

Article XX

Special Land Uses

§ 220-20-1. Explanation of special land uses.

In order to make this chapter a flexible zoning control and still afford protection of property values and facilitate orderly and compatible development of property within the Township, the Planning Commission is authorized to approve the establishment of certain uses designated as Special Land Uses within the various zoning classifications. Such special land uses have been selected because of the characteristics of the use which, in the particular zone and location involved, might cause the use to be incompatible with the other uses permitted in such zoning district and accordingly detrimental thereto, without prior review pursuant to approval standards and in appropriate circumstances also approval conditions.

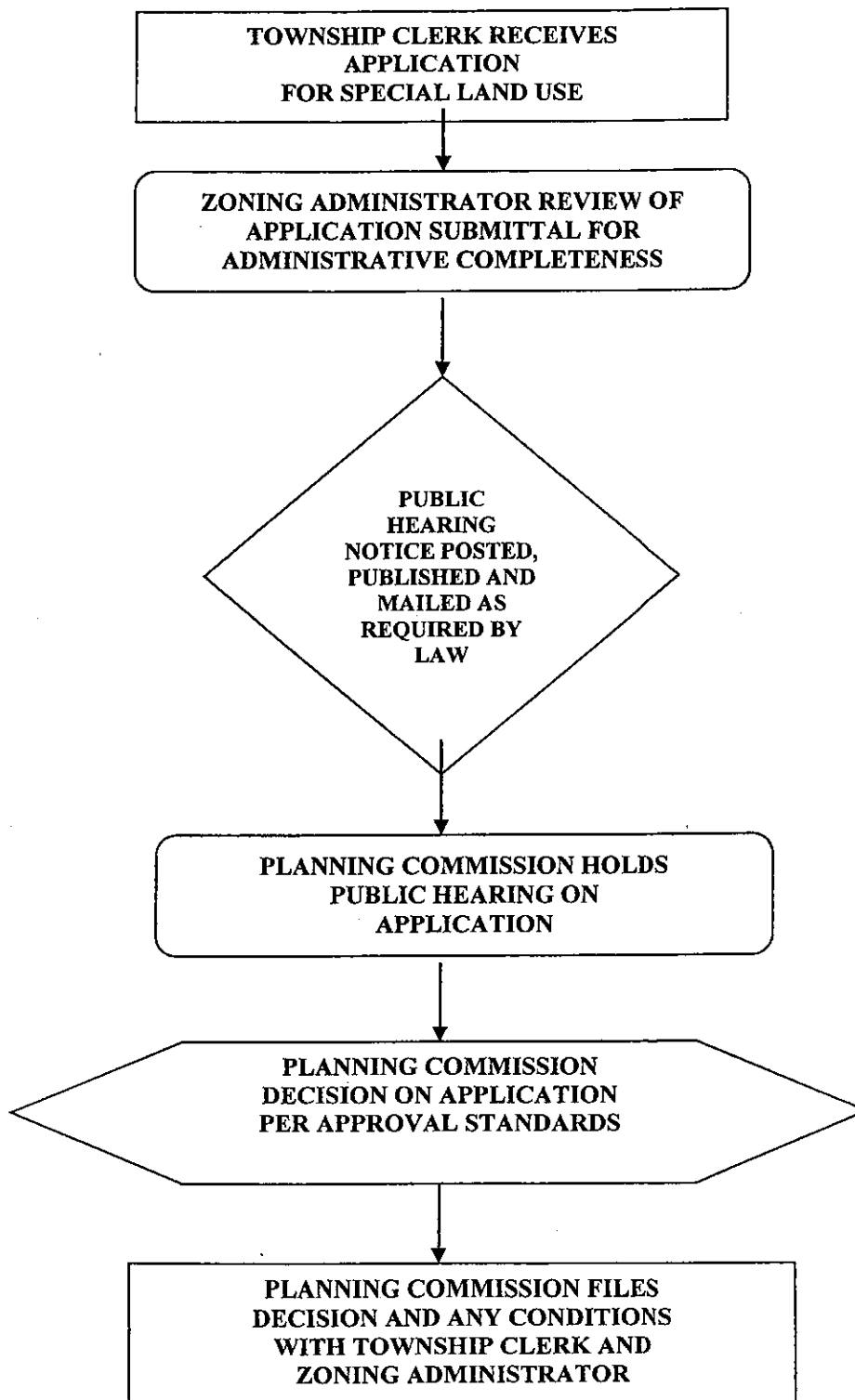
§ 220-20-2. Special land use procedure.

