setback: The minimum unoccupied distance between the lot line and the principal and accessory buildings, as required herein.
119. Setback, Front: The minimum unoccupied distance, extending the full lot width, between the principal building and the front lot line.

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120. Setback, Rear: The minimum required unoccupied distance, extending the full lot width, between the principal and accessory buildings and the lot line opposite the front lot line.
121. Setback, Side: The minimum required unoccupied distance is between the front setback area to the rear setback area and between the principal and accessory buildings and the side lot line.
122. *Sexually Oriented Business*: *Any premise from which minors are excluded and in which the retail sale of book, magazines, newspapers, movie films, devices, slides, or other photographic or written reproductions is conducted as a principal use of the premises; or as an adjunct to some other business activity, but which constitutes the primary or a major attraction to the premises.*
123. *Shopping Center*: *A group of stores and often restaurants and other businesses sharing a common parking lot.*
124. *Shopping Mall*: *A shopping center with stores and businesses facing an enclosed mall.*
125. *Sight Distance*: *The distance of unobstructed view for the driver of a vehicle, as measured along the normal travel path of a roadway to a specified height above the roadway.*
126. Sign: Any device including words, numerals, figures, designs, pictures or trademarks painted upon or otherwise affixed to a building, wall, board, or any structure, so as to inform or attract attention.
127. *Sign-Billboard/Off Premise*: *An outdoor sign advertising services or products, activities, persons or events which were not made, produced, assembled, stored, distributed, leased, sold, or conducted upon the premises upon which the billboard is located.*
128. *Sign- Building*: *A sign which identifies or directs attention to a business which is permanently affixed to a building or structure.*
129. *Sign- Directional*: *A sign limited to directional messages, principally for pedestrian or vehicular traffic, such as “one way,” “entrance” and “exit” but not used for advertising.*
130. *Sign Monument*: *A free-standing, self-supporting sign on a base, which is placed on or at ground level and not attached to any building wall, fence or other structure.*
131. *Sign- Pole or Pylon*: *A sign supported by at least one upright pole, pylon or post which is secured to the ground and not the building*

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132. Site Plan: A plan showing all salient features of a proposed development, so that it may be evaluated in order to determine whether it meets the provisions of this Ordinance.
133. ***Stable, Private. Any lot or premises wherein or whereon a horse or horses are maintained, harbored, kept, confined, raised, lodged, fed, or allowed to remain, which are exclusively owned and used by a person living at the lot or premises, but not a public stable.***
134. ***Stable, Public. Any lot or premises wherein or whereon a horse or horses are maintained, harbored, kept, confined, raised, lodged, fed, or allowed to remain, for sale, public show, boarding, breeding, leasing, trading, training, riding, or some similar purpose, for remuneration, or which is a stable that is not a private stable.***
135. Story: That part of a building, except a mezzanine, included between the surface of one floor and the surface of the next floor, or if there is no floor above, then the space between the floor and the ceiling next above it. A story thus defined, shall not be counted as a story when more than fifty (50) percent by cubic content, is below the height level of the adjoining ground.
136. Story, Half: That part of a building between a pitched roof and the uppermost full story, said part having a finished floor area which does not exceed one-half of the floor area of a full story.
137. Street: A public dedicated right-of-way which affords traffic circulation and principal means of access to abutting property.
138. ***Strip Mall: An open area shopping center containing a row of various stores, businesses and restaurants.***
139. Structure: Anything constructed or erected which requires permanent location on the ground or attachment to something having such location on the ground including, but not limited to all buildings, free-standing signs, and satellite dishes, and not including sidewalks, drives, patios, and utility poles.
140. Structural Alterations: Any change in the supporting members of a building such as the bearing walls, beams or girders, or any change in the dimension or configuration of the roof or exterior walls.
141. Subdivision: The division of a lot, tract, or parcel of land into five or more lots, tracts, or parcels of land for the purpose, whether immediate or future, of sale or of building development. The meaning of the term "subdivision" shall not, however, apply to the partitioning or dividing of land into tracts or parcels of land of ten acres or more.
142. ***Swimming Pool: Any commonly known structure having a water depth greater than 24 inches and a surface area greater than 250 sq. ft. (18 ft. dia.) or any***

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pool equipped with a water recirculation or filtering system as defined by BOCA Section 625.0. (Adopted 3-22-99)

143. **Throat Length:** *The distance parallel to the centerline of a driveway to the first on-site location at which a driver can make a right-turn or a left-turn. On roadways with curb and gutter, the throat length shall be measured from the face of the curb. On roadways without a curb and gutter, the throat length shall be measured from the edge of the paved shoulder.*
144. **Throat Width:** *The distance edge-to-edge of a driveway measured at the right-of-way line.*
145. **Township Board:** This governing body of the Charter Township of Breitung.
146. **Trip Generation:** *The estimated total number of vehicle trip ends produced by a specific land use or activity. A trip end is the total number of trips entering or leaving a specific land use or site over a designated period of time. Trip generation is estimated through the use of trip rates that are based upon the type and intensity of development.*
147. **Underlying District:** *The base zone below an overlay zone which establishes the fundamental permitted uses, densities and dimensional regulations applicable to lands subject to a zoning ordinance.*
148. **Variance:** A modification of the literal provisions of the Zoning Ordinance granted when strict enforcement of the Zoning Ordinance would cause undue hardship owing to circumstances unique to the individual property on which the variance is granted.
149. **Wireless Communication Facility.** All structural facilities, attached or accessory, related to the radio frequency spectrum for the purpose of transmitting or receiving radio signals, including radio and television towers; cellular telephone and paging devices; telephone devices and exchanges; microwave relay towers; telephone transmission equipment buildings; and commercial mobile radio service facilities. (Not included are facilities for citizen band radio; short wave radio; ham and amateur radio; television reception antennae; satellite dishes; and government facilities which are subject to state and federal law.) Wireless communication facilities shall be specifically excluded from the definition of "public utility". (Adopted 5-28-02)
150. **Wireless Communication Support Structure.** Any structure used to support attached wireless communication facilities, or other antennae or facilities, including support lines, cables, wires, braces and masts intended primarily for the purpose of mounting an attached wireless communication facility or similar apparatus above grade, including any ground or roof-mounted pole, monopole, or other similar structures which support wireless communication facilities. (Adopted 5-28-02)

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151. Yards:
- a. Yard, Front: An open space extending the full width of the lot and lying between the front line of the lot and the nearest line of the principal building.
 - b. Yard, Rear: An open space extending the full width of the lot and lying between the rear line of the lot and the nearest line of the principal building.
 - c. Yard, Side: An open space between the side line of the lot and the nearest line of the principal building and extending from the front yard to the rear yard.
152. Zoning Administrator: The Township Board's authorized representative is charged with the responsibility of administering this Ordinance.

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**ARTICLE III
ZONING DISTRICTS AND MAPS**

Section 301 Establishment of Districts

For the purpose of this Ordinance, the Charter Township of Breitung is hereby divided into the following zoning districts, which shall be known by the following respective symbols and names:

- R-1: Residential
- RR-1: Rural Residential One (*1 Acre*)
- RR-2: Rural Residential Two (*2.5 Acres*)
- RR-3: Rural Residential Three (*5 Acres*)**
- SP: Scenic Preservation
- RP: Resource Production
- C-1: General Retail
- C-2: Commercial/Light Industrial
- I: Industrial

Section 302 Zoning District Maps

The boundaries of the respective districts enumerated in Section 301 are defined and established as depicted on the map entitled "Charter Township of Breitung Official Zoning Map," which is an integral part of this Ordinance. These maps, along with all notations and explanatory matter thereon, shall become as much a part of this Ordinance as if fully described herein. Unless shown otherwise, the boundaries of the districts are lot lines, section lines, the centerline of streets, alleys, roads or such lines extended, and the unincorporated limits of the Township. The Charter Township of Breitung Official Zoning Map shall be identified by the signature of the Township Board Supervisor and attested by the Township Clerk. If, in accordance with the provisions of this Ordinance, changes are made in district boundaries, such changes shall be incorporated on the Charter Township of Breitung Official Zoning Map and approved by the Township Board together with an entry on the Charter Township of Breitung Official Zoning Maps showing the date and official action taken.

One copy of the Charter Township of Breitung Official Zoning Map is to be maintained and kept up-to-date by the Township Clerk, accessible to the public and shall be the final authority as to the current zoning status of properties in Breitung Township.

Section 303 Replacement of Official Zoning Map

In the event the Official Zoning Map become damaged, destroyed, lost or difficult to interpret because of the nature or number of changes made thereto, the Township Board may adopt new Official Zoning Maps, which shall supersede the prior Official Zoning Map. The Official Zoning Map shall bear the same signatures and certification as required in Section 302. Unless the Official Zoning Map have been lost, or has been totally destroyed, the prior maps or any significant parts thereof remaining shall be preserved together with all available records pertaining to its adoption or amendment.

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Section 304 Application of District Regulations

The regulations herein established within each zoning district shall be the minimum regulations for promoting and protecting the public health, safety and general welfare, and shall be uniform for each class of land or buildings and structures throughout each district. Where there are practical difficulties in the way of carrying out the strict letter of this Ordinance, the Zoning Board of Appeals shall have power in passing upon appeals, in accordance with Articles X and XI herein, to vary or modify regulations and provisions of this Ordinance so that the intent and purposes of this Ordinance shall be observed, public safety secured and substantial justice done.

Section 305 Scope of Provisions

- (A) Except as may otherwise be provided in this Ordinance, every building and structure erected, every use of any lot, building or structure established, every structural alteration or relocation of an existing building or structure occurring, and every enlargement of or addition to an existing use, building or structure occurring after the effective date of this Ordinance shall be subject to all regulations of this Ordinance which are applicable in the zoning district in which such use, building, or structure shall be located.
- (B) Uses are permitted by right only if specifically listed as uses permitted by right in the various zoning districts. Where not specifically permitted, either by right or conditionally, uses are thereby prohibited unless construed to be similar to an expressly permitted use. The Zoning Administrator shall determine if a use is similar to an expressly permitted use. Any appeals to the Zoning Administrator's interpretation shall be to the Zoning Board of Appeals pursuant to the provisions of Section 1101, et seq., of this Zoning Ordinance.
- (C) Accessory uses are permitted as indicated for the various zoning districts if such uses are clearly incidental to the permitted principal uses.
- (D) The uses permitted subject to special conditions are recognized as possessing characteristics of such unique and special nature (relative to location, design, size, etc.) as necessitating individual standards and conditions in order to safeguard the general health, safety and welfare of the community.

Section 306 Conflicting Regulations

Wherever any provision of this Ordinance imposes more stringent requirements, regulations, restrictions or limitations than those imposed or required by the provisions of any other law or ordinance, then the provisions of this Ordinance shall govern. Whenever the provisions of any other law or ordinance impose more stringent requirements than are imposed or required by this Ordinance, then the provisions of such law or ordinance shall govern. No vested right shall arise to the property owner for any parcel or use created in violation of any preceding Breitung Township Zoning Ordinance.

Section 307 Exemptions

The location and placement of pipes, wires, poles and generating equipment of public utilities which provide service to individual dwellings or business locations are exempt from regulation under this Ordinance.

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Section 308 District R-1: Residential One

- (A) Intent: The R-1, Residential One District is intended for the establishment and preservation of quiet single-family home neighborhoods free from other uses, except those which are both compatible with and convenient to the residents of this District. The R-1 District is designed to accommodate residential opportunities where spacious lots are reasonable to insure a safe, potable water supply and treatment of wastewater on the same lot.
- (B) Principal Permitted Uses:
1. Single-family dwellings.
 2. Open Space Preservation (option-see Section 420)
- (C) Permitted Accessory Uses: The following are permitted accessory uses:
1. Accessory structures normally associated with single-family dwellings, such as private garage, shed for yard tools, playhouse, woodshed, sauna and the like, except in the front yard.
 2. Pens for household pets.
 3. Swimming pools and accessory bath/changing house.
- (D) Conditional Uses Permitted by Conditional Use Permit: The following uses of land and structures may be permitted in this District by application for and the issuance of a Conditional Use Permit as provided for in Article VII. The following will also need to meet Site Plan requirements in Article VI.
1. Two-family dwellings.
 2. Multiple family dwellings.
 3. Churches.
 4. Schools.
 5. Private and public parks and similar recreational facilities.
 6. Day-care centers.
 7. Cemeteries
 8. Community centers, libraries and public buildings.
 9. Home occupation subject to the conditions of Section 405.
 10. Provision of essential services.
- (E) Special District Regulations: The following regulations shall be applied to all dwellings located in the R-1 District. A building containing not more than one dwelling unit designed for residential use, complying with the following standards:
- Dwellings shall:
1. Have a minimum width across any front, side or rear elevation of 20 continuous feet of exterior wall and complies in all respects with the County Building Code, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards or regulations for construction are different than those imposed by the County Building Code, then and in that event such federal or state standard or regulation shall apply.
 2. Be firmly attached to a permanent foundation constructed on the site in accordance with the County Building Code and shall have a wall of the same

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- perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable building code for single-family dwellings.
3. Contain a storage capability area in a basement located under the dwelling, in an attic area, crawl space, in closet areas, or in a separate structure of standard construction similar to or of better quality than the principal dwelling, which storage area shall be equal to 10% of the square footage of the dwelling or 100 square feet, whichever shall be less.
 4. The dwelling contains no additions or rooms or other areas which are not constructed with similar quality workmanship as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.
 5. The dwelling complies with all pertinent building and fire codes. The dwelling shall meet or exceed all applicable roof snow load and strength requirements.

Section 309 District RR-1: Rural Residential One (*1 Acre*)

- (A) **Intent:** The RR-1, Rural Residential One District is established to protect and generally preserve the existing character and use of those areas of the Charter Township of Breitung, developing into a residential environment in accessible rural areas at moderate densities.
- (B) **Principal Permitted Uses:**
1. Single-family dwellings.
 2. Two-family dwellings.
 3. Cemeteries.
 4. Public and private recreational facilities, including parks, playgrounds, day camps, campgrounds, parkways, and similar recreational facilities.
 5. The growing and harvesting of timber.
 6. Open Space Preservation (option- see Section 420)
- (C) **Permitted Accessory Uses:** The following are permitted accessory uses:
1. Accessory structures normally associated with residential dwellings, such as a private garage, shed for yard tools, playhouse, woodshed, boat house, sauna and the like, except in the front yard.
 2. Pens for household pets.
 3. Swimming pool and accessory bath/changing house.
- (D) **Conditional Uses Permitted by Conditional Use Permit:** The following uses of lands and structures may be permitted in this District by application for and issuance of a Conditional Use Permit as required for in Article VII. The following will also need to meet Site Plan Requirements in Article VI.
1. Churches.
 2. Schools.
 3. Veterinarian offices and animal clinics.
 4. Home occupation subject to the conditions of Section 405.
 5. ***For a private stable, there shall be no more than one horse for each two acres of total lot area, up to a maximum of ten horses per lot, and any building, pen, run, corral, or other structure or permanent area where the horse or horses are kept or confined, must be no nearer than 200 feet to any dwelling on an***

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adjacent lot, no nearer than 100 feet to any adjacent lot line, and no nearer to the front road right-of-way than the further between the rear building line of the dwelling on the subject lot and 100 feet. A fenced area where the horse or horses are allowed to feed, exercise, or be ridden or under harness may extend to the front, rear or side lot lines.

6. Multiple family dwellings.
7. Resorts.
8. ***Mineral extractions, subject to conditions of Section 415.***
9. ***Sand and gravel pits, subject to conditions of Section 416 and 417.***
10. Accessory structures located in the front yard.
11. Provision of essential services.
12. Day-care centers. (*Adopted 8-9-99*)
13. Wireless Communication Facility and Structures. (*Adopted 5-28-02*)
14. ***Greenhouse, Commercial.***

- (E) Special District Regulations: The following regulations shall be applied to all dwellings located in the RR-1 District. A building containing not more than one dwelling unit designed for residential use, complying with the following standards:

Dwellings shall:

1. Have a minimum width across any front, side or rear elevation of 20 continuous feet of exterior wall and complies in all respects with the County Building Code, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards or regulations for construction are different than those imposed by the County Building Code, then and in that event such federal or state standard or regulation shall apply.
2. Be firmly attached to a permanent foundation constructed on the site in accordance with the County Building Code and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable building code for single-family dwellings.
3. Contain a storage capability area in a basement located under the dwelling, in an attic area, crawl space, in closet areas, or in a separate structure of standard construction similar to or of better quality than the principal dwelling, which storage area shall be equal to 10% of the square footage of the dwelling or 100 square feet, whichever shall be less.
4. The dwelling contains no additions or rooms or other areas which are not constructed with similar quality workmanship as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.
5. The dwelling complies with all pertinent building and fire codes. The dwelling shall meet or exceed all applicable roof snow load and strength requirements.

Section 310 District RR-2: Rural Residential Two (2.5 Acres)

- (A) ***Intent: The RR-2, Rural Residential Two District is established to protect and generally preserve the existing character and use of those areas of the Charter Township of Breitung, developing into a residential environment in accessible rural areas at moderate densities, but lower densities than RR-1.***

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(B) Principal Permitted Uses:

1. *Single-family dwellings.*
2. *Two-family dwellings.*
3. *Cemeteries.*
4. *Public and private recreational facilities, including parks, playgrounds, day camps, campgrounds, parkways, and similar recreational facilities.*
5. *The growing and harvesting of timber.*
6. *Open Space Preservation (option- see Section 420)*

(C) Permitted Accessory Uses: *The following are permitted accessory uses:*

1. *Accessory structures normally associated with residential dwellings, such as a private garage, shed for yard tools, playhouse, woodshed, boat house, sauna and the like, except in the front yard.*
2. *Pens for household pets.*
3. *Swimming pool and accessory bath/changing house.*

(D) Conditional Uses Permitted by Conditional Use Permit: *The following uses of lands and structures may be permitted in this District by application for and issuance of a Conditional Use Permit as required for in Article VII. The following will also need to meet Site Plan Requirements in Article VI.*

1. *Churches.*
2. *Schools.*
3. *Veterinarian offices and animal clinics.*
4. *Home occupation subject to the conditions of Section 405.*
5. *For a private stable, there shall be no more than one horse for each two acres of total lot area, up to a maximum of ten horses per lot, and any building, pen, run, corral, or other structure or permanent area where the horse or horses are kept or confined, must be no nearer than 200 feet to any dwelling on an adjacent lot, no nearer than 100 feet to any adjacent lot line, and no nearer to the front road right-of-way than the further between the rear building line of the dwelling on the subject lot and 100 feet. A fenced area where the horse or horses are allowed to feed, exercise, or be ridden or under harness may extend to the front, rear or side lot lines.*
6. *Multiple family dwellings.*
7. *Resorts.*
8. *Mineral extractions, subject to the conditions of Section 415.*
9. *Sand and gravel pits, subject to the conditions of Section 416 and 417.*
10. *Accessory structures located in the front yard.*
11. *Provision of essential services.*
12. *Day-care centers. (Adopted 8-9-99)*
13. *Wireless Communication Facility and Structures. (Adopted 5-28-02)*
14. *Greenhouse, Commercial.*

(E) Special District Regulations: *The following regulations shall be applied to all dwellings located in the RR-2 District. A building containing not more than one dwelling unit designed for residential use, complying with the following standards:*

Dwellings shall:

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1. *Have a minimum width across any front, side or rear elevation of 20 continuous feet of exterior wall and complies in all respects with the County Building Code, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards or regulations for construction are different than those imposed by the County Building Code, then and in that event such federal or state standard or regulation shall apply.*
2. *Be firmly attached to a permanent foundation constructed on the site in accordance with the County Building Code and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable building code for single-family dwellings.*
3. *Contain a storage capability area in a basement located under the dwelling, in an attic area, crawl space, in closet areas, or in a separate structure of standard construction similar to or of better quality than the principal dwelling, which storage area shall be equal to 10% of the square footage of the dwelling or 100 square feet, whichever shall be less.*
4. *The dwelling contains no additions or rooms or other areas which are not constructed with similar quality workmanship as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.*
5. *The dwelling complies with all pertinent building and fire codes. The dwelling shall meet or exceed all applicable roof snow load and strength requirements.*

Section 311 District RR-3: Rural Residential Three (5 Acres)

(A) **Intent:** *The RR-3, Rural Residential Three District is established to protect and generally preserve the existing character and use of areas of the Charter Township of Breitung, which are presently rural or agriculture. Soil and natural conditions vary throughout this District, including woodlots and farms. These areas are considered to be suitable for scattered, rural residential development, and the perpetuation of existing farms and other low intensity land uses on parcels of at least five acres.*

(B) **Principal Permitted Uses:**

1. Single-family dwellings and mobile homes.
2. Two-family dwellings.
3. Cemeteries.
4. Public and private recreational facilities, playgrounds, day camps, campgrounds, parkways, wildlife preserves, and similar recreational facilities.
5. The growing and harvesting of timber.
6. *For a private stable, there shall be no more than one horse for each two acres of total lot area, up to a maximum of ten horses per lot, and any building, pen, run, corral, or other structure or permanent area where the horse or horses are kept or confined, must be no nearer than 200 feet to any dwelling on an adjacent lot, no nearer than 100 feet to any adjacent lot line, and no nearer to the front road right-of-way than the further between the rear building line of the dwelling on the subject lot and 100 feet. A fenced area where the horse or horses are allowed to feed, exercise, or be ridden or under harness may extend to the front, rear or side lot lines.*

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7. Open Space Preservation (option- see Section 420)
- (C) Permitted Accessory Uses: The following are permitted accessory uses:
1. Accessory structures normally associated with residential dwellings, such as a private garage, shed for yard tools, playhouse, woodshed, boat house, sauna and the like, except in the front yard.
 2. Pens for household pets.
 3. Swimming pool and accessory bath/changing house.
 4. Accessory uses of structures clearly incidental to the operation of an existing farm, including barns, silos, sheds, equipment, storage and similar structures customarily incidental to the permitted principal use and structures.
- (D) Conditional Uses Permitted by Conditional Use Permit: The following uses of lands and structures may be permitted in this District by application for and issuance of a Conditional Use Permit as required for in Article VII. The following will also need to meet Site Plan Requirements in Article VI.
1. Churches.
 2. Schools.
 3. Veterinarian offices and animal clinics.
 4. Commercial recreational facilities, including golf courses, commercial stables, race tracks, motorcycle tracks, go-cart tracks and similar facilities.
 5. Roadside stand for the sale of farm produce, specialty crops, such as tree fruits, nuts, berries, and the like, or foodstuffs made from such products, providing it is raised on the property.
 6. Storage yards, transformer stations, substations, microwave relay towers, commercial freestanding towers, and similar facilities associated with public service uses and facilities.
 7. Auction sale barns.
 8. Facilities for bulk feed, seed or fertilizer sales, storage or mixing.
 9. Farm equipment sales, services or repair.
 10. Agricultural production, including the growing or raising of forage and sod crops, grains and feed crops, dairy and dairy products, livestock, fruits, plants, trees, shrubs, and nursery stock, vegetables and similar activities on m of 10 acres of land.
 11. ***Mineral extraction, subject to the conditions of Section 415.***
 12. ***Sand and gravel pits, subject to the conditions of Section 416 and 417.***
 13. Home occupation subject to the conditions of Section 405.
 14. Accessory structures located in the front yard.
 15. Provision of essential services.
 16. Wireless Communication Facility and Structures. (*Adopted 5-28-02*)
 17. ***Greenhouse, Commercial.***

Section 312 District SP: Scenic Preservation

- (A) Intent: The SP, Scenic Preservation District is established to preserve and maintain the natural characteristics within the Fumee Lake watershed boundaries. Because this undeveloped and unique area contains a number of threatened or endangered plant and animal species, the area needs to be preserved to the greatest extent possible and only developed for extremely low density and passive type uses. Special consideration needs

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to be given to maintain a natural buffer or strip of land along the edges of both Fumee Lake and Little Fumee Lake to protect this valuable and fragile resource.

(B) Principal Permitted Uses:

1. Public recreational facilities, including parks, day camps, campgrounds, parkways, wildlife preserves, trails, swimming beach, and similar non-intensive recreational facilities.
2. Single-family dwellings.

(C) Permitted Accessory Uses: The following are permitted accessory uses:

1. Accessory structures normally associated with residential dwellings such as private garage, shed for yard tools, playhouse, woodshed, and sauna except in the front yard.
2. Pens for household pets.

(D) Conditional Uses Permitted by Conditional Use Permit:

1. Home occupation subject to the conditions of Section 405.
2. Provision of essential services.

(E) Special District Regulations: The following regulations shall be applied to all dwellings located in the SP District. A building containing not more than one dwelling unit designed for residential use, complying with the following standards:

Dwellings shall:

1. Have a minimum width across any front, side or rear elevation of 20 continuous feet of exterior wall and complies in all respects with the County Building Code, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards or regulations for construction are different than those imposed by the County Building Code, then and in that event such federal or state standard or regulation shall apply.
2. Be firmly attached to a permanent foundation constructed on the site in accordance with the County Building Code and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable building code for single-family dwellings.
3. Contain a storage capability area in a basement located under the dwelling, in an attic area, crawl space, in closet areas, or in a separate structure of standard construction similar to or of better quality than the principal dwelling, which storage area shall be equal to 10% of the square footage of the dwelling or 100 square feet, whichever shall be less.
4. The dwelling contains no additions or rooms or other areas which are not constructed with similar quality workmanship as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.
5. The dwelling complies with all pertinent building and fire codes. The dwelling shall meet or exceed all applicable roof snow load and strength requirements.

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Section 313 District RP: Resource Production

- (A) Intent: The RP, Resource Production District is established to maintain low density rural areas which because of their rural character and location, accessibility, natural characteristics and the potentially high cost of providing public services for intensive uses are suitable for a wide range of forestry, agricultural, natural resources and recreational uses.
- (B) Principal Permitted Uses:
1. The growing and harvesting of timber.
 2. Campgrounds, day camps.
 3. Parks, winter sports facilities, and trails.
 4. Recreational structures.
 5. Single-family dwellings and mobile homes.
 6. Kennels and stables.
 7. Agricultural production, including the growing or raising of forage and sod crops, grains and feed crops, dairy and dairy products, livestock, kennels, fruits, plants, trees, shrubs, and nursery stock, vegetables and similar activities.
 8. Open Space Preservation (option-see Section 420).
- (C) Permitted Accessory Uses: The following are permitted accessory uses:
1. Accessory structures normally associated with residential dwellings such as a private garage, shed for yard tools, playhouse, boat house, woodshed, sauna and the like.
 2. Pens for household pets.
 3. Accessory uses or structures clearly incidental to the operation of an existing farm including barns, silos, sheds, equipment storage and similar structures customarily incidental to the permitted principal use and structures.
 4. Swimming pools and accessory bath/changing house.
- (D) Conditional Uses Permitted by Conditional Use Permit: The following uses of land and structures may be permitted in this District, by application for and issuance of a Conditional Use Permit as provided for in Article VII. The following will also need to meet the Site Plan Requirements in Article VI.
1. Gun clubs, rifle, trap and pistol ranges.
 2. Commercial free standing towers.
 3. Commercial recreational facilities including golf courses, race tracks, motorcycle tracks, go-cart tracks and similar facilities.
 4. Private airport or landing fields.
 5. Public or private sanitary landfills.
 6. Auction sale barns.
 7. Storage yards, transformer stations, substations, microwave relay towers, hydroelectric facilities and similar facilities associated with public service uses or facilities.
 8. Sawmills.
 9. Resorts, lodges and associated facilities.
 10. ***Mineral extraction, subject to the conditions of Section 415.***
 11. ***Sand and gravel pits, subject to the conditions of Section 416 and 417.***
 12. Home occupation, subject to the conditions of Section 405.

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13. Provision of essential services.
14. Mobile Home Parks/Manufactured Home Park subject to the following provisions:
 - a. Mobile Home Parks/Manufactured Homes for the parking of three (3) or more trailers shall be developed pursuant to the requirements of Act 243 of the Public Acts of the State of Michigan 1959, as amended.
 - b. The land parcel being proposed shall be of such land area as to provide for a minimum of at least twenty (20) Mobile Home/Manufactured Home Sites and shall not exceed a maximum of one hundred (100) trailer coach sites.
 - c. Mobile/Manufactured Home Sites shall contain a minimum area of at least five thousand (5000) square feet. All such trailer site areas shall be computed exclusive of service drives, facilities, and recreation space.
 - d. A wall, greenbelt or obscuring fence six (6) feet in height shall be provided on all sides of the Mobile Home/Manufactured Home Park, with the exception of that portion providing ingress and egress to the site which must be landscaped and kept in a neat and presentable condition at all times.
 - e. Fences, when provided around Mobile/Manufactured Home Lots shall be uniform in height and shall not exceed thirty six (36) inches in height and shall be constructed in such a manner as to provide fireman access to all sides of each trailer.
 - f. Recreation space and landscaping as follows:

There shall be provided an area of not less than one hundred (100) square feet for recreation for each trailer space in the Mobile/Manufactured Home Park, with a minimum area of not less than five thousand (5000) square feet, which shall be no longer than two times its width. Such area shall be developed and maintained by the management as to provide recreation for children housed in the Mobile/Manufactured Home Park. The front yard and side yard adjacent to a street shall be landscaped and the entire Mobile/Manufactured Home Park shall be maintained in a clean, presentable condition at all times.
15. Wireless Communication Facility and Structures. *(Adopted 5-28-02)*

Section 314 District C-1: General Retail

- (A) Intent: The C-1, General Retail District, is established to preserve a district for general retail and service establishments with a range of retail, business and professional offices. The intent is to encourage the concentration of such businesses to areas, thereby promoting the best use of the land at certain strategic locations.
- (B) Principal Permitted Uses: General retail and service establishments, such as grocery, drug, hardware, sporting goods, and convenience stores, beauty and barber shops, pub, tavern, franchise restaurants, farmer's market, flower shop, greenhouse, single-family dwelling above or contained within an existing business, tailor shops, dry cleaners, laundromats, photographers, personal service establishment, banks and financial institutions, medical and dental offices, restaurants, motels, hotels, governmental offices,

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professional offices and sales offices. All other retail and personal service establishments shall be permitted, except those which could be detrimental to surrounding land uses.

- (C) Permitted Accessory Uses: The following are permitted accessory uses:
1. Off-street parking, as required and subject to the regulations established in Section 409.
 2. Any structural or mechanical use customarily incidental to the permitted principal use.
 3. Signs.
- (D) Conditional Uses Permitted by Conditional Use Permit: The following uses of land and structures may be permitted in this District, by application for and issuance of a Conditional Use Permit as provided for in Article VII. The following will also need to meet Site Plan Requirements in Article VI.
1. Churches.
 2. Schools.
 3. Private clubs and lodge halls.
 4. Gas stations.
 5. Theaters and assembly halls.
 6. Dwelling, multiple family.
 7. Provision of essential services.
 8. Commercial recreational facilities, including miniature golf courses, commercial stables, race tracks, motorcycle tracks, go-cart tracks and similar facilities.
 9. Mini-Storage facilities.
 10. Mobile Home Parks subject to the following provisions.
 - a. Manufactured Homes or Mobile Home Parks for the parking of three (3) or more Manufactured Homes or Mobile Homes shall be developed pursuant to the requirements of Act 243 of the Public Acts of the State of Michigan, 1959, as amended.
 - b. The land parcel being proposed shall be of such land area as to provide for a minimum of at least twenty (20) Manufactured or Mobile Home Sites and shall not exceed a maximum of one hundred (100) sites.
 - c. Manufactured and Mobile Sites shall contain a minimum area of at least five thousand (5000) square feet. All such site areas shall be computed exclusive of service drives, facilities, and recreation space.
 - d. A wall, greenbelt, or obscuring fence six (6) feet in height shall be provided on all sides of the Park, with the exception of that portion providing ingress and egress to the site which must be landscaped and kept in a neat and presentable condition at all times.
 - e. Fences when provided around trailer lots shall be uniform in height and shall not exceed thirty six (36) inches in height and shall be constructed in such a manner as to provide fireman access to all sides of each mobile or manufactured home.
 - f. Recreation space and landscaping as follows:

There shall be provided an area of not less than one hundred (100) square feet for recreation for each Mobile/Manufactured Home in the park, with a minimum of not less than five thousand (5,000) square feet, which shall be no longer than two times its width. Such area shall be developed and

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maintained by the management so as to provide recreation for children housed in the Park. The front yard and side yard adjacent to street shall be landscaped and the entire Mobile/Manufactured Home Park shall be maintained in a clean, presentable condition at all times.

11. Motor vehicles sales, not to exceed one sale vehicle per 1,500 square feet of lot area. (*Adopted 9-28-98*)
12. Outdoor sales of boats, campers and recreational vehicles, not to exceed one sale vehicle per 1,500 square feet of lot space. (*Adopted 8-9-99*)
13. Wireless Communication Facility and Structures. (*Adopted 5-28-0*)
14. Mini-mall.

Section 315 District C-2: Commercial/Light Industrial

- (A) **Intent:** The C-2, Commercial/Light Industrial District is established to preserve a district for light industrial uses, along with compatible commercial uses.
- (B) **Principal Permitted Uses:** Motor vehicle sales, service and rental; construction and farm equipment sales; sales of mobile homes, campers, recreational vehicles, boats and monuments; wholesale and storage uses; motels; hotels; restaurants; convenience stores; food packaging and bottling works; commercial printing and newspaper offices; and shops; laundry, cleaning and drying plants; lumber yards, and gas stations, truck stop, commercial recreational facilities, including miniature golf courses, farmer's market, commercial stables, race tracks, motorcycle tracks, go-cart tracks and similar facilities, flower shops, greenhouses, single-family dwelling above or contained within an existing business.
- (C) **Permitted Accessory Uses:** The following are permitted accessory uses:
 1. Off-street parking as required and subject to the regulations established in Section 409.
 2. Any structural or mechanical use customarily incidental to the permitted principal use.
 3. Signs.
- (D) **Conditional Uses Permitted by Conditional Use Permit:** The following uses of land and structures may be permitted in this District by application for and the issuance of a Conditional Use Permit, as provided for in Article VII.
 1. Other industrial or commercial uses which do not emit fumes, vibration, smoke or noise, except as the result of ingress and egress of vehicles from the property.
 2. ***Mineral extractions subject to the conditions of Section 415.***
 3. ***Sand and gravel pits, subject to the conditions of Section 416 and 417.***
 4. Provision of essential services.
 5. Mobile Home Parks subject to the following provisions.
 - a. Manufactured Homes or Mobile Home Parks for the parking of three (3) or more manufactured homes or mobile homes shall be developed pursuant to the requirements of Act 243 of the Public Acts of the State of Michigan, 1959, as amended.
 - b. The land parcel being proposed shall be of such land area as to provide for a minimum of at least twenty (20) Manufactured or Mobile Home Sites and shall not exceed a maximum of one hundred (100) sites.

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- c. Manufactured and Mobile Sites shall contain a minimum area of at least five thousand (5000) square feet. All such site areas shall be computed exclusive of service drives, facilities, and recreation space.
 - d. A wall, greenbelt, or obscuring fence six (6) feet in height shall be provided on all sides of the Park, with the exception of that portion providing ingress and egress to the site which must be landscaped and kept in a neat and presentable condition at all times.
 - e. Fences when provided around trailer lots shall be uniform in height and shall not exceed thirty six (36) inches in height and shall be constructed in such a manner as to provide fireman access to all sides of each mobile or manufactured home.
 - f. Recreation space and landscaping as follows:
There shall be provided an area of not less than one hundred (100) square feet for recreation for each Mobile/Manufactured home in the park, with a minimum of not less than five thousand (5,000) square feet, which shall be no longer than two times its width. Such area shall be developed and maintained by the management so as to provide recreation for children housed in the Park. The front yard and side yard adjacent to street shall be landscaped and the entire Mobile/Manufactured Home Park shall be maintained in a clean, presentable condition at all times.
- 6. Caretaker Residence. (*Adopted 7-28-97*)
 - 7. Wireless Communication Facility and Structures. (*Adopted 5-28-02*)
 - 8. Contractor's Yard.
 - 9. Mini-storage warehouse facilities.
 - 10. ***Dwelling, multiple family.***

Section 316 District I: Industrial

- (A) **Intent:** The I, Industrial District is designed and intended for manufacturing, assembling, fabricating, processing, storage and similar operations which may require larger sites and isolation from other types of land uses, and to make provisions for commercial uses necessary to service the immediate needs of an industrial area.
- (B) **Principal Permitted Uses:**
 - 1. Manufacturing.
 - 2. Processing, assembling and fabrication operations.
 - 3. Warehousing.
 - 4. Lumber yards.
 - 5. Contractor yards and shops.
 - 6. Auto body and paint shops.
 - 7. Sawmills.
 - 8. Concrete and asphalt plants.
 - 9. Pulp and paper mills.
 - 10. Research laboratories.
 - 11. Transfer stations.
 - 12. Water and wastewater treatment plants.
 - 13. Heating and electrical power generating plants.
 - 14. Public and private recreational facilities.