- A. All applications for special land use approval shall be submitted and processed under the following procedures:
1. The application shall be filed in duplicate with the Township Clerk, and shall include all of the following:
 - a. A completed application form, using the special land use application form prescribed by the Township.
 - b. A site plan substantially complying with the requirements for the content of a final site plan as specified in § 220-21-2.
 - c. All specifications, data, and other materials on which the applicant intends to rely to show all applicable standards for special land use approval are met.
 - d. Payment of the fee set by the Township Board for special land use applications.
 2. The Township Clerk shall promptly refer one copy of the application submittal to the Zoning Administrator. The Zoning Administrator shall promptly review the submittal to determine whether it is administratively complete, and shall notify the applicant of any deficiencies in the content of the application submittal. An application shall not be processed for public hearing unless and until it is administratively complete as determined by the Zoning Administrator.
 3. When the Zoning Administrator has determined an application submittal to be administratively complete the Zoning Administrator shall notify the applicant of that determination, and request eight copies of the complete application submittal. Upon receipt of such copies the Zoning Administrator shall promptly refer individual copies of the administratively complete application to the members of the Planning Commission, the Township Attorney, and to the Township Clerk to be available for public examination.

4. The Planning Commission shall hold a public hearing on an administratively complete application. The Planning Commission shall review the application subsequent to the public hearing, at the same meeting or at a subsequent meeting, and may require the applicant to provide additional information about the proposed use relevant to any standard for special land use approval specified in this chapter. The applicant has the burden of proving compliance with all special land use approval standards.
5. The Planning Commission shall approve a special land use application if the application is in compliance with all applicable standards, other applicable ordinances, state and federal statutes, and any conditions lawfully imposed under this chapter. The Planning Commission's decision shall be incorporated in a statement of findings and conclusions which specifies the basis for the decision and any conditions imposed. The decision of the Planning Commission on a special land use application is a final decision, subject to appeal to a court of competent jurisdiction as authorized by law. The Zoning Board of Appeals does not have jurisdiction to hear an appeal from any decision of the Planning Commission on a special land use application.
6. An approved special land use is subject to site plan review pursuant to Article XXI of this chapter.

(see next page for flow diagram for special land use applications)

FLOW DIAGRAM FOR SPECIAL LAND USE APPLICATIONS



§ 220-20-3. Standards for special land use approval.

- A. An application for special land use approval shall not be approved by the Planning Commission (with or without conditions) unless the Planning Commission finds from the evidence that all of the following standards and requirements are met:
1. The size, nature and character of the use will be compatible with the other uses and buildings and structures expressly permitted within the zoning district, especially where the location of the use is adjacent to or in the approximate area of residential dwellings;
 2. The use will be compatible with the natural environment of the area;
 3. The use will not adversely affect the capacities of public services and facilities, and will not cause unreasonable traffic congestion or otherwise specially burden the public roads and streets in the area;
 4. The lot upon which the use is proposed is able to accommodate all off-street parking facilities required by this chapter;
 5. The use will not in any manner be detrimental or injurious to the use or development of adjacent properties, to the occupants thereof, or to the general neighborhood;
 6. The use will not adversely affect the public health, safety, and general welfare of the community;
 7. The use will be in accordance with the character and adaptability of the land at issue;
 8. The standards required in subsections 1-7 above for approval of any special land use can and will, in the Commission's judgment, be met at all times;
 9. The standards specifically applicable to the particular use in § 220-20-7 or elsewhere in this chapter can and will, in the Commission's judgment, be complied with at all times.