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15. Truck stop.
 16. Bulk Storage
- (C) Permitted Accessory Uses: The following are permitted accessory uses:
1. Off-street parking as required and subject to the regulations established in Section 409.
 2. Any structural or mechanical use customarily incidental to the permitted principal use.
 3. Signs.
- (D) Conditional Uses Permitted by Conditional Use Permit: The following uses of land and structures may be permitted in this District by application for and issuance of a Conditional Use Permit as required in Article VII. The following will also need to meet the Site Plan requirements of Article VI.
1. Other industrial or heavy commercial uses not specifically indicated as a principal permitted use.
 2. ***Mineral extractions, subject to the conditions of Section 415.***
 3. ***Sand and gravel pits, subject to the conditions of Section 416 and 417.***
 3. Junkyards.
 3. Provision of essential services.
 4. Wireless Communication Facility and Structures. (*Adopted 5-28-02*)
 5. ***Sexually Oriented Business, subject to the conditions of Section 423.***
- (E) Additional Conditional Use Permit Required Area:
1. ***In areas where the Industrial Zone borders R-1, RR-1, RR-2 and RR-3 there will be a 200 foot deep buffer. Any use of this Buffer Zone shall require a Conditional Use Permit.***

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**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.

Schedule of Regulations							
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 ^A	100	30	10 ^B	10 ^C	30 ^D	20
RR-1	1 Acre ^F	150	40	30 ^B	30 ^E	30	20
RR-2	2.5 Acres ^F	200	40	30^B	30^E	30^{D1}	20
RR-3	5 Acres ^F	300	40	30^B	30^E	30^M	14^L
SP	10 Acres ^F	300	40	40	35 ^{G-1}	30	20
RP	10 Acres ^F	300	40	30	30	30 ^M	14 ^L
C-1	20,000	100	30	^J	30	30	14 ^L
C-2	20,000	100	30	^J	30	30	14 ^L
I	1 Acre	150	40	^J	20	^K	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.**
- D₁. 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

Section 408 Use of Yard or Open Space

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.

<i>Parking Requirements</i>	
<i>Land Use</i>	<i>Space Required</i>
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
<i>Day-care centers</i>	<i>2 per dwelling unit plus 1 additional space per 5 children of licensed authorized capacity</i>
<i>Fast food take-out establishments, drive-in restaurants</i>	<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>
<i>Restaurants (except drive-ins)</i>	<i>1 per 150 square feet of floor space plus 1 space per 2 employees per shift</i>
<i>Furniture and appliance stores</i>	<i>1 per 300 square feet of floor space</i>
<i>Household equipment, carpet and hardware stores, repair shops including shoe repair, contractor's showrooms and other, museums and galleries</i>	<i>1 per 200 square feet of floor space</i>
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
<i>Laundromats</i>	<i>1 per washing machine</i>

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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.*

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ARTICLE V SIGNS

Section 501 Intent

It is hereby determined that regulation of the location, size, placement, and certain features of signs is necessary to enable the public to locate goods, services, and facilities without difficulty and confusion, to prevent wasteful use of natural resources in competition among businesses for attention, to prevent hazards of life and property, and to assure the continued attractiveness of the community and protect property values. It is further determined that signs which may lawfully be erected and maintained under the provisions of this Ordinance are consistent with customary usage, and that signs which may not lawfully be erected or maintained under the provisions hereof are not consistent with customary usage, are an abuse thereof, and are unwarranted invasions of the rights of legitimate business interests and of the public.

Section 502 Residential District Regulations for Signs

Within the R-1, RR-1, RR-2, RR-3, LS/R, RP and SP Districts, signs shall be permitted as follows:

- (A) One sign not to exceed six (6) square feet to announce the sale or rent of property.
- (B) Churches shall be permitted a total sign area of twenty (20) square feet. The total sign area may be divided into two signs: one identification sign and one bulletin board.
- (C) One sign per vehicle entrance not to exceed thirty-two (32) square feet and eight (8) feet in height **above grade** which identifies a platted subdivision development or Mobile Home Park.
- (D) Multiple dwellings and nursing homes shall be permitted one (1) identification sign not to exceed twelve (12) square feet and eight (8) feet in height **above grade**.
- (E) One sign, not to exceed six (6) square feet, shall be permitted to advertise a home occupation. The sign shall not be illuminated nor have working parts. It may be attached flush to the building or placed to the front of the lot or parcel and shall not detract from the visual appearance of the neighborhood.
- (F) Signs permitted by this Section are exempt from the setback requirements of Section 401. Signs, however, shall not be located on the right-of-way and shall not interfere with traffic visibility.

Section 503 General Retail and Commercial/Light Industrial District Sign Regulations

Signs are permitted in the General Retail (C-1) and Commercial/Light Industrial (C-2) District on parcels that are already developed. ***Monument signs are permitted having an area not exceeding six (6) square feet for each ten (10) feet or fraction of frontage, or sixty (60) square feet for each acre or fraction of area of the developed premises, whichever is larger. There shall be a maximum of one hundred (100) square feet of sign area for each developed parcel.***

Where a premise has more than one occupant, the permitted sign area shall be divided among them in the same proportion as floor space and outdoor sales as occupied by them. ***Where a premise has more than two occupants and has a name distinct from that of the occupants, as in a shopping center, shopping mall or strip mall, an additional two (2) square feet of sign***

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area for each ten (10) feet or fraction of street frontage, with a maximum to two hundred (200) square feet, is permitted only for signs identifying the developed premises.

In lieu of a monument sign, a pole or pylon sign is permitted with having an area not exceeding six (6) square feet for each ten (10) feet or fraction of frontage, or sixty (60) square feet for each acre or fraction of area of the developed premises, whichever is larger. There shall be a maximum of two hundred (200) square feet of sign area for each developed parcel.

When calculating the maximum square footage permitted per business for signage, building signs shall not be included.

Signs shall be subject to the following setback requirements: minimum of five (5) feet setback when the right-of-way width from the centerline of the road to the property line is less than fifty (50) feet; and may be located at the lot line when the right-of-way width from the centerline of the road to the property line is greater than fifty (50) feet. Setback measurement shall be from the right-of-way to the closest part of the sign, whether it be at or above grade. Signs shall be subject to the height regulations for the General Retail and Commercial/Light Industrial Districts.

Section 504 Industrial District Sign Regulations

In the Industrial District, on-premise signs are permitted having a sign area not exceeding one hundred (100) square feet. ***Off-premise signs/billboards are permitted and shall have a maximum sign area of three hundred (300) square feet per sign.*** Back-to-back signs ***or signs in a v-type structure*** shall have a maximum of three hundred (300) square feet for each side and shall not be further apart than four (4) feet ***or the interior angle shall not exceed twenty (20) degrees, whichever is applicable.*** Individual signs shall be at least three hundred (300) feet apart and shall maintain a forty (40) foot setback. The maximum height for signs in the Industrial District shall be thirty (30) feet.

Section 505 Conditional Use Sign Regulations

On-premise signs are permitted to identify or advertise an approved Conditional Use or activity and shall not advertise a specific product not produced on the premises. Signs shall have a maximum sign area of sixteen (16) square feet and not exceed eight (8) feet in height ***above grade.*** Signs shall be subject to the following setback requirements: minimum of five (5) feet setback when the right-of-way width from the centerline of the road to the property line is less than fifty (50) feet; and may be located at the lot line when the right-of-way width from the centerline of the road to the property line is greater than fifty (50) feet. Setback measurement shall be from the right-of-way to the closest part of the sign, whether it be at or above grade. Sign regulations in this Section shall not apply to any Conditional Use located in the C-1, C-2 or I Districts, or to churches, multiple family dwellings, nursing homes or home occupations ***which are regulated elsewhere in this Section.***

Section 506 Temporary Signs

Signs which are intended to identify or advertise a nonprofit annual or one time event or occurrence, such as a fair or other event of general public interest, shall be authorized by the Zoning Administrator for a period of not more than two (2) months by written permits upon

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finding that the proposed sign is not contrary to the spirit and purpose of this Ordinance and shall conform to all size limitations set forth by this Ordinance. The applicant is responsible for both the erection and removal of all signs. All signs must be removed no later than ten (10) days after the end of the event. ***Signs shall not be located in the right-of-way or interfere with traffic. Signs mounted on a mobile base shall all conform to setbacks and conform to lighted sign regulations.***

Section 507 Construction Signs

One construction sign is permitted per project not exceeding sixteen (16) square feet in sign area for residential districts and thirty-two (32) square feet for General Retail, Commercial/Light Industrial or Industrial Districts. Signs shall be erected no more than five (5) days prior to the beginning of construction for which a valid building permit has been issued, shall be confined to the site of construction, and shall be removed prior to occupancy.

Section 508 Exempt Signs

The following signs shall not exceed nine (9) square feet and are otherwise exempt from this Ordinance:

- (A) Public Signs - Signs of a noncommercial nature and in the public interest, erected by, or on the order of a public officer in the performance of official duty.
- (B) Political Signs - Those signs which are intended to advertise a public election, individual actively participating in such an election, or other public ballot issue, are permitted on private property with the owner's permission. ***All political signs are authorized only ninety (90) days prior to any election.*** All political signs must be removed within ten (10) days after the election date and shall not be located on the public right-of-way ***or interfere with traffic. In the C-1 and C-2 districts political signs shall not exceed thirty-two (32) square feet.***
- (C) Signs which announce no hunting or no trespassing.
- (D) Signs which identify the name of a farm or farming operation.
- (E) Residential Identification Signs - Those signs which have an occupant's name and/or house number.

Section 509 Lighting of Signs

No lighted signs shall be permitted within the R-1, RR-1, RR-2, RR-3, LS/R, RP or SP Districts. No sign shall be lighted so as to create a traffic hazard or to adversely affect neighboring land uses. No sign may be lighted to such intensity or in such a manner that it creates a public nuisance or adversely affects the public health, safety, or general welfare.

Section 510 Animated/LED Signs

Animated/LED sign: "Animated sign/LED sign" means any sign whereby the information conveyed incorporates or involves action, motion or the appearance or action or motion, such as color changes, scrolling messages or video-like features. Animated signs shall include electronic reader boards in which the message changes more often than once every 24 hours and also includes time/temperature signs.

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Animated/LED signs are permitted in the C-1, C-2 and I districts. Animated/LED signs shall conform to all other sign regulations.

Section 511 Maintenance of Signs

Dilapidated sign structures which are likely to cause injury or degrade the surrounding area, and signs which advertise a closed business, past event or political election, are no longer legible, or are otherwise untimely or unsafe, are a nuisance or danger to the public. The Zoning Administrator is authorized to remove, or to have removed, all dangerous or nuisance signs, the cost of which is to be borne by the sign owner and/or property owner.

Section 512 Nonconforming Signs

- (A) It is the intent and purpose of this Section to eliminate nonconforming signs except as otherwise specifically set forth in this Section as rapidly as the police power of the Township permits.
- (B) No nonconforming sign:
 - 1. Shall be structurally altered so as to prolong the life of the signs, nor shall the shape, size, type, or design of the sign structure be altered;
 - 2. Shall be continued after the activity, business, or usage to which it relates has been discontinued for thirty (30) days or longer; or
 - 3. Shall be reestablished after damage or destruction if the estimated expense of reconstruction exceeds fifty percent (50%) of the sign value.
- (C) No nonconforming sign may be changed to another nonconforming use.
- (D) Nonconforming signs may have their face or message updated but not structurally altered.

Section 513 Prohibited Signs

The following signs are prohibited:

- (A) *Signs which imitate an official traffic sign or signal which contains the words “stop”, “go”, “slow”, “caution”, “danger”, “warning”, or similar words.*
- (B) *Signs which are of a size, location, content, coloring, or manner of illumination which may be confused with or construed as a traffic control device or which hide from view and traffic or street sign or signal or which obstruct the view in any direction at a street or road intersection.*

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Unless otherwise provided in this Ordinance, the maximum size of a sign for a particular use is indicated below:

District	Uses	Max. Size and Number
R-1, RR-1, RR-2, RR-3 LS/R, SP, RP	Sale or rent of property	6 square feet
	Church	20 square feet
	Platted subdivision or mobile home park	32 square feet, 8 feet high, 1 sign per entrance
	Multiple family dwelling	12 square feet, 8 feet high, 1 sign
	Nursing home	12 square feet, 8 feet high, 1 sign
	Home occupation	6 square feet
	Construction	16 square feet
	Residential identification	9 square feet
	Public sign	9 square feet
	Political sign	9 square feet
	Hunting / trespassing	9 square feet
	Farm	9 square feet
C-1, C-2	Monument sign	6 square feet for each 10 feet of frontage or 60 square feet for each developed acre to a maximum of 100 square feet
	Shopping center/shopping mall/strip mall	8 square feet for each 10 feet of frontage or 60 square feet for each developed acre to a maximum of 200 square feet
	Pole/pylon sign	6 square feet for each 10 feet of frontage or 60 square feet for each developed acre to a maximum of 200 square feet
	Construction	32 square feet
	Residential identification	9 square feet
	Public sign	9 square feet
	Political sign	32 square feet
	Hunting / trespassing	9 square feet
	Farm	9 square feet
I	On-premise sign	100 square feet
	Off-premise sign/billboard	300 square feet
	Back to back signs	300 square feet per side
	Construction	32 square feet

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ARTICLE VI SITE PLAN REVIEW

Section 601 Intent

It is the purpose of this section to require Site Plan Review approval for all buildings, structures, and uses that can be expected to have a significant impact on natural resources, traffic patterns, adjacent parcels and the character of future development. The regulations contained herein are intended to provide and promote the orderly development of the Township of Breitung; safe and convenient traffic movement, both within a site and in relation to access streets; the stability of land values and investments by preventing the impairment or depreciation of land values and development, by the erection of structures or additions or alterations thereto, without proper attention to setting or to unsightly or undesirable appearances; harmonious relationship to buildings, other structures and uses, both within a site and/or adjacent sites; and the conservation of natural amenities and resources.

Section 602 Site Plan Required

A Site Plan is required for and shall accompany the applications for:

- (A) Zoning Compliance Permits for:
 - 1. Any proposed construction
 - 2. Any commencement of a new use
 - 3. Any proposed change in use
- (B) Conditional Use Permit
- (C) Variances
- (D) Nonconforming Use designations
- (E) ***Plats***
- (F) ***Site condos***
- (G) ***Land splits with more than four (4) lots created***
- (H) Any other request for zoning status where the Zoning Administrator determines a Site Plan is necessary for accurate review or documentation of the existing development.

The Site Plan may be drawn on the application form or on a separate sheet of paper as appropriate to the scale and amount of information shown.

Section 603 Site Plans for Single and Two-Family Dwellings, and Residential Accessory Uses and Structures and for Recreational Structures

The Site Plan for single and two-family dwellings, residential accessory uses and structures and recreational structures shall show the following information:

- (A) ***Lot corners shall be identified by a registered land surveyor.***
- (B) A legal description of the site.
- (C) Proof of ownership or land conveyance.
- (D) All lot lines and dimensions of the lot.
- (E) All roads and easements.
- (F) All existing and proposed buildings shall be shown and labeled.

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- (G) Proposed use of each building.
- (H) Distances between buildings and all lot lines.
- (I) Building dimensions.
- (J) Natural features affecting development (rock, water, etc.).
- (K) Well and septic locations.
- (L) A north arrow.
- (M) *Front, side and rear elevations.***
- (N) *Any deed restrictions or covenants affecting the proposed plan and future on or off-site development.***

Section 604 Site Plans for Commercial, Industrial Mobile/Manufactured Home Parks, and Multiple Family Development (all other development)

Site Plans for all uses and developments except for one and two-family dwellings, residential accessory uses and recreational structures shall contain the following information and data. This information shall be provided on two identical copies on one or more sheets.

- (A) *Lot corners shall be identified by a registered land surveyor.***
- (B) A scale adequate to illustrate the proposed activity.
- (C) A legal description of the lot; the name, address and telephone number of the owner, developer and designer.
- (D) Date, north point, and scale.
- (E) The actual dimensions of the proposed developed area (as shown by a licensed surveyor, engineer, architect, or registered landscape architect, with the survey stakes visible) showing the relationship of the subject property to abutting properties.
- (F) The location of all existing and proposed structures, including signs, on the subject property and all existing structures on land immediately adjacent to the site within 100 feet of the site's parcel lines.
- (G) The location of all existing and proposed drives and parking areas.
- (H) The location and right-of-way widths of all abutting streets, alleys, and private easements.
- (I) The location of proposed planting and screening, fencing, signs and advertising features.
- (J) The height and floor area of all proposed structures.
- (K) The size and location of all existing and proposed public and private utilities and required landscaping.
- (L) Any other information necessary to establish compliance with this Ordinance or any other applicable ordinances.
- (M) *A lighting plan shall be submitted for all uses and developments.***
- (N) *A storm water retention plan shall be submitted for all uses and developments. The storm water retention plan shall meet all applicable Dickinson County Code Commission standards and the standards of any other appropriate agency. The storm water plan shall include, but not be limited to the following:***
 - 1. *A standard USGS 7.5-minute topographic map with 10 foot contours which shows the location of the projects area is acceptable. A topographic map with a 2-foot contour interval is preferred. The map must also show the location of the***

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property with respect to the street system and other features such as existing and proposed stormwater retention basins.

2. *A drainage easement shall be prepared and recorded for permanent stormwater retention basins.*
- (O) *A colored rendering shall be submitted indicating the proposed exterior color scheme and materials that will be utilized.*
- (P) *Front, side and rear elevations.*
- (Q) *All roads and easements.*
- (R) *Any deed restrictions or covenants affecting the proposed plan and future on or off-site development.*

Section 605 Review Procedures

Upon receipt of any Site Plan, the Zoning Administrator shall review it to determine whether it is in proper form, contains all of the required information, shows compliance with this Ordinance and all other ordinances of the Charter Township of Breitung, and demonstrates the adequacy of utility service. The Zoning Administrator may provide a copy of the Site Plan to the Drain Commissioner and Health Department. Upon demand by the proposer of the Site Plan, the Zoning Administrator shall, within ten (10) working days, approve or deny in writing, setting forth in detail their reasons which shall be limited to any defect in form or required information, any violation of any provision of this or any other Ordinance, or the inadequacy of any utility, and any changes which would make the plan acceptable. The proposer may appeal any denial to the Township Planning Commission. The Zoning Administrator shall use the following standards in the review.

Section 606 Standards for Site Plan Approval

All approved site plans shall comply with the appropriate zoning district regulations, parking requirements, general provisions and other requirements of this Ordinance as the apply to the proposed site plan. In addition, each site plan shall comply with the following requirements:

- (A) All elements of the Site Plan shall be harmoniously and efficiently organized in relation to topography, the size and type of lot, the character of adjoining property and the type and size of buildings. The site will be so developed as not to impede the normal and orderly development or improvement or surrounding property for uses permitted in this Ordinance.
- (B) The landscaping shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, and by topographic modifications which result in maximum harmony with adjacent areas.
- (C) Special attention shall be given to proper site surface drainage so that removal of storm waters will not adversely affect neighboring properties.
- (D) The Site Plan shall provide reasonable visual and auditory privacy for all dwelling units located therein. Fences, walks, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants.
- (E) ***All buildings or group of buildings shall be arranged so as to permit convenient and direct emergency vehicle access.***
- (F) Every structure or dwelling shall have access to a public street, walkway or other area dedicated to common use.

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- (G) All loading or unloading and outside storage areas, including areas for storage of trash, which face or are visible from residential properties, abut a residential zone or public thoroughfares, shall be screened by a vertical fence consisting of structural (fence) or plant materials no less than six feet in height.
- (H) *The site plan shall show the location, height and kind of lighting proposed.* Exterior lighting, *including parking area lighting, building lighting, and lighting for signs, awnings and canopies*, shall be so arranged that it is deflected away from adjacent properties and so that it does not impede the vision of traffic along adjacent streets. Flashing or intermittent lights shall not be permitted.
- (I) *Plans for private roads shall be included with the Site Plan.*

Section 607 Requirements for Private Roads

- (A) *All lots in all zoning districts shall be located and have frontage on a public road or on a Township-approved private road. Any lot of record created before the effective date of this Ordinance without any frontage on a public street or an approved private road shall not be occupied on a year-round basis without access to a street provided by an easement or other right-of-way not less than sixty-six (66) feet wide.*
- (B) *A private driveway that accesses a Township-approved private road, a county or state road, may service up to four (4) separate parcels. If a private driveway is proposed to serve more than four (4) parcels, then the private driveway must meet the requirements of a private road under this Ordinance.*
- (C) *All private roads shall meet the standards of a public road as required by the Dickinson County Road Commission. Property owners with lots on existing approved private roads shall be encouraged to improve their roads to meet the Dickinson County Road Commission standards, in order that the road be accepted as a public road and become part of the Dickinson County public road system. A performance bond, in an amount established in the Township Schedule of Fees, will be required to cover the cost of certification by a licensed professional engineer that the private road meets required County Road Commission standards.*
- (D) *Applications for private road approval must be received at least 45 days prior to the meeting date at which said road shall be considered for approval.*
- (E) *Camps and seasonal housing units may be located on private roads and easements created for such use, however, these housing units may not be occupied more than on a seasonal basis. Future access easements should be 66 feet in width to provide for the development of a public road in the future. For the purpose of this covenant seasonal road, private road, right-of-way, easements and/or any unapproved access of 300 feet or more are considered one in the same.*
- (A) *No private road shall be constructed within the Township unless it is in compliance with this Ordinance. Private roads shall not be dedicated to the Township and private roads shall not be maintained by the Township.*
- (B) *Plans for a private road shall be submitted to the Township Planning Commission along with the Site Plan for review. Materials submitted with the Site Plan shall include:*
 - 1. *A legal description and survey of all properties to be served by the private road.*
 - 2. *A legal description and survey of the proposed private road easement.*

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3. *Drawing showing the existing and proposed structures, roads, drives, drains and other significant physical features on the property.*
 4. *Engineering plans for the proposed private road shall comply with Section 606 of this Ordinance.*
 5. *The construction plans shall including the following drawing: Typical cross section and drainage layout.*
 6. *A proposed maintenance agreement.*
- (C) *No private road construction shall begin until the Planning Commission has approved the proposed road by a recorded vote and a permit has been issued by the Zoning Administrator.*

Section 608 Minimum Design Standards for Private Roads

- (A) *Preliminary plans, final plans, construction plans and construction methods for a private road shall be designed by a professional engineer and bear the seal of a professional engineer.*
- (B) *Private roads shall not be named.*
- (C) *All private roads must be completed within one (1) year of approval or the private road will have to be resubmitted for Site Plan review and approval.*

Section 609 Naming of Public Roads

- (A) *Names of any new public roads shall not duplicate or be so similar either in spelling or phonetics to an existing road, to avoid possible confusion, particularly for emergency service providers.*
- (B) *All new public road names within the Township shall be approved by the Planning Commission.*

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ARTICLE VII CONDITIONAL USE PERMITS

Section 701 Intent

Until recent years, the regulation of all uses of land and structures through zoning has been accomplished by assigning each use to one or more districts. However, the functions and characteristics of an increasing number of new kinds of land uses combined with some of the older, more familiar kinds of uses call for more flexibility and equitable procedure for properly accommodating these activities in the community. It should be recognized that the forces that influence decisions regarding the nature, magnitude, and location of such types of land use activities are many and varied depending upon functional characteristics, competitive situations and the availability of land. Rather than assign all uses to special, individual, and limited zoning districts, it is important to provide controllable and reasonable flexibility in requirements for certain kinds of uses, but that will, at the same time, maintain adequate provision for the security of the health, safety, convenience and general welfare of the community's inhabitants.

In order to accomplish such a dual objective, provision is made in this Ordinance not only for flexibility in individual district regulations, but also for a more detailed consideration of certain specified activities as each may relate to proposed conditions of location, design, size, operation, intensity of use, generation of traffic movements, concentration of population, processes and equipment employed, amount and kind of public facilities and services required, together with many other possible factors. Land and structure uses possessing these particularly unique characteristics are designated as Conditional Uses and may be authorized by the issuance of a Conditional Use Permit with such conditions and safeguards attached as may be deemed necessary for the protection of the public welfare.

The following Sections, 702 through 705, together with previous Sections, 308 through 316, designate what uses require a Conditional Use Permit. With any exception noted, the procedures for obtaining such a permit apply to all Conditional Uses indicated.

Section 702 Application Procedure

- (A) Any person having an interest in a property may file an application for a Conditional Use Permit for the zoning district in which the land is situated.
- (B) Applications shall be submitted through the Zoning Administrator to the Planning Commission. Each application shall be signed by the property owner and accompanied by the payment of a fee in accordance with the duly adopted "Schedule of Fees" to cover costs of processing the application. No part of any fee shall be refundable.
- (C) Data Required in Application: Every application shall be accompanied by one copy of the following information and data:
 1. Conditional Use form supplied by the Zoning Administrator filled out by the applicant.
 2. Site Plan drawn to a readable scale and containing that information specified in Section 603 and or Section 604.
 3. A statement with supporting evidence regarding the required findings specified in Section 704.

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- (D) Upon receipt of such materials by the Zoning Administrator, the Township shall transmit one copy to the Road Commission, Drain Commissioner, Health Department, and School District, as deemed appropriate, for their review and comment. Each agency shall review the document and forward any comments to the Zoning Administrator. The Zoning Administrator shall transmit a copy of the Site Plan to the Planning Commission for their review.
- (E) Approval of a Conditional Use Permit shall be valid regardless of change of ownership, provided that all terms and conditions of the permit are met by all subsequent owners.
- (F) In instances where development authorized by a Conditional Use Permit has essentially changed in nature, extent or character, the Planning Commission shall review the permit in relation to the applicable standards and requirements of the Ordinance. Upon finding that there has been a violation in the conditions of the Conditional Use Permit granted under the provisions of this Ordinance, the Planning Commission may declare the permit null and void.
- (G) If development of a Conditional Use Permit has not commenced within one (1) year from the date of issuance, said permit shall expire automatically. The Planning Commission can approve an extension for one additional year upon request by the applicant.

Section 703 Review and Findings

- (A) ***Planning Commission Public Hearing: The Planning Commission shall conduct a public hearing on the application at a regular or special meeting. The Zoning Administrator shall cause to be published one (1) notice of the public hearing, in accordance of the provisions set forth in Section 1002.***
- (B) ***Planning Commission Action:*** The Planning Commission shall approve, approve with conditions, or reject the application within sixty (60) days of the hearing based upon materials received and testimony recorded at the public hearing. The Planning Commission shall set forth the reasons for approval, denial, or modification of the Conditional Use Permit application. Following favorable action by the Planning Commission, the Zoning Administrator shall issue a Conditional Use Permit, in accordance with the Site Plan and any conditions as have been placed on such permit by the Planning Commission. All conditions shall be clearly specified in writing and the petitioner has one year from date of hearing to comply with all specified conditions. Compliance shall occur prior to the commencement of the use, unless a specified time is set in the motion granting the Conditional Use Permit.
- (C) ***Appeals:*** Any appeals concerning an unfavorable action by the Planning Commission shall be made by filing a notice of appeal with the Zoning Administrator pursuant to Section 1106.

Section 704 General Standards

The Planning Commission shall review the particular facts and circumstances of each proposal 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;

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- (B) Will be designed, constructed, operated, and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that the use will not change the essential character of the same area;
- (C) Will not be hazardous or disturbing to existing or future neighboring uses;
- (D) Will not result in a decline or erosion of land values, or the value of buildings or structures within the District;
- (E) Will be served adequately by essential public facilities and services, such as highways, streets, police and fire protection, drainage structures, refuse disposal, or schools, and that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service;
- (F) 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;
- (G) Will not involve uses, activities, processes, materials and equipment and conditions of operation that will be detrimental to any person, property, or the general welfare by reason of excessive production of noise, traffic, smoke, fumes, glare, or odors;
- (H) Will protect the public health, safety and general welfare of the community; and
- (I) Will be consistent with the intent and purpose of the specific zoning district in which it is located.

Section 705 Conditions and Safeguards

- (A) Prior to granting any Conditional Use Permit, the Planning Commission may impose conditions or limitations upon the establishment, location, construction, maintenance or operation of the use authorized by the Conditional Use Permit as in its judgment may be necessary for the protection of the public interest. Conditions imposed shall further be designed to protect natural resources, the health, safety and welfare, as well as the social and economic well-being of those who will utilize the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity and the community as a whole; and be consistent with the general standards listed in Section 704 of this Ordinance and therefore be necessary to meet the intent and purpose of the regulations contained therein.
- (B) Conditions and requirements stated as part of a Conditional Use Permit authorization shall be a continuing obligation of land holders. The Zoning Administrator shall make periodic investigations of developments authorized by Conditional Use Permit to determine compliance with all requirements.
- (C) Conditional Use Permits may be issued for time periods as determined by the Planning Commission. Conditional Use Permits may be renewed in the same manner as originally applied for.
- (D) In authorizing a Conditional Use Permit, the Planning Commission may require that a cash deposit, certified check, bond or other financial guarantee acceptable to the Township, of ample sum be furnished by the developer to insure compliance with such requirements as drives, walks, utilities, parking, landscaping and the like. The financial

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guarantee shall be deposited with the Township Treasurer at the time of issuance of the permit authorizing the use or activity. As work progresses, the Planning Commission may authorize a proportional rebate of the financial guarantee upon completion of significant phases or improvements.

- (E) Revocation of a Conditional Use Permit by the Planning Commission shall be made at a public hearing following the same procedures as original approval to the effect that:
 - 1. Such conditions as may have been prescribed in conjunction with the issuance of the original permit included the requirement that the use be discontinued after a specified time period; or
 - 2. Violations of conditions pertaining to the granting of the permit continue to exist more than thirty (30) days after an order to correct has been issued. Violations of any conditions set by the Planning Commission are violations of this Zoning Ordinance.
- (F) All plans, specifications and statements submitted with the application for a Conditional Use Permit shall become, along with any changes ordered by the Planning Commission, a part of the conditions of any Conditional Use Permit issued thereto.
- (G) No application for a Conditional Use Permit which had been denied wholly or in part by the Planning Commission shall be resubmitted until the expiration of one year or more from the date of such denial, except on grounds of newly discovered evidence or proof of changed conditions found to be sufficient to justify consideration by the Planning Commission.
- (H) The foregoing general standards are basic to all Conditional Uses; and the specific requirements accompanying sections relating to particular uses are in addition to and shall be required in all applicable situations.

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ARTICLE VIII PLANNED UNIT DEVELOPMENT

Section 801 Intent

The intent of the Planned Unit Development (PUD) Section of this Ordinance is to permit greater flexibility in the use and design of structures and land in situations where modification of specific provisions of this Ordinance will be consistent with its intent and purpose. Use of the Planned Unit Development will provide for continued promotion and protection of the public health, safety, and welfare and result in development and use which is compatible with adjacent land use, the natural environment, and the capabilities of affected public services and facilities.

Section 802 Modification Powers

The provisions of this Section may be applied, upon application of the owner, to any parcel exceeding 2 acres in size and 200 feet road frontage. In acting upon the application, the Township Planning Commission may alter setback requirements, height limits, building size limits, off-street parking regulations, landscaping rules, and density and intensity limits. Except where the parcel is located in Districts R-1 or SP, it may also authorize uses not permitted in the district where the lot is located, providing such uses are desirable or convenient for the users of the parcel as developed or the immediate neighborhood, and provided that such uses are planned so as to assure that they will not materially alter the existing character of the neighborhood. The development of the PUD shall not create demands on other existing public services in excess of current capacity nor shall uses be detrimental to the health, safety or welfare of persons or property through excessive production of traffic, noise, smoke, odor, fumes, or glare.

Section 803 Application Procedure

The provisions of this Section shall be applied to the existing zoning district, as defined on the zoning map where the PUD is to be located. The application procedure for a PUD is as follows:

- (A) Preliminary Conference: Prior to preparing a formal application, the applicant shall meet with the Planning Commission to discuss the proposed development.
- (B) Preliminary Application: Following the preliminary conference, the Planning Commission shall hold a public hearing *in accordance with Section 1002* to review the preliminary application. In making its review of any portion of the PUD preliminary development plan, the Planning Commission shall find that the PUD is consistent with the standards outlined in Sections 704 and 804, and other relevant provisions of this Ordinance. Following the review, the Planning Commission shall approve, approve with conditions or subject to modifications, or deny in writing the preliminary application, specifying the reasons for denial.

The approval of the preliminary application does not constitute recording of the plan or plat nor authorize the issuance of building permits.

The applicant shall prepare and submit ten (10) copies of a preliminary development plan which consists of the following written and graphic documents:

1. A written description of the PUD, including:
 - a. How the PUD meets the intent provisions of the PUD.

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- b. A statement identifying the intended uses including future sales or leasing arrangements of all or portion of the PUD.
 - c. A legal description of the PUD parcel.
 - d. A listing of all owners, holders of easements, and other interested parties.
 - e. A projected assessment of the PUD demands on public services and utilities.
2. A preliminary development plan which is in accordance with the Site Plan requirements of Article VI.
 3. A development schedule; a list of covenants or deed restrictions; any maintenance agreements on open space or common ownership areas; and a description of the type of financial guarantees to be utilized to insure PUD development.
 4. Any other information as the Planning Commission may reasonably require showing the applicant's intent for the development and viability of the proposal.

Within a maximum of twelve (12) months following preliminary approval, the applicant shall file for final application as outlined in Section 803(C). For good cause the Planning Commission may extend this time period for six (6) months. If the applicant fails to apply for final application for any reason, approval or conditional approval shall be revoked.

(C) Final Application

The applicant shall prepare and submit ten (10) copies of a final development plan which shall include:

1. All information as required by the Planning Commission for preliminary approval or conditional approval of the preliminary development plan.
2. Signed copies of any preliminary plats, in accordance with Act 288 of 1967, as amended.
3. A detailed development time schedule.
4. Deed restrictions or covenants of the parcel.
5. Any other plans, documentation or specifications, as the Planning Commission may require to insure final engineering review and approval, which may include building plans, elevation and perspective drawings, drainage, road or other facility designs, and letters of commitment or intent insuring adequate financing for public utilities and/or services.

Upon receipt of the final development plan, the Planning Commission shall hold a second public hearing and shall determine whether or not the final plans substantially conform to the approved preliminary development plan and is in proper form for final recording. Where the Planning Commission determines that this application is consistent with this Section and other requirements thereof, and is in proper form for recording, it shall authorize a PUD Conditional Use Permit for development and use in accordance with the final accepted development plan.

Authorizing the PUD Conditional Use Permit shall not obligate the Township Planning Commission or Township Board to enforce any deed restrictions or covenants of the development parcel.

The PUD Conditional Use Permit shall be issued, following evidence of recording of the PUD final development plan with the Dickinson County Register of Deeds. A denial of the PUD shall

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be in writing, setting forth the reasons for denial, and any changes which would make the PUD acceptable.