§ 220-20-4. Conditions imposed upon approved special land uses.

- A. The Planning Commission is authorized to impose conditions on the approval of a special land use, if the Planning Commission determines it has authority to approve the special land use application. Any conditions upon which approval is based shall be reasonable and necessary to insure that public services and facilities affected by the proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, or necessary to protect the natural environment and conserve natural resources and energy, or necessary to insure compatibility with adjacent uses of land, or necessary to promote the use of land in a socially and economically desirable manner. Any such conditions shall also meet all of the following requirements:

1. Be designed to protect natural resources, the health, safety, and welfare and the social and economic well being of those who will use 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.
 2. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
 3. Be necessary to meet the intent and purpose of this chapter, be related to the standards established in this chapter for the land use or activity under consideration, and be necessary to insure compliance with those standards.
- B. The Planning Commission shall have the right to impose a condition limiting the duration of a special land use only where the use is by its nature a temporary use, and may reserve the right of periodic review of compliance with the conditions and limitations imposed upon such use.
- C. The Planning Commission is also authorized to require a performance guarantee as a condition on a special land use approval, as follows:
1. To insure compliance with this chapter (and/or conditions imposed at the time of approval), the Planning Commission may require that a cash deposit, certified check, irrevocable bank letter of credit or surety bond acceptable to the Planning Commission, covering 100% of the estimated costs of improvements associated with a project for which the approval is sought, be deposited with the clerk of the township to insure faithful completion of the improvements.
 2. The Planning Commission shall by resolution request the Township Clerk to rebate said security deposit in reasonable proportion to the ratio of work completed on the required improvements as the work progresses. The amount of rebate shall be determined from time to time at regular or special meetings of the Planning Commission based upon evidence presented by the applicant and/or appropriate township officials demonstrating the ratio of work completed on the required improvements.
 3. If any improvements are not constructed within the time limit established as part of the approval or within any extension thereof, then the Planning Commission shall by resolution request the Township Board to take appropriate legal steps to insure completion using so much of the security deposit as is necessary for such purpose.
 4. As used herein, "improvements" means those features and actions associated with a project which are considered necessary by the Planning Commission to protect natural resources, or the health, safety, and welfare of the residents of a Township and future users or inhabitants of the proposed project or project area, including roadways, lighting, utilities, sidewalks, screening, and drainage. "Improvements" does not include the entire project which is the subject of zoning approval.

§ 220-20-5. Compliance with approval.

- A. The site plan submitted with the special land use application, the specifications in the application, and all conditions imposed by the Planning Commission shall be recorded with the Township Clerk and Zoning Administrator, and shall be incorporated as a part of the special land use approval. An approved special land use which at any time fails to comply with the terms of the approval, or any provision of this chapter, shall cease to be a lawful use, and shall be subject to revocation in accordance with § 220-20-6 of this chapter, in addition to the legal penalties and remedies generally applicable to any violation of this chapter.
- B. Every special land use approval shall be subject to an automatically imposed approval condition pursuant to which the approval lapses if the approved use has not substantially begun within one year from the date of approval. Upon request of the applicant, filed prior to the lapse of special land use approval, the Planning Commission may save its prior approval from lapsing where the applicant shows good cause for the delay, and the Planning Commission finds there have been no changed conditions that would potentially affect the prior findings of the Planning Commission with respect to any standard for approval of the use.

§ 220-20-6. Revocation of special land use approval.