Section 804 PUD Design Standards and Objectives

- (A) Dimensional Requirements: Yard, setback, lot size, type of dwelling unit, height, and frontage requirements and restrictions may be waived for the PUD, provided, however, that the spirit and intent of this Section as defined in the intent statement, are incorporated within the total development plan. The Planning Commission may determine that certain setbacks be established within all or a portion of the perimeter of the site, and shall determine the suitability of the total development plan in accordance with the intent of this Article.
- (B) Access: Every structure or dwelling unit shall have access to a public street, walkway or other areas dedicated to common use. ***All streets in a proposed development shall be constructed in accordance with the Dickinson County Road Commission's specifications.***
- (C) Land Usage: The approximate location of structures shown on the conceptual development plan shall be so arranged as not to be detrimental to existing or proposed structures within the development or surrounding neighborhood.
- (D) Privacy: Each development shall provide reasonable visual and acoustical privacy for dwelling units. Fences, walls, barriers, and landscaping shall be used, as appropriate, for the protection and aesthetic enhancement of property and the privacy of its occupants, screening of objectionable views or uses and reduction of noise.
- (E) Off-Street Parking: Parking convenient to all dwelling units and other uses shall be provided pursuant to the minimum requirement of Section 409 of this Ordinance. Common driveways, parking areas, walks, or steps may be required together with appropriate lighting, in order to insure the safety of the occupants and the general public. Screening of parking and service areas may be required through use of trees, shrubs, hedges or screening walls.
- (F) Development Concept: All of the elements of the Site Plan shall be harmoniously and efficiently organized in relation to topography, the size and type of plot, the character of adjoining property, and the type and size of buildings. Arrangement of buildings shall be done in such a way to utilize natural topography, existing vegetation and views within and beyond the site.
- (G) Utilities: PUD's shall, where feasible, provide for underground installation of utilities (including electricity and telephone) in both public ways and private extensions thereof. In no instance shall the PUD place demands in excess of the capabilities of the affected public facilities and services.
- (H) Planting: The appeal and character of the site shall be preserved and enhanced by retaining and protecting existing trees and other site features; additional new landscaping shall be added for privacy, shade, beauty of buildings and grounds, and to screen out objectionable features.
- (I) ***Lighting: A lighting plan for the PUD shall be submitted with the site plan for approval by the Planning Commission. Exterior lighting shall be arranged so it is***

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deflected away from adjoining properties and so it does not impede the vision of drivers along adjacent streets. The lighting plan shall include street lights.

- (J) The PUD shall be consistent with the standards outlined in Section 704 and other relevant provisions of this Ordinance.
- (K) Changes in Approved PUD: Minor changes in the location site or character of the building and structures may be authorized by the Planning Commission, if required by engineering or other required circumstances not foreseen at the time the final development plan was approved. No changes so authorized may cause a change in the use, character, or intent of the development, an increase in the intensity of use, changes in the overall coverage of the structures, or problems of traffic circulation, utility services, or similar services, or a reduction in the approved open space, off-street parking and loading space, or pavement width requirements. Any changes which are approved must be made and recorded in accordance with the procedures established for the recording of the initial final development plan.
- (K) Changes in Approved PUD: Minor changes in the location site or character of the building and structures may be authorized by the Planning Commission, if required by engineering or other required circumstances not foreseen at the time the final development plan was approved. No changes so authorized may cause a change in the use, character, or intent of the development, an increase in the intensity of use, changes in the overall coverage of the structures, or problems of traffic circulation, utility services, or similar services, or a reduction in the approved open space, off-street parking and loading space, or pavement width requirements. Any changes which are approved must be made and recorded in accordance with the procedures established for the recording of the initial final development plan.

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ARTICLE IX
NONCONFORMING USES AND STRUCTURES

Section 901 Intent

Nonconforming uses and structures are those which do not conform to a provision or requirement of this Ordinance but were lawfully established prior to the time of its applicability. It is recognized that those nonconformities which adversely affect orderly development and the value of nearby property are not permitted to continue without such necessary and appropriate restriction as are within the power of the Township to impose.

The zoning regulations established by this Ordinance are designed to guide the future use of land in Breitung Township by encouraging appropriate groupings of compatible and related uses and thus to promote and protect the public health, safety and general welfare. The continued existence of nonconformities is frequently inconsistent with the purposes for which such regulations are established.

All uses or structures created in violation of any preceding Breitung Township Zoning Ordinance shall not be considered a nonconforming use or structure, has no vested right, and is a violation of this Ordinance.

Section 902 Nonconforming Uses and Structures

Nonconforming Uses and Structures are those which have been so designated by the Planning Commission, after application by any interested person or the Zoning Administrator. The Planning Commission shall find that the continuance thereof would not be contrary to the public health, safety, and general welfare; that the use or structure does not and is not likely to significantly depress the value of nearby properties; that the use or structure was lawful at the time of its inception; and that it meets the standards set out in Section 704 of this Ordinance.

Section 903 Provisions for Nonconforming Uses and Structures

Where, at the effective date of adoption or amendment of this Ordinance, a lawful use of land exists that is 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) No Nonconforming Use or Structure shall be enlarged or increased, or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance ***without approval from the Planning Commission.***
- (B) No Nonconforming Use or Structure shall be moved, in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance, except after approval of the Planning Commission.
- (C) A Nonconforming Use or Structure shall not be changed to another nonconforming use.
- (D) No Nonconforming Use or Structure shall be expanded to add another nonconforming use or structure.
- ~~(E) Nonconforming Uses or Structures shall not be altered or expanded.~~

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- (F) *Nonconforming Structures or structures devoted to a nonconforming use shall not be repaired, other than normal maintenance. Repairs shall not exceed 25% of the assessed market value of the structure in any twelve (12) month period.*
- (G) *In the event that any nonconforming structure or structure devoted to a nonconforming use shall be damaged by any means or in any manner to the extent that the cost of reconstruction or restoration is equal to or less than 50% of the value of such structure prior to the damaging occurrence, as determined by the most recent assessment of the market value of the structure, exclusive of the market value of land, such reconstruction or restoration shall be permitted provided a building permit for such reconstruction or restoration is issued within one (1) year of the occurrence of such damage.*

Failure to commence restoration or reconstruction within one (1) year following the occurrence of said damage shall be conclusively presumed to be an abandonment of the nonconforming use or structure. Where the cost of restoration or reconstruction of such a structure exceeds 50% of the entire structure as it existed immediately prior to the time of said damage, the nonconforming structure may not be restored or reconstructed, nor shall any nonconforming use which may have been occurring within said structure be resumed or continued upon the premises upon which said structure was located.

Section 904 Regulations Pertaining to Nonconforming Uses and Structures

No Nonconforming Use or Structure shall be resumed if it has been discontinued for a continuous period of at least twelve (12) months or if it has been changed to a conforming use for any period.

Section 905 Nonconforming Lots

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 acknowledgement of a Notary Public, prior to the effective date of this Ordinance, and which lot actually exists as shown or described may be used for permitted uses even though the lot area and/or dimensions are less than those required for the district in which the lot is located, provided that yard dimensions and other requirements of the district, not involving lot area or width, are met. If a parcel contains more than one nonconforming lot, which is contiguous and in one ownership and would make one or more conforming lots, then only one structure would be permitted per conforming parcel. In addition, if a parcel contains more than one nonconforming lot which is contiguous and in one ownership but would not make one or more conforming lots, then only one structure would be permitted per parcel. The spirit of this provision is to limit density in areas of historically small lots to provide for proper isolation for wells, septic systems, drainage and similar public health considerations. No vested right shall arise to the property owner for any parcel created in violation of any preceding Breitung Township Zoning Ordinance.

Section 906 General Standards

The Planning Commission shall review the particular facts and circumstances of each proposal in terms of the intent of this Article and the general standards as set out in Section 704 of this

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Ordinance. Each individual proposal shall follow the procedure identified in Section 1002 of this Ordinance.

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ARTICLE X
ADMINISTRATION AND ENFORCEMENT

Section 1001 Administration

The administration and enforcement of this Ordinance shall be the responsibility of the Breitung Township Board. The Supervisor and Township Board shall have the right to delegate said responsibility to appropriate Township officers or employees. The person or persons administering and enforcing this Ordinance shall be known as the Zoning Administrator(s).

Section 1002 Administrative Standards and Procedures

- (A) Whenever, in the course of administration and enforcement of this Ordinance, it is necessary or desirable to make any administrative decision, then, unless other standards are provided in this Ordinance, the decision shall be made so that the result will not be contrary to the spirit and purpose of this Ordinance or injurious to the surrounding neighborhood.
- (B) Where a public hearing is required in the administration of this Ordinance, the Zoning Board of Appeals and the Planning Commission shall comply with the following in accordance with the Michigan Zoning Enabling Act, PA 110 of 2006:

When the provisions of this Ordinance or the Michigan Zoning Enabling Act require that notice be published, the Zoning Administrator shall be responsible for preparing the content of the notice, having it published in a newspaper of general circulation in Breitung Township and mailed or delivered as provided in this Section.

1. *All mail, personal and newspaper notices for public hearings shall include the time, place and nature of the request, the geographic area included in the zoning proposal, where and when written comments will be received, and where and when the Zoning Ordinance and proposals and applications may be examined.*
2. *Personal and Mailed Notice - When the provisions of this Ordinance or state law require that personal or mailed notice be provided, notice shall be provided to:*
 - a) *The owners of property for which approval is being considered, and the applicant, if different than the owner(s) of the property.*
 - b) *Except for rezoning requests involving eleven (11) or more adjacent properties or an ordinance interpretation request that does not involve a specific property; to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property subject to the request, regardless of whether the property or occupant is located within the boundaries of Breitung Township. If the name of the occupant is not known, the term "occupant" may be used in making notification.*

Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling

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unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one (1) occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.

- c) *All neighborhood organizations, public utility companies, railroads and other persons which have requested to receive notice pursuant to this Section shall receive notice by mail.*
- d) *Other governmental units within one mile of the property involved in the application.*

3. *Notice by mail/affidavit: Notice shall be deemed mailed by its deposit in the United States mail, first class, property addressed, postage paid. The Zoning Administrator shall prepare a list of property owners and registrants to whom notice was mailed, as well as of anyone to whom personal notice was delivered.*

4. *Timing of Notice: Unless otherwise provided in the Michigan Zoning Enabling Act, PA 110 of 2006, or this Ordinance where applicable, notice of a public hearing on an application for a rezoning, text amendment, special land use, planned unit development, variance, appeal or ordinance interpretation shall be provided no less than fifteen (15) days before the date the application will be considered for approval.*

5. *Registration to Receive Notice by Mail:*

- a) *General: Any neighborhood organization, Public Utility Company, railroad or any other person may register with the Zoning Administrator to receive written notice of all applications for development approval pursuant this Section. Personal and Mailed Notice, or written notice of all applications for development approval within the zoning district in which they are located. The Zoning Administrator shall be responsible for providing this notification. Fees may be assessed for the provision of this notice, as established by the legislative body.*
- b) *Requirements: The requesting party must provide the Zoning Administrator information on an official form to ensure notification can be made. All registered persons must re-register bi-annually to continue to receive notification pursuant to this Section.*

(C) *Where a public hearing is required in the administration of this Ordinance, the Zoning Board of Appeals and the Planning Commission:*

- 1. *Shall base their decision upon facts presented at a public hearing;*
- 2. *Shall permit interested parties at the hearing to present and rebut information either supporting or opposing the zoning action under consideration;*

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3. Shall prepare a comprehensive summary record of the hearing, including an exact record of motions, votes and other official action;
 4. Shall set forth in writing and in detail any denial, approval, conditional approval, or order and the facts supporting such decision;
 5. Shall file the record, written testimony, or documents submitted with regard to the hearing, and the decision with the Township Clerk, and maintain an affidavit of mailing for each mailing made under this Section;
 6. Shall comply with all other requirements under the law; and
 7. Shall have all administrative actions recorded in the Official Zoning Orders Book and Map.
- (D) Wherever a discretionary decision is authorized in this Ordinance, such as, but not limited to, the issuance of Conditional Use Permits, conditions (including, but not limited to greater setbacks, parking, screening, drainage, access control and other similar requirements) may be imposed provided they are:
1. Designed to protect natural resources, the health, safety and welfare and the social and economic well-being of those who will use the land or activity under consideration, residents and landowners immediately adjacent to the proposed use or activity, and the community as a whole;
 2. Related to the valid exercise of the police power, and the purposes which are affected by the proposed use or activity;
 3. Necessary to meet the intent and purpose of the Zoning Ordinance, are related to standards established in the Ordinance for the land use or activity under consideration, and are necessary to insure compliance with those standards; and
 4. The conditions imposed with respect to the approval of a land use or activity shall be recorded in the record of the approval action, and shall remain unchanged except upon the mutual consent of the approving authority and the landowner. A record of changed condition shall also be maintained.
- (E) All administrative guides or rules developed to assist the Zoning Board of Appeals or the Planning Commission in the administration of this Ordinance shall be filed with the Township Clerk and be open to public inspection.

Section 1003 Zoning Administrator

The Zoning Administrator shall be appointed by the Township Board and shall receive such compensation as the Township Board may, from time to time, determine. The Zoning Administrator may also serve in some other capacity as an employee or appointed officer of this Township. The Zoning Administrator, or their designated employee, shall administer the provisions of this Ordinance and shall have all administrative powers in connection therewith which are not specifically assigned to some other officer or body. They shall have no power to vary or waive Ordinance requirements.

Section 1004 Duties of Zoning Administrator

Section 1004 Duties of Zoning Administrator

- (A) The Zoning Administrator shall have the power to issue Certificates of Zoning Compliance and to review Site Plans to determine whether it is in proper form, contains all of the required information and is in accordance with the provisions of this Ordinance.

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The Zoning Administrator shall make inspections of premises and collect such investigative data deemed necessary to carry out his duties in the enforcement of this Ordinance.

- (B) If the Zoning Administrator shall find that any provision of this Ordinance is being violated, the Administrator shall order discontinuance of any illegal work being done; or shall take such action as authorized to insure or prevent violation of the provisions of this Ordinance.
- (C) The Zoning Administrator shall not vary, change or grant exceptions to any terms of this Ordinance, or to any person making application under the requirements of this Ordinance.
- (D) The Zoning Administrator shall interpret the provisions of this Ordinance, both the text and map, in such a way as to carry out the intent and purpose of this Ordinance. Any determination of the Zoning Administrator may be appealed to the Board of Appeals.
- (E) It shall be unlawful for the Zoning Administrator to issue a Zoning Compliance Permit or other such permits, for any construction or use until he has inspected such plans and found them to conform to this Ordinance.

Section 1005 Zoning Compliance Permit

- (A) It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered, or enlarged in its use or structure until a Zoning Compliance Permit shall have been issued therefore by the Zoning Administrator. The Permit shall state that the building, structure, and lot, and use thereof, conform to the requirements of this Ordinance. ***A change in ownership or a change in the use of any building shall require an issuance of a new Zoning Compliance Permit.***
- (B) The Zoning Administrator shall maintain a record of all Zoning Compliance Permit and said record shall be open for public inspection. Failure to obtain a Zoning Compliance Permit shall be a violation of this Ordinance.

Section 1006 Enforcement and Violation

Notice of Violation:

- (A) Whenever the Zoning Administrator determines that a violation of this Ordinance exists, said Zoning Administrator shall issue a notice of violation.
- (B) Such notice shall be directed to each owner of or a party in interest in whose name the property appears on the last local tax assessment records.
- (C) All notices shall be in writing and shall be served upon the person to whom they are directed personally, or in lieu of personal service may be mailed by regular mail, addressed to such owner or party in interest at the address shown on the tax records. An affidavit of mailing shall be maintained.
- (D) All violations shall be corrected within a period of time as specified on the notice of violation. A violation not corrected within this period shall be reported to the Township Attorney who shall initiate prosecution procedures.

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- (E) *Violations of the provisions of this Ordinance or failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with variances and conditional uses and violations of approved site plans, shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$500.00 or imprisoned for not more than ninety-three (93) days, or both, and in addition, shall pay costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.*

Section 1007 Special Zoning Orders Book and Map

The Zoning Administrator shall maintain a book, to be known as the Special Zoning Orders Book, in which shall be listed, with a brief description, all variances, Conditional Use Permits, authorizations for Planned Unit Developments, *designations of Nonconforming Uses and Structures, and any termination of any of them.* Each item shall be assigned a number when entered. The Zoning Administrator shall also maintain a map, to be known as the Special Zoning Order Map, on which shall be recorded the numbers in the Special Zoning Orders Book to indicate the locations affected by the items in the book. The Special Orders Book and Map shall be open to public inspection.

Section 1008 Fees

The Township Board shall periodically establish by resolution a schedule of fees for administering this Ordinance. The schedule of fees shall be made available in the office of the Zoning Administrator and may be changed only by the Township Board. No permit or certificate shall be issued unless such fees have been paid in full.

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ARTICLE XI
ZONING BOARD OF APPEALS

Section 1101 Creation and Membership

The Zoning Board of Appeals is hereby established in accordance with the Michigan Zoning Enabling Act, PA110 of 2006, as amended. The Board shall consist of five members: a member of the Planning Commission; and the remaining members appointed by the Township Board from the electors residing in the Township. The term of office for the member of the Planning Commission shall not exceed his term of office on the Commission. The Township Board may appoint a maximum of two (2) alternates to the Zoning Board of Appeals to serve in the absence or illness of regular members of the Board of Appeals. The term of the alternates shall coincide with the terms of the members appointed from the electors residing in the Township.

Section 1102 Procedures

- (A) The Zoning Board of Appeals may adopt rules and regulations to govern its procedures. The Zoning Board of Appeals shall appoint one of its members as Chairman. The concurring vote of a majority of the members of the Zoning Board of Appeals shall be necessary to revise any order, requirements, decision or interpretation of the Zoning Administrator or to decide in favor of an applicant any matter upon which they are required to pass under this Ordinance or to effect any variation in this Ordinance.
- (B) Meetings of the Zoning Board of Appeals shall be held at the call of the Chairman and at such times as its rules of procedure may specify. Minutes shall be kept of each meeting and the Board shall record into the minutes all findings, conditions, facts and other relevant factors, including the vote of each member upon any question, or if absent or failing to vote indicating such fact, and all of its official actions. All meetings and records shall be open to the public. All minutes shall be filed in the office of the Township Clerk.
- (C) The Zoning Board of Appeals shall fix a reasonable time and date for a hearing. The Board shall give due notice of the hearing by regular mail to the parties of interest and to owners of adjacent property in accordance with the provisions of Section 1002.

Section 1103 Duties and Powers

- (A) The Zoning Board of Appeals shall perform its duties and exercise its powers as provided in the *Michigan Zoning Enabling Act, PA110 of 2006, as amended*, so that the objectives of this Ordinance shall be attained, the public health, safety, and welfare secured, and substantial justice done. The Zoning Board of Appeals shall hear and decide only those matters which it is specifically authorized to hear and decide as provided therein; administrative review, interpretation of the Zoning Ordinance, including the zoning map and variances.
- (B) 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 or intent of this Ordinance, but does have power to act on those matters specifically provided for in this Ordinance.

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Section 1104 Administrative Review

- (A) The Zoning Board of Appeals shall hear and decide appeals from and review any order, requirements, decision or determination of the Zoning Administrator, with the exception of Site Plan appeals.
- (B) 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 this Ordinance;
 - 2. Determine the precise location of the boundary lines between zoning districts when there is dissatisfaction with a decision made by the Zoning Administrator;
 - 3. Determine the parking space requirements of any use not specifically mentioned either by classifying it with one of the groups listed in Section 409 or by an analysis of the specific needs.

Section 1105 Variances

- (A) The Zoning Board of Appeals shall have the power and duty to authorize upon appeal in specific cases such variance from the provisions of this Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would result in practical difficulties.
- (B) ***Practical difficulties standard-A variance shall not be granted by the Zoning Board of Appeals unless and until the following conditions are met. A written application for the variance shall be submitted, demonstrating:***
 - 1. ***That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district;***
 - 2. ***That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance;***
 - 3. ***That the special conditions and circumstances necessitating the variance did not result from the actions of the applicant; and***
 - 4. ***That granting the variance requested would not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district.***
- (C) Any nonconforming use of neighboring lands, structures, or buildings shall not be considered grounds for the issuance of a variance.
- (D) The Zoning Board of Appeals shall make findings that the requirements of this Section have been met by the applicant.
- (E) The Zoning Board of Appeals shall further find that the reasons set forth in the application justify the granting of the variance, and that it is the minimum variance that will make possible the reasonable use of the land, building, or structure.
- (F) The Zoning Board of Appeals shall further find that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public interest.

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- (G) In granting any variance, the Zoning Board of Appeals may prescribe appropriate conditions and safeguards with this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted shall be deemed a violation of this Ordinance.
- (H) Under no circumstances shall the Zoning Board of Appeals grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.
- (I) In exercising the above mentioned powers, the Zoning Board of Appeals may, so long as such action is in conformity with the terms of this Ordinance, reverse or affirm wholly or partly or may modify the order, requirements, decision, or determination appealed from and may make such order, requirements, decision, or determination as ought to be made, and to that end shall have the powers of the public official from whom the appeal was taken.
- (J) Each variance granted under the provisions of this Ordinance shall become null and void unless the occupancy of land or buildings, or the construction authorized by such variance has commenced within 180 days after the granting of such variance.
- (J) Each variance granted under the provisions of this Ordinance shall become null and void unless the occupancy of land or buildings, or the construction authorized by such variance has commenced within 180 days after the granting of such variance.

Section 1106 Appeals

- (A) Appeals concerning interpretation of the administration of this Ordinance or denial of Conditional Use Permit by the Planning Commission shall be made by filing a notice of appeal specifying the grounds thereof with the Zoning Administrator within a period of sixty (60) days from the occurrence of the contested action. The Zoning Administrator shall transmit to the Board copies of all papers constituting the record upon which the action appealed was taken from.
- (B) A fee shall be paid to the Township at the time of filing the notice of appeal. The appeal fee shall be established by the Township Board.
- (C) Any party or parties may appear at the hearing in person or by agent or attorney.
- (D) The Zoning Board of Appeals shall decide upon all matters within a reasonable time. The decision of the Board shall be in the form of a resolution containing a full record of its findings and determinations in each case.
- (E) An appeal shall stay all proceedings in furtherance of the action appealed, unless the Zoning Administrator certifies to the Board that a stay would in his opinion, cause imminent peril to life or property, in which case the proceedings should not be stayed, other than by a restraining order granted by the courts.

Section 1107 Duties on Matters of Appeal

All questions concerning application of the provisions of this Ordinance shall first be presented to the Zoning Administrator. Such questions shall be presented to the Zoning Board of Appeals only on appeal from the decisions of the Zoning Administrator. Recourse from decisions of the Zoning Board of Appeals shall be to the Circuit Court of Dickinson County, as provided by law.

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ARTICLE XII

TOWNSHIP PLANNING COMMISSION: PLANNING AND ZONING AUTHORITY

Section 1201 Designation

The Breitung Township Planning Commission is hereby designated the Commission as specified in Section 3, of Act 168 of the Public Acts of 1959, as amended. Under said act, it shall be the duty of the Commission to advise the Township Board on matters of planning. ***Further, the Commission shall assume the duties of the Zoning Commission prescribed in Section 4, of Act 110 of the Public Acts of 2006, as amended.***

Section 1202 Changes and Amendments

Only the Township Board may amend this Ordinance. Proposals for amendments or changes may be initiated by the Township Board on its own motion, by the Planning Commission, or by an individual.

- (A) Each petition shall be submitted to the Zoning Administrator, accompanied by the proper fee, and then referred to the Planning Commission for their review at a public hearing, which is held in conformance with Section 1002 of this Ordinance.
- (B) Following the public hearing, the Planning Commission shall transmit their recommendation and a summary of the comments received at the public hearing to the Township Board.
- (C) The Township Board may hold additional public hearings if it considers it necessary. Notice of public hearing held by the Township Board shall be published in a newspaper which circulates in the Township. ***The notice shall be given not less than 15 days before the hearing.*** After receiving the recommended change or amendment, the Township Board, at a regular meeting or at a special meeting called for the purpose, shall consider the recommendations and vote upon the adoption of a Zoning Ordinance for the Township. Any changes or amendments shall be approved by a majority vote of the members of the Township Board. The Township Board shall not make a change or departure from the plans, text, or maps as certified by the Planning Commission unless the proposed change or departure is first submitted to the Planning Commission for its advice or suggestions. The Planning Commission shall have thirty 30 days from and after receipt of the proposed change or departure to send its report to the Township Board.
- (D) No petition for amendment, which has been disapproved by the Township Board, shall be resubmitted for a period of one (1) year from the date of disapproval, except as may be permitted by the Township Board after learning of new and significant facts or conditions which might result in favorable action upon resubmittal. Resubmittal shall follow the same procedure as outlined in this Section.
- (E) The petitioner shall transmit a detailed description of the petition to the Zoning Administrator. When the petition involves a change in the Zoning Map, the petitioner shall submit the following information:
 - 1. A legal description of the property;
 - 2. A scaled map of the property, correlated with the legal description, and clearly showing the property's location;

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3. The name and address of the petitioner;
 4. The petitioner's interest in the property;
 5. Date of filing with the Zoning Administrator;
 6. Signatures of petitioner(s) and owner(s) certifying the accuracy of the required information, and;
 7. The desired change and reasons for such change.
- (F) In viewing any petition for a zoning amendment, the Planning Commission shall identify and evaluate all factors relevant to the petition, and shall report its findings in full, along with its recommendations for disposition of the petition, to the Township Board within sixty (60) days of the hearing date of the petition. The facts to be considered by the Planning Commission shall include, but not limited to, the following:
1. Whether the requested zoning change is justified by a change in conditions since the original ordinance was adopted or by an error in the original ordinance;
 2. Is the requested zoning change consistent with the Goals and Policies, and other elements of the Breitung Township Comprehensive Plan.
 3. The precedents, and the possible effects of such precedents, which might likely result from approval or denial of the petition;
 4. The ability of the Township or other government agencies to provide any services, facilities, and/or programs that might be required if the petition is approved;
 5. Are there any significant and negative environmental impacts which would potentially occur if the petitioned zoning change and resulting permitted structures were built, including but not limited to, surface water drainage problems, wastewater disposal problems, or the loss of locally valuable natural resources;
 6. Effect of approval of the petition on adopted development policies of the Township and other governmental units; and
 7. All findings of fact shall be made a part of the public records of the meetings of the Planning Commission and the Township Board.

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ARTICLE XIII INTERPRETATION, SEVERABILITY, VESTED RIGHT, PENALTIES AND EFFECTIVE DATE

Section 1301 Interpretation and Conflict

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, prosperity and general welfare. Unless specifically provided for, it is not intended by this Ordinance to repeal, abrogate, annul or in any way impair or interfere with the existing and unrepealed provision of law or ordinance or any rules, regulations, or permits previously adopted or issued pursuant to law relating to the use of building or land, provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or structures or land or upon the courtyards or other open spaces that are imposed or required by such existing provisions of law or ordinance or by such rules, regulations or permits, the provisions of this Ordinance shall control.

Section 1302 Severability

This Ordinance and the various parts, sections, subsections, and clauses, thereof, are hereby declared to be severable. If any part, sentence, paragraph, subsection, section, or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of the Ordinance shall not be affected thereby. If any part, sentence, paragraph, subsection, section, or clause is adjudged unconstitutional, or invalid as applied to a particular property, building, or structure, it is hereby provided that the application of such portion of the Ordinance to other property, buildings, or structures shall not be affected thereby. Whenever any condition or limitation is included in an order authorizing any Conditional Use Permit, Variance, Zoning Compliance Permit, Site Plan approval, or designation of Nonconformance, it shall be conclusively presumed that the authorizing officer or body considered such condition or limitation necessary to carry out the spirit and purpose of this Ordinance or the requirement of some provision thereof, and to protect the public health, safety, and welfare, and that the officer or Board would not have granted the authorization to which the condition or limitation pertains except in the belief that the condition or limitation was lawful.

If, after adoption of this Ordinance by the Township Board, a valid petition is filed with the Township Clerk placing this Ordinance before the voters for their approval or rejection, upon election, ***should this Ordinance be rejected, then the Township would automatically revert back to the preceding Breitung Township Zoning Ordinance, Ordinance #21, adopted January 22, 1973.***

Section 1303 Vested Right

Nothing in this Ordinance should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities therein; and, they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of public health, safety, and welfare.

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Section 1304 Penalties and Remedies

- (A) Civil Law: Any building, structure or use constructed, altered, moved or maintained in violation of the provisions of this Ordinance is hereby declared to be a nuisance per se.
- (B) Criminal Law: Violations of the provisions of this Ordinance or failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with variances and Conditional Uses and violations of approved Site Plans, shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$500 dollars or imprisoned for not more than ninety (90) days, or both, and in addition, shall pay costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.
- (C) Remedies: The Township Board may also institute proceedings for injunction, mandamus, abatement or other appropriate remedies to prevent, enjoin, abate or remove any violations of this Ordinance. The rights and remedies provided herein are both civil and criminal in nature. The imposition of any fine, or jail sentence or both shall not exempt the violator from compliance with the provisions of this Ordinance.

Section 1305 Effective Date

This Ordinance shall take effect following adoption by the Breitung Township Board and upon publication in accordance with provisions and procedures of Act 110 of the Public Acts of 2006, as amended.

Published _____, 2008

Effective _____, 2008

**ARTICLE XIV
ACCESS MANAGEMENT**

Section 1401 Findings and Intent

Conditions along the major highways in Dickinson County are changing with increasing development and traffic. Continued development along US-2/US-141 and M-95 will further increase traffic volumes and introduce additional conflict points which will erode traffic operations and increase potential for traffic crashes. Numerous published studies document the positive relationship between well-designed access management systems and traffic operations and safety. Those studies and the experiences of many other communities demonstrate that implementing standards on the number, placement and design of access points (driveways and side street intersections) can preserve the capacity of the roadway and reduce the potential for crashes while preserving a good business environment and the existing investment in the highway. The conditions along US-2/US-141/M-95 and a series of access management recommendations are embodied in the US-2/US-141/M-95 Access Management Action Plan. Among those recommendations are the creation of an overlay zone along these highways within Dickinson County and the adoption of uniform access management standards by all the jurisdictions along the US-2/US-141/M-95 corridor which are based on the Michigan Department of Transportation access management standards and the Michigan Access Management Guidebook, provided to local governments by the Michigan Department of Transportation.

The provisions of this Section are intended to promote safe and efficient travel on state highways within Dickinson County; improve safety and reduce the potential for crashes; minimize disruptive and potentially hazardous traffic conflicts; ensure safe access by emergency vehicles; protect the substantial public investment in the highway and street system by preserving capacity and avoiding the need for unnecessary and costly reconstruction which disrupts business and traffic flow; separate traffic conflict areas by reducing the number of driveways; provide safe spacing standards between driveways, and between driveways and intersections; provide for shared access between abutting properties; implement the Charter Township of Breitung Comprehensive Plan and the US-2/US-141/M-95 Access Management Action Plan recommendations; ensure reasonable access to properties, although not always by the most direct access; and to coordinate access decisions with the Michigan Department of Transportation, the Dickinson County Road Commission, and adjoining jurisdictions, as applicable.

To these ends, the following provisions:

- A. Establish a Highway Overlay Zone to regulate access points along the highway.*
- B. Identify additional submittal information and review procedures required for parcels that front along US-2/US-141/M-95.*
- C. Require demonstration that new parcels are accessible and in compliance with the access standards of this Ordinance to ensure safe accessibility as required by the Land Division Act.*

- D. *Restrict lots and parcels to a single access point except under certain circumstances.*
- E. *Require longer frontages or wider minimum lot widths than are required in underlying zoning districts to help achieve access management spacing standards;*
- F. *Require coordinated access among adjacent lands wherever feasible;*
- G. *Improve situations where existing development along the highways does not conform to the standards and intent of this Ordinance.*
- H. *Establish uniform standards to ensure fair and equal application.*

Section 1402 Applicability

The standards of this Article apply to all lots and parcels that abut the highway right-of-way of US-2/US-141/M-95 and such other lands that front on intersecting streets within three hundred fifty (350) feet of the US-2/US/141/M-95 right-of-way within The Charter Township of Breitung. This area is referred to as the Highway Overlay Zone.

The standards of this Section shall be applied by the Zoning Administrator during site plan review and by the Planning Commission during site plan review, as is appropriate to the application. The Planning Commission shall make written findings of nonconformance, conformance, or conformance if certain conditions are met with the standards of this Section prior to disapproving or approving a site plan per the requirements of Article VI. The Charter Township of Breitung shall coordinate its review of the access elements of a plot plan or site plan with the appropriate road authority prior to making a decision on an application (see D. below). The approval of a site plan does not negate the responsibility of an applicant to subsequently secure driveway permits from the appropriate road authority, either the Dickinson County Road Commission, or the Michigan Department of Transportation. Any driveway permit obtained by an applicant prior to review and approval of a plot plan or site plan as required under this Ordinance will be ignored, unless it is conditioned upon approval under this Ordinance.

These regulations apply in addition to, and simultaneously with, the other applicable regulations of the Zoning Ordinance. Permitted and Special Land Uses within the Highway Overlay Zone shall be as regulated in the underlying zoning district (as designated on the zoning map), and shall meet all the applicable requirements for that district, with the following additional provisions:

- A. *The number of access points is the fewest needed to allow motorists reasonable access to the site.*
- B. *Access spacing from intersections and other driveways shall meet the standards within the Highway Overlay Zone, and the guidelines of the applicable road agency (MDOT and/or Dickinson County Road Commission) and the recommendations of the US-2/US-141/M-95 Access Management Access Plan as appropriate.*

- C. *Where an applicant shares access with adjacent uses, either now or in the future, any shared access and maintenance agreements must be recorded with the County Register of Deeds.*
- D. *No building or structure, nor the enlargement of any building or structure, shall be erected unless the Highway Overlay Zone regulations applicable to the site are met and maintained in connection with such building, structure, or enlargement.*
- E. *No land division, subdivision or site condominium project for land within this Highway Overlay Zone shall be approved unless compliance with the access spacing standards in this Section is demonstrated.*
- F. *Any change in use on a site that does not meet the access standards of this Highway Overlay Zone, shall be required to submit an application for approval by the Planning Commission and submit information to the MDOT, and/or County Road Commission as appropriate, to determine if a new access permit is required. See Section 1411 below.*
- G. *For building or parking lot expansions, or changes in use, or site redevelopment that cannot meet the standards of this ordinance due to parcel size or configuration, the Planning Commission shall determine the extent of upgrades to bring the site into greater compliance with the access standards of this Highway Overlay Zone. In making its decision, the Planning Commission shall consider the existing and projected traffic conditions, any sight distance limitations, site topography or natural features, impacts on internal site circulation, characteristics of the affected land uses, recommendations within the US-2/US-141/M-95 Access Management Action Plan, and any recommendations from the MDOT, and/or Dickinson County Road Commission as appropriate. Required improvements may include removal, rearrangement or redesign of driveways or other access.*
- H. *Where conflict occurs between the standards of this Ordinance and other applicable ordinances, the more restrictive regulations shall apply.*

Section 1403 One Access Per Parcel

- A. *All land in a parcel or lot having a single tax code number, as of the effective date of the amendment adding this provision to the Ordinance (hereafter referred to as "the parent parcel"), that shares a lot line for less than six hundred (600) feet with right-of-way on US-2/US-141/M-95 shall be entitled to one (1) driveway or road access per parcel from said public road or highway, unless hereafter shared access or alternative access is provided to that parcel.*
 - 1. *All subsequent land divisions of a parent parcel shall not increase the number of driveways or road accesses beyond those entitled to the parent parcel on the effective date of this amendment.*
 - 2. *Parcels subsequently divided from the parent parcel, either by metes and bounds descriptions, or as a plat under the applicable provisions of the Land Division Act, Public Act 288 of 1967, as amended, or developed as a condominium project in accord with the Condominium Act, Public Act 59 of*

- 1978, as amended, shall have access by a platted subdivision road, by another public road, by an approved private road, frontage road or rear service drive.
3. *Parent parcels with more than six hundred (600) feet of frontage on a public road or highway shall also meet the requirements Sections 1403a and 1403b above, except that whether subsequently divided or not, they are entitled to not more than one driveway for each six hundred (600) feet of public road frontage thereafter, unless a registered traffic engineer determines to the satisfaction of the Planning Commission that topographic conditions on the site, curvature on the road, or sight distance limitations demonstrate an additional driveway within a lesser distance is safer or the nature of the land use to be served requires an additional driveway for improved safety. See also Section 1418 b.*

Section 1404 Applications

- A. *Applications for driveway or access approval shall be made on a form prescribed by and available at the Michigan Department of Transportation and Dickinson County Road Commission as applicable. A copy of the completed form submitted to the applicable road authority shall be submitted to the Zoning Administrator as well.*
- B. *Applications for all uses requiring site plan review shall meet the submittal, review and approval requirements of Article VI in addition to those of this Section. In addition:*
 1. *Applications are strongly encouraged to rely on the following sources for access designs, the National Access Management Manual, TRB, 2003; National Cooperative Highway Research Program (NCHRP), “Access Management Guidelines to Activity Centers” Report 348, “Impacts of Access Management Techniques” Report 420; and the AASHTO (American Association of State Highway and Transportation Officials) “Green Book” A Policy on Geometric Design of Highways and Streets. The following techniques are addressed in these guidebooks and are strongly encouraged to be used when designing access:*
 - 1) *Not more than one driveway access per abutting road*
 - 2) *Shared driveways*
 - 3) *Service drives: front and/or rear*
 - 4) *Parking lot connections with adjacent property*
 - 5) *Other appropriate designs to limit access points on an arterial or collector.*
 2. *As applicable, applications shall be accompanied by an escrow fee for professional review per the requirements of Article IV, Section 424.*
 3. *In addition to the information required in Article VI the information listed below shall also be submitted for any lot or parcel within the Highway Overlay Zone accompanied by clear, scaled drawings (minimum of 1”=20’) showing the following items:*
 - a) *Property lines.*
 - b) *Right-of-way lines and width, and location and width of existing road surface.*

- c) *Location and size of all structures existing and proposed on the site.*
- d) *Existing access points. Existing access points within 500 feet on either side of the US-2/US-141/M-95 frontage, and along both sides of any adjoining roads, shall be shown on the site plan, aerial photographs or on a plan sheet.*
- e) *Surface type and dimensions shall be provided for all existing and proposed driveways (width, radii, throat length, length of any deceleration lanes or tapers, pavement markings and signs), intersecting streets, and all curb radii within the site.*
- f) *The site plan shall illustrate the route and dimensioned turning movements of any passenger vehicles as well as expected truck traffic, tankers, delivery vehicles, waste receptacle vehicles and similar vehicles. The plan should confirm that routing of vehicles will not disrupt operations at the access points nor impede maneuvering or parking within the site.*
- g) *Size and arrangement of parking stalls and aisles.*
- h) *The applicant shall submit evidence indicating that the sight distance, driveway spacing and drainage requirements of the Michigan Department of Transportation or Dickinson County Road Commission are met.*
- i) *Dimensions between proposed and existing access points on both sides of the highway or road (and median cross-overs if applicable now or known in the future).*
- j) *Design dimensions and justification for any alternative or innovative access design such as frontage roads, rear access or service drives, or parking lot cross-access.*
- k) *Where shared access is proposed or required, a shared access and maintenance agreement shall be submitted for approval. Once approved, this agreement shall be recorded with the County Register of Deeds.*
- l) *Show all existing and proposed landscaping, signs, and other structures or treatments within and adjacent to the right-of-way.*
- m) *Dumpsters or other garbage containers.*
- n) *The location of all proposed snow storage from parking lots which must not interfere with clear sight distance when turning into or out of a site, or safely moving within a site.*
- o) *Traffic impact study meeting the requirements of Section Three where applicable.*

Section 1405 Review and Approval Process

The following process shall be completed to obtain access approval:

- A. *An Access Application meeting the requirements of Section One D. above shall be submitted to the Zoning Administrator on the same day it was submitted to the Michigan Department of Transportation and/or the Dickinson County Road Commission, as applicable.*

- B. *The completed application must be received by the Zoning Administrator at least fourteen (14) days prior to the Planning Commission meeting where the application will be reviewed.***
- C. *The applicant, the Zoning Administrator and representatives of the Dickinson County Road Commission, the Michigan Department of Transportation and the Planning Commission may meet prior to the Planning Commission meeting to review the application and proposed access design. Such a meeting shall occur for all projects where a traffic impact study is required.***
- D. *If the Planning Commission considers the application first, it shall recommend approval conditioned upon approval of the applicable road authority, or it shall recommend denial based on nonconformance with this Ordinance, or if necessary, table action and request additional information. The action of the Planning Commission shall be immediately transmitted to the applicable road authority.***
- E. *It is expected that if the Michigan Department of Transportation and/or the Dickinson County Road Commission, as applicable, review the application first, each entity will immediately send its decision on the application to the Planning Commission for their consideration. One of three actions may result;***
 - 1. *If the Planning Commission and the Michigan Department of Transportation, and the Road Commission, as applicable, approve the application as submitted, the access application shall be approved.***
 - 2. *If both the Planning Commission and the Michigan Department of Transportation and the Road Commission, as applicable, deny the application, the application shall not be approved.***
 - 3. *If either the Planning Commission, Michigan Department of Transportation, or Road Commission, as applicable, requests additional information, approval with conditions, or does not concur in approval or denial, there shall be a joint meeting of the Zoning Administrator, a representative of the Planning Commission and staff of the Michigan Department of Transportation and/or the Dickinson County Road Commission, as applicable, and the applicants. The purpose of this meeting will be to review the application to obtain concurrence between the Planning Commission and the applicable road authorities regarding approval or denial and the terms and conditions of any permit approval.***
- F. *No application will be considered approved, nor will any permit be considered valid unless all the above-mentioned agencies, as applicable, have indicated approval unless approval by any of the above-mentioned agencies would clearly violate adopted regulations of the agency. In this case the application shall be denied by that agency and the requested driveway(s) shall not be constructed. Conditions may be imposed by the Planning Commission to ensure conformance with the terms of any driveway permit approved by a road authority.***

Section 1406 Record of Application

The Zoning Administrator shall keep a record of each application that has been submitted, including the disposition of each one. This record shall be a public record.

Section 1407 Period of Approval

Approval of an application remains valid for a period of one year from the date it was authorized. If authorized construction, including any required rear service road or frontage road is not initiated by the end of one (1) year, the authorization is automatically null and void. Any additional approvals that have been granted by the Planning Commission or the Zoning Board of Appeals, such as Special Land Use Permits, or variances, also expire at the end of one year.

Section 1408 Renewal

An approval may be extended for a period not to exceed one-year. The extension must be requested, in writing by the applicant before the expiration of the initial approval. The Zoning Administrator may approve extension of an authorization provided there are no deviations from the original approval present on the site or planned, and there are no violations of applicable ordinances and no development on abutting property has occurred with a driveway location that creates an unsafe condition. If there is any deviation or cause for question, the Zoning Administrator shall consult a representative of the Michigan Department of Transportation and/or the Dickinson County Road Commission, as applicable, for input.

Section 1409 Re-issuance Requires New Application

Re-issuance of an authorization that has expired requires a new Access Application form to be filled out, fee paid, and processed independently of previous action. See subsection 1405 (A).

Section 1410 Maintenance

The applicant shall assume all responsibility for all maintenance of driveway approaches from the right-of-way line to the edge of the traveled roadway.

Section 1411 Change of Use Also May Require New Driveway

When a building permit is sought for the reconstruction, rehabilitation or expansion of an existing site or a zoning or occupancy certificate is sought for use or change of use for any land, buildings, or structures, all of the existing, as well as proposed driveway approaches and parking facilities shall comply, or be brought into compliance, with all design standards as required by the Michigan Department of Transportation and/or the Dickinson County Road Commission as applicable, and as set forth in this Ordinance prior to the issuance of a Zoning Permit, and pursuant to the procedures of this section.

Section 1412 Changes Require New Application

Where authorization has been granted for entrances to a parking facility, said facility shall not be altered or the plan of operation changed until a revised Access Application has been submitted and approved as specified in this Section.

Section 1413 Closing of Driveways

Application to construct or reconstruct any driveway entrance and approach to a site shall also cover the reconstruction or closing of all nonconforming or unused entrances and

approaches to the same site at the expense of the property owner, unless some other arrangement is agreed to by the road authority responsible for the road in question.

Section 1414 Inspection

The Zoning Administrator shall inspect the driveway and any other required access elements during construction and following construction for conformance with the approved application prior to allowing occupancy. The Zoning Administrator may consult with MDOT and/or the County Road Commission as applicable, prior to making a determination of conformance or nonconformance with an approved application.

Section 1415 Performance Bond

The community may require a performance bond or cash deposit in any sum not to exceed \$5,000 for each such driveway approach or entrance to insure compliance with an approved application. Such bond shall terminate and the deposit be returned to the applicant when the terms of the approval have been met or when the authorization is cancelled or terminated.

Section 1416 Reserved for Future Use

Section 1417 Lot Width and Setbacks

- A. Minimum Lot Width - Except for existing lots of record, all lots fronting on US-2/US-141/M-95 subject to this Section, shall not be less than three hundred (300) feet in width, unless served by shared access or a service drive that meets the requirements of Section R 9, 10, or 11, in which case minimum lot width may be reduced to not less than one hundred (100) feet in width if a deed restriction is approved and recorded with the County Register of Deeds demonstrating an effective method for long term maintenance of the shared access, service drive and/or parking lot cross-access.*
- B. Structure Setback - No structure other than signs, as allowed in Section 503 and 504, telephone poles and other utility structures that are not buildings, transfer stations or substations, shall be permitted within fifty (50) feet of the roadway right-of-way.*
- C. Parking Setback and Landscaped Area - No parking or display of vehicles, goods or other materials for sale, shall be located within fifty (50) feet of the roadway right-of-way. This setback shall be planted in grass and landscaped with small clusters of salt tolerant trees and shrubs suitable to the underlying soils unless another design is approved under the landscape provisions of Sections 410 through 412.*

Section 1418 Access Management Standards

No road, driveway, shared access, parking lot cross-access, service road, or other access arrangement to all lots and parcels within the Highway Overlay Zone shall be established, reconstructed or removed without first meeting the requirements of this Section.

- A. Each lot/parcel with highway frontage on US-2/US-141/M-95 shall be permitted one access point. This access point may consist of an individual driveway, a shared access with an adjacent use, or access via a service drive or frontage road. As noted in subsections B and C, land divisions shall not be permitted that may prevent compliance*

with the access location standards of this Highway Overlay Zone.

B. *When alternatives to a single, two-way driveway are necessary to provide reasonable driveway access to property fronting on US-2/US-141/M-95, and shared access or a service drive are not a viable option, the following progression of alternatives should be used:*

- 1. One (1) standard, two-way driveway;*
- 2. Additional ingress/egress lanes on one (1) standard, two-way driveway;*
- 3. Two (2), one-way driveways;*
- 4. Additional ingress/egress lanes on two (2), one-way driveways;*
- 5. Additional driveway(s) on an abutting street with a lower functional classification;*
- 6. Additional driveway on arterial street.*

**Note: Restricted turns and roadway modifications will be considered in conjunction with alternative driveway designs.*

C. *Driveways and new intersecting streets shall provide the following spacing from other access points along the same side of the public street (measured from centerline to centerline of each access point), based on the posted speed limit along the public street segment, unless the appropriate road authority approves less based on the land use characteristics, lot size, and/or restricted turns in the driveway design.*

<i>Posted Speed Limit</i>	<i>Along US-2/US-141/M-95*</i>	<i>Along Other Intersecting Major Arterials</i>	<i>Along all Other Intersecting Streets (not major arterials)</i>
<i>35 mph or less</i>	<i>245 ft.</i>	<i>245 ft.</i>	<i>150 ft.</i>
<i>40 mph</i>	<i>300 ft.</i>	<i>300 ft.</i>	<i>185 ft.</i>
<i>45 mph</i>	<i>350 ft.</i>	<i>350 ft.</i>	<i>230 ft.</i>
<i>50 mph</i>	<i>455 ft.</i>	<i>455 ft.</i>	<i>275 ft.</i>
<i>55 mph</i>	<i>455 ft.</i>	<i>455 ft.</i>	<i>350 ft.</i>

** Unless greater spacing is required by MDOT*

D. *Where the subject site adjoins land that may be developed or redeveloped in the future, including adjacent lands or potential outlots, the access shall be located to ensure the adjacent site(s) can also meet the access location standards in the future.*

E. *Driveways or new intersecting streets along sections of US-2/US-141/M-95 with an existing or planned median shall be located in consideration of existing or approved median crossovers. A sufficient length for weaving across travel lanes and storage within the median shall be provided, consistent with MDOT published standards.*

F. *Driveways and new intersecting streets shall be aligned with driveways on the opposite side of the street or offset a minimum of 250 feet, centerline to centerline wherever feasible. The Planning Commission may reduce this to not less than 150 feet where each of the opposing access points generates less than 50 trips (inbound and outbound)*

during the peak hour of the public street or where sight distance limitations exist, or shall rely on the best option identified by MDOT.

- G. *Minimum spacing of driveways from intersections shall be in accordance with the table below (measured from pavement edge to pavement edge) unless MDOT authorizes a lesser spacing:*

<i>Signalized Locations*</i>	<i>Distance in Feet</i>	<i>Unsignalized Locations</i>	<i>Distance in Feet</i>
<i>Along US-2/US-141/M-95</i>	<i>300</i>	<i>Along US-2/US-141/M-95</i>	<i>300</i>
<i>Along other public streets</i>	<i>200</i>	<i>Intersections with US-2/US-141/M-95</i>	<i>300</i>
		<i>Other intersections</i>	<i>150</i>

* *Spacing for signalized intersections shall also be applied at intersections where MDOT indicates spacing and approach volumes may warrant a signal in the future.*

- H. *Where direct access consistent with the various standards above cannot be achieved, access should be via a shared driveway or service drive. In particular, the Planning Commission may require development of frontage roads, or rear service drives where such facilities can provide access to signalized locations, where service drives may minimize the number of driveways, and as a means to ensure that traffic is able to more efficiently and safely ingress and egress.*

- I. *Sharing or joint use of a driveway by two or more property owners shall be encouraged. In cases where access is restricted by the spacing requirements of Section 1418(C) above a shared driveway may be the only access design allowed. The shared driveway shall be constructed along the midpoint between the two properties unless a written easement is provided which allows traffic to travel across one parcel to access another, and/or access the public street.*

- a. *In cases where a shared access facility is recommended, but is not yet available, temporary direct access may be permitted, provided the site plan is designed to accommodate the future service drive, and a written agreement is submitted that the temporary access will be removed by the applicant, when the alternative access system becomes available. This may require posting of a performance guarantee to cover the cost of removing the temporary driveway if the applicant or then owner does not remove the temporary driveway once a permanent driveway is established.*

- J. *Frontage roads or service drives (see Figure 1) shall be designed, constructed and maintained in accordance with the following standards:*

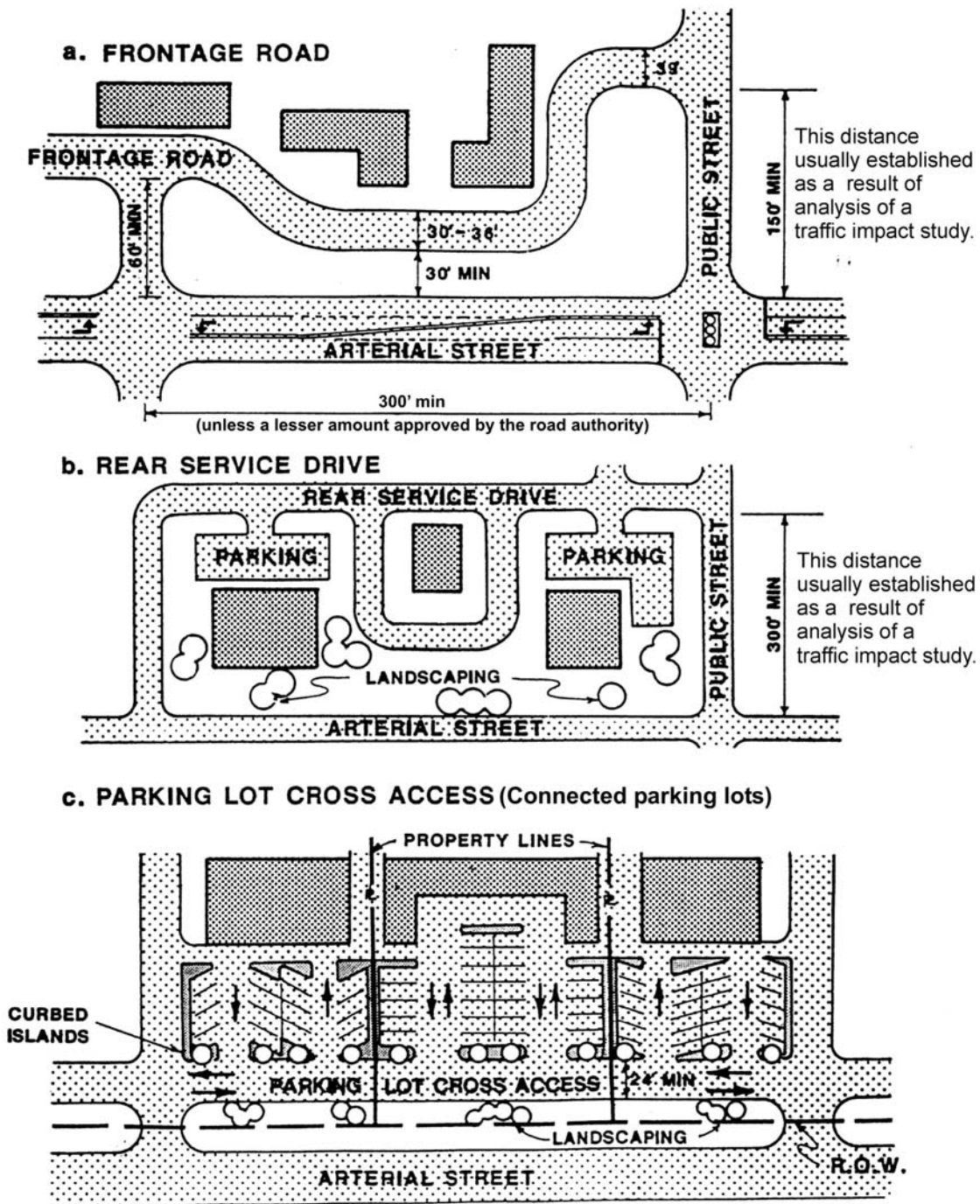
1. *Location - Frontage roads or service drives shall generally be parallel to the front property line and may be located either in front of, or behind, principal buildings and may be placed in required yards. In considering the most appropriate alignment for a service road, the Planning Commission shall*

- consider the setbacks of existing and/or proposed buildings and anticipated traffic flow for the site.*
2. *Alignment - The alignment of the service drive can be refined to meet the needs of the site and anticipated traffic conditions, provided the resulting terminus allows the drive to be extended through the adjacent site(s). This determination may require use of aerial photographs, property line maps, topographic information and other supporting documentation*
 3. *Setback - Service drives and frontage roads shall be set back as far as reasonably possible from the intersection of the access driveway with the public street. A minimum of thirty (30) feet shall be maintained between the public street right-of-way and the pavement of the frontage road, with a minimum sixty (60) feet of throat depth provided at the access point. The access point location shall conform with all the applicable standards of this Ordinance.*
 4. *Access Easement - A frontage road or service drive shall be within an access easement permitting traffic circulation between properties. The easement shall be recorded with the County Register of Deeds. This easement shall be at least forty (40) feet wide. A frontage road or service drive shall have a minimum pavement width of twenty-six (26) feet, measured face to face of curb with an approach width of thirty-six (36) feet at intersections. The frontage road or service drive shall be constructed of a paved surface material that is resistant to erosion and shall meet Dickinson County Road Commission or MDOT standards for base and thickness of asphalt or concrete, unless the community has more restrictive standards.*
 5. *Snow Storage - A minimum of fifteen (15) feet of snow storage/landscaping area shall be reserved along both sides of the frontage road or service drive.*
 6. *Service Drive Maintenance - No service drive shall be established on existing public right-of-way. The service drive shall be a public street (if dedicated to and accepted by the public), or a private road maintained by the adjoining property owners it serves who shall enter into a formal agreement for the joint maintenance of the service drive. The agreement shall also specify who is responsible for enforcing speed limits, parking and related vehicular activity on the service drive. This agreement shall be approved by the Charter Township of Breitung attorney and recorded with the deed for each property it serves by the County Register of Deeds. If the service drive is a private road, the local government shall reserve the right to make repairs or improvements to the service drive and charge back the costs directly or by special assessment to the benefiting landowners if they fail to properly maintain a service drive.*
 7. *Landscaping - Landscaping along the service drive shall conform to the requirements of Sections 410 through 412. Installation and maintenance of landscaping shall be the responsibility of the developer or a property owners association.*
 8. *Parking Areas - All separate parking areas shall have no more than one (1) access point or driveway to the service drive.*
 9. *Parking - The service road is intended to be used exclusively for circulation, not as a parking, loading or unloading aisle. Parking shall be prohibited along two-way frontage roads and service drives that are constructed at the minimum*

width. One-way roads or two-way roads designed with additional width for parallel parking may be allowed if it can be demonstrated through traffic studies that on-street parking will not significantly affect the capacity, safety or operation of the frontage road or service drive. Perpendicular or angle parking along either side of a designated frontage road or service drive is prohibited. The Planning Commission may require the posting of "no parking" signs along the service road. As a condition to site plan approval, the Planning Commission may permit temporary parking in the easement area where a continuous service road is not yet available, provided that the layout allows removal of the parking in the future to allow extension of the service road. Temporary parking spaces permitted within the service drive shall be in excess of the minimum required under Section 409, Parking and Loading Standards.

10. *Directional Signs and Pavement Markings - Pavement markings may be required to help promote safety and efficient circulation. The property owner shall be required to maintain all pavement markings. All directional signs and pavement markings along the service drive shall conform to the current Michigan Manual of Uniform Traffic Control Devices.*
11. *Assumed Width of Pre-existing Service Drives - Where a service drive in existence prior to the effective date of this provision has no recorded width, the width will be considered to be forty (40) feet for the purposes of establishing setbacks and measured an equal distance from the midpoint of the road surface.*
12. *Pedestrian and Bicycle Access - Separate, safe access for pedestrians and bicycles shall be provided on a sidewalk or paved path that generally parallels the service drive unless alternate and comparable facilities are approved by the Planning Commission.*
13. *Number of Lots or Dwellings Served - No more than twenty-five (25) lots or dwelling units may gain access from a service drive to a single public street.*
14. *Service Drive Signs - All new public and private service drives shall have a designated name on a sign meeting the standards on file in the office of the Zoning Administrator.*
15. *Pre-existing Conditions - In the case of expansion, alteration or redesign of existing development where it can be demonstrated that pre-existing conditions prohibit installation of a frontage road or service drive in accordance with the aforementioned standards, the Planning Commission shall have the authority to allow and/or require alternative cross access between adjacent parking areas through the interconnection of main circulation aisles. Under these conditions, the aisles serving the parking stalls shall be aligned perpendicularly to the access aisle, as shown in Figure 1c., with islands, curbing and/or signage to further delineate the edges of the route to be used by through traffic.*

Figure 1: Frontage Road, Rear Service Drive and Parking Lot Cross Access



- K. *Parking Lot Connections or Parking Lot Cross-Access: Where a proposed parking lot is adjacent to an existing parking lot of a similar use, there shall be a vehicular connection between the two parking lots where physically feasible, as determined by the Planning Commission. For developments adjacent to vacant properties, the site shall be designed to provide for a future connection. A written access easement signed by both landowners shall be presented as evidence of the parking lot connection prior to the issuance of any final zoning approval.*

- L. *Access Easements: Shared driveways, cross access driveways, connected parking lots, and service drives shall be recorded as an access easement and shall constitute a covenant running with the land. Operating and maintenance agreements for these facilities should be recorded with the deed.*

- M. *Access points shall be located to provide safe sight distance, as determined by the applicable road agency.*

- N. *All access points shall maintain clear vision as illustrated in Figures 2 and 3.*

Figure 2

CLEAR VISION AT DRIVEWAYS

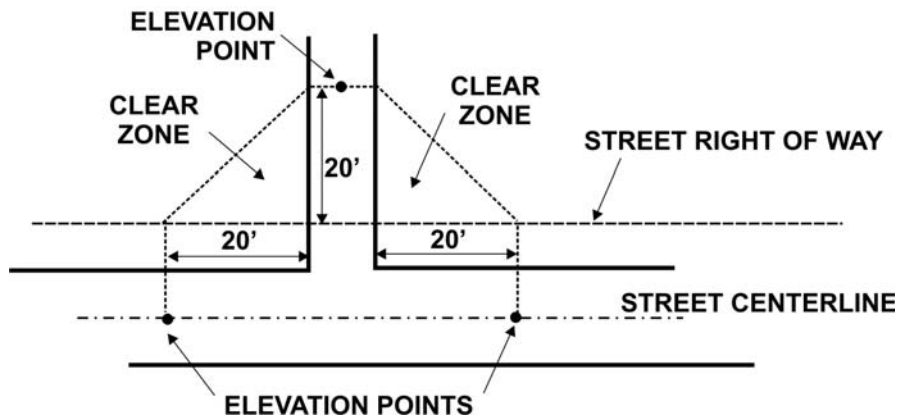
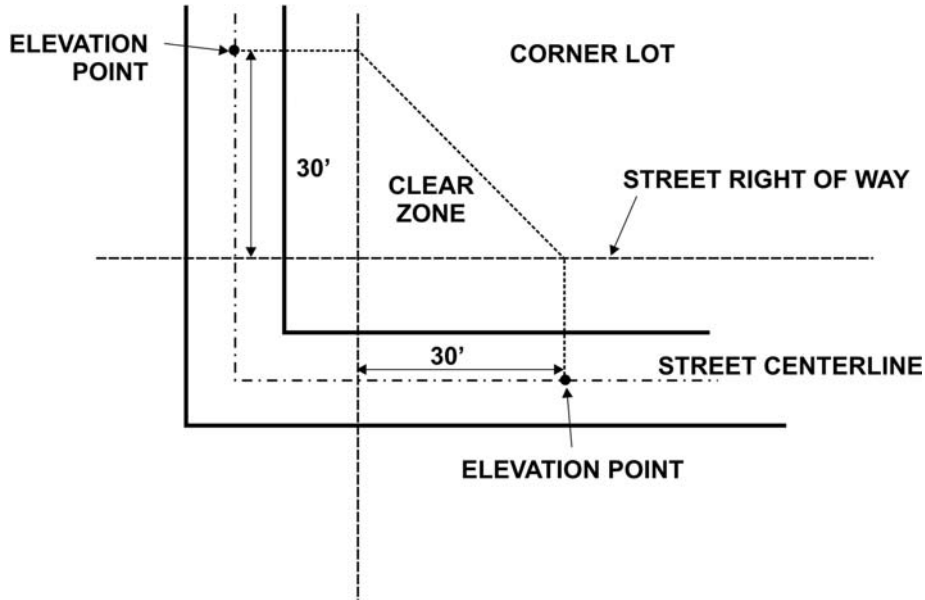


Figure 3

CLEAR VISION ON CORNER



- O. *Throat width and throat length of driveways shall be as required by the road authority and this Ordinance. The driveway design shall safely accommodate the needs of pedestrians and bicyclists.*
- P. *Grades and drainage:*
- a. *Driveways shall be constructed such that the grade for the 25 feet nearest the pavement edge or shoulder does not exceed 1.5% (one and one-half foot vertical rise in one-hundred feet of horizontal distance) wherever feasible. Where not feasible, grades shall conform with requirements of the applicable road authority.*
 - b. *Driveways shall be constructed such that drainage from impervious areas located outside of the public right-of-way, which are determined to be in excess of existing drainage from these areas shall not be discharged into the roadway drainage system without the approval of the responsible agency. Storm drains, or culverts, if required shall be of a size adequate to carry the anticipated storm flow and be constructed and installed pursuant to the specifications of the responsible road authority.*
- Q. *Directional Signs and Pavement Markings - In order to ensure smooth traffic circulation on the site, direction signs and pavement markings shall be installed at the driveway(s) in a clearly visible location as required by the Charter Township of Breitung as part of the site plan review process and approved by the Michigan Department of Transportation and Dickinson County Road Commission (as appropriate), and shall be maintained on a permanent basis by the property owner.*

Directional signs and pavement markings shall conform to the standards in the Michigan Manual of Uniform Traffic Control Devices.

- R. *Traffic Signals – Access points on US-2/US-141/M-95 may be required to be signalized in order to provide safe and efficient traffic flow. Any signal shall meet the spacing requirements of the applicable road authority. A development may be responsible for all or part of any right-of-way, design, hardware, and construction costs of a traffic signal if it is determined by the road authority that the signal is warranted by the traffic generated from the development. The procedures for signal installation and the percent of financial participation required of the development in the installation of the signal shall be in accordance with criteria of the road authority with jurisdiction.*
- S. *No driveway shall interfere with municipal facilities such as street lights or traffic signal poles, signs, fire hydrants, cross walks, bus loading zones, utility poles, fire alarm supports, drainage structures, or other necessary street structures. The Zoning Administrator is authorized to order and effect the removal or reconstruction of any driveway which is constructed in conflict with street structures. The cost of reconstructing or relocating any new or proposed such driveways shall be at the expense of the property owner with the problem driveway.*

Section 1419 Nonconforming Driveways

- A. *Driveways that do not conform to the regulations in this Section, and were constructed before the effective date of this Section, shall be considered legal nonconforming driveways. Existing driveways previously granted a temporary access permit by MDOT or the County Road Commission are legal nonconforming driveways until such time as the temporary access permit expires.*
- B. *Loss of legal nonconforming status results when a nonconforming driveway ceases to be used for its intended purpose, as shown on the approved site plan, or a plot plan, for a period of twelve (12) months or more. Any reuse of the driveway may only take place after the driveway conforms to all aspects of this Article.*
- C. *Legal nonconforming driveways may remain in use until such time as the use of the driveway or property is changed or expanded in number of vehicle trips per day or in the type of vehicles using the driveway (such as many more trucks) in such a way that impact the design of the driveway. At this time, the driveway shall be required to conform to all aspects of the Ordinance.*
- D. *Driveways that do not conform to the regulations in this Ordinance and have been constructed after adoption of this Ordinance shall be considered illegal nonconforming driveways.*
- E. *Illegal nonconforming driveways are a violation of this Ordinance. The property owner shall be issued a violation notice which may include closing off the driveway until any nonconforming aspects of the driveway are corrected. Driveways constructed in illegal locations shall be immediately closed upon detection and all evidence of the driveway*

removed from the right-of-way and site on which it is located. The costs of such removal shall be borne by the property owner.

- F.** *Nothing in this Ordinance shall prohibit the repair, improvement, or modernization of lawful nonconforming driveways, provided it is done consistent with the requirements of this Section.*

Section 1420 Waivers and Variances of Requirements in Section 1418

- (A)** *Any applicant for access approval under the provisions of this Section may apply for a waiver of standards in Section 1418 if the applicant cannot meet one or more of the standards according to the procedures provided below:*

- 1.** *For waivers on properties involving land uses with less than 500 vehicle trips per day based on rates published in the Trip Generation Manual of the Institute of Transportation Engineers: Where the standards in this Section cannot be met, suitable alternatives, documented by a registered traffic engineer and substantially achieving the intent of the Section may be accepted by the Zoning Administrator, provided that all of the following apply:*
 - a.** *The use has insufficient size to meet the dimensional standards.*
 - b.** *Adjacent development renders adherence to these standards economically unfeasible.*
 - c.** *There is no other reasonable access due to topographic or other considerations.*
 - d.** *The standards in this Section shall be applied to the maximum extent feasible.*
 - e.** *The responsible road authority agrees a waiver is warranted.*

- 2.** *For waivers on properties involving land uses with more than 500 vehicle trips per day based on rates published in the Trip Generation Manual of the Institute of Transportation Engineers: During site plan review the Planning Commission shall have the authority to waive or otherwise modify the standards of Section R following an analysis of suitable alternatives documented by a registered traffic engineer and substantially achieving the intent of this Section, provided all of the following apply:*
 - a.** *Access via a shared driveway or front or rear service drive is not possible due to the presence of existing buildings or topographic conditions.*
 - b.** *Roadway improvements (such as the addition of a traffic signal, a center turn lane or bypass lane) will be made to improve overall traffic operations prior to project completion, or occupancy of the building.*
 - c.** *The use involves the redesign of an existing development or a new use which will generate less traffic than the previous use.*
 - d.** *The proposed location and design is supported by the County Road Commission and/or the Michigan Department of Transportation, as applicable, as an acceptable design under the circumstances.*

- (B)** *Variance Standards: The following standards shall apply when the Board of Appeals considers a request for a variance from the standards of this Section.*

1. *The granting of a variance shall not be considered until a waiver under Section 1420 (A) 1. or 1420 (A) 2. above has been considered and rejected.*
2. *Applicants for a variance must provide proof of practical difficulties unique to the parcel (such as wetlands, steep slopes, an odd parcel shape or narrow frontage, or location relative to other buildings, driveways or an intersection or interchange) that make strict application of the provisions of this Section impractical. This shall include proof that:*
 - a. *indirect or restricted access cannot be obtained; and,*
 - b. *no reasonable engineering or construction solution can be applied to mitigate the condition; and,*
 - c. *no reasonable alternative access is available from a road with a lower functional classification than the primary road; and,*
 - d. *without the variance, there is no reasonable access to the site and the responsible road authority agrees.*
3. *The Board of Appeals shall make a finding that the applicant for a variance met their burden of proof above, that a variance is consistent with the intent and purpose of this Section, and is the minimum necessary to provide reasonable access.*
4. *Under no circumstances shall a variance be granted unless not granting the variance would deny all reasonable access, endanger public health, welfare or safety, or cause an unnecessary hardship on the applicant. No variance shall be granted where such hardship is self-created.*

Section 1421 Traffic Impact Study

- (A) *If the proposed land use exceeds the traffic generation thresholds below, then the Zoning Administrator shall require submittal of a traffic impact study at the expense of the applicant, as described below prior to consideration of the application or site plan by either the Zoning Administrator or the Planning Commission. At their discretion, the Planning Commission may accept a traffic impact study prepared for another public agency. A traffic impact study shall be provided for the following developments unless waived by the Planning Commission following consultation with the Michigan Dept. of Transportation or County Road Commission, as applicable:*
1. *For any residential development of more than twenty (20) dwelling units, or any office, commercial, industrial or mixed use development, with a building over 50,000 square feet, or*
 2. *When permitted uses could generate either a thirty percent (30%) increase in average daily traffic, or at least one hundred (100) directional trips during the peak hour of the traffic generator or the peak hour on the adjacent streets, or over seven hundred fifty (750) trips in an average day.*
 3. *Such other development that may pose traffic problems in the opinion of the Planning Commission.*
- B. *At a minimum the traffic impact study shall be in accordance with accepted principles as described in the handbook Evaluating Traffic Impact Studies, a Recommended*

Practice for Michigan, developed by the MDOT and other Michigan transportation agencies and contain the following:

- 1. A narrative summary including the applicant and all project owners, the project name, a location map, size and type of development, project phasing, analysis of existing traffic conditions and/or site restrictions using current data transportation system inventory, peak hour volumes at present and projected, number of lanes, roadway cross section, intersection traffic, signal progression, and related information on present and future conditions. The capacity analysis software should be the same for each project, such as using HCS 2000 or a later version.***
 - 2. Projected trip generation at the subject site or along the subject service drive, if any, based on the most recent edition of the Institute of Transportation Engineers Trip Generation manual. The Charter Township of Breitung may approve use of other trip generation data if based on recent studies of at least three (3) similar uses within similar locations in Michigan.***
 - 3. Illustrations of current and projected turning movements at access points. Include identification of the impact of the development and its proposed access on the operation of the abutting streets. Capacity analysis shall be completed based on the most recent version of the Highway Capacity Manual published by the Transportation Research Board, and shall be provided in an appendix to the traffic impact study.***
 - 4. Description of the internal vehicular circulation and parking system for passenger vehicles and delivery trucks, as well as the circulation system for pedestrians, bicycles and transit users.***
 - 5. Justification of need, including statements describing how any additional access (more than one driveway location) will improve safety on the site and will be consistent with the US-2/US-141/M-95 Access Management Action Plan and the Community or Comprehensive Master Plan, and will not reduce capacity or traffic operations along the roadway.***
 - 6. Qualifications and documented experience of the author of the Traffic Impact Study, describing experience in preparing traffic impact studies in Michigan. The preparer shall be either a registered traffic engineer (P.E.) or transportation planner with at least five (5) years of experience preparing traffic impact studies in Michigan. If the traffic impact study involves geometric design, the study shall be prepared or supervised by a registered engineer with a strong background in traffic engineering.***
- C. The Charter Township of Breitung may utilize its own traffic consultant to review the applicant's traffic impact study, with the cost of the review being borne by the applicant per Article IV, Section 424.***