- A. All approved special land uses shall be subject to the following provisions, as a condition automatically imposed upon every such approved special land use:
 - 1. **Zoning Administrator Revocation Recommendation.** The Zoning Administrator may recommend revocation of a special land use approval upon determining a probable violation of the terms and conditions of a special land use approval or related provisions of this chapter. The Zoning Administrator shall provide written notice of the revocation recommendation to the approval holder/property owner by personal delivery or regular mail, and also to the Township Clerk by personal delivery or regular mail.
 - 2. **Planning Commission Review of Revocation Recommendation.** The Planning Commission shall review the Zoning Administrator's recommendation to revoke a special land use approval, and shall hold a public hearing thereon preceded by notice in accordance with statutory provisions governing special land use matters.
 - 3. **Revocation of Special Land Use Approval.** After notice and public hearing as provided herein the Planning Commission may vote, by a majority of its membership, to revoke a special land use approval upon verifying the grounds for the Zoning Administrator's revocation recommendation by a preponderance of the evidence presented thereon at the hearing, and upon a further finding that the underlying violations have not been cured, and are not likely to be cured within a reasonable period of time as established by the Planning Commission. Written notification of a Planning Commission determination to revoke a special land use approval shall be provided to the approval holder and property owner by personal delivery or regular mail.

4. Appeal of Revocation of Special Land Use Approval: Premises for which a special land use approval has been revoked by the Planning Commission shall be used only as otherwise allowed pursuant to the relevant sections of this chapter for the applicable use district. A determination of the Planning Commission revoking a special land use approval may be appealed to the circuit court as provided by law.

§ 220-20-7. Specific standards required of particular special land uses.

The following specific standards shall be required of the particular special land uses designated in this section, pursuant to § 220-20-3 A.9, in addition to the standards specified in § 220-20-3 A.1-8. The required standards for each such use are referred to in the following table and included in the subsequent applicable text for the corresponding item number.

SPECIAL LAND USE	ZONING DISTRICT	ITEM NUMBER
Aggregate processing/quarrying/commercial excavations	AG/OS	1
Bed and breakfast facility	AG/OS, ACLI	2
Day care facility	MU	3
Family business	AG/OS, CR, MDR, HDR, PRC	4
Foster care (large group) home	AG/OS, CR, MDR, HDR, MHCR, PRC	5
Group day care home	AG/OS, CR, MDR, HDR, MHCR, PRC	6
Kennel	AG/OS, CR	7
Marihuana Grower (Class A, B, or C)	AG/OS, LI	14
Marihuana Micro Business	AG/OS, MU	14
Marihuana Processor	AG/OS, MU, LI	14
Marihuana Retailer	MU	14
Marihuana Safety Compliance Facility	MU, LI	14
Marihuana Secure Transporter	AG/OS, MU, LI	14
Medical Marihuana Grower (Class A, B, or C)	AG/OS, LI	14
Medical Marihuana Processor	AG/OS, MU, LI	14
Medical Marihuana Provisioning Center	MU	14
Medical Marihuana Safety Compliance Facility	MU, LI	14
Medical Marihuana Secure Transporter	AG/OS, MU, LI	14
On-farm biofuel production facility (Type II or Type III)	AG/OS	8
Open space preservation development	AG/OS, CR, MDR, HDR, PRC	9

SPECIAL LAND USE	ZONING DISTRICT	ITEM NUMBER
Outdoor storage yard for recreational vehicles and boats	LC, LI	15
Parks, playgrounds, recreation areas and summer camps	AG/OS, CR, MDR, HDR, MHCR, PRC	10
Small wind energy conversion system	AG/OS, CR, MDR, HDR, MHCR, MU, ACLI, LI, PRC	11
Utility-Scale Solar Energy Electricity Generating Facility	AG/OS, CR	13
Wireless communications support structure (including equipment compound and wireless communications equipment)	AG/OS, LI	12

Item 1---Aggregate Processing/Quarrying/Commercial Excavations.

A. Location:

1. All such operations shall be located on a primary road, as defined by the Barry County Road Commission, for ingress and egress thereto, or, on a road which does not create traffic through an area developed primarily for residential purposes. Where necessary, the Planning Commission may require the applicant to construct and/or improve a road to accommodate the truck travel necessitated by the operations as a condition to approval of such operations, and for the purpose of routing traffic around residential areas and preventing the breaking up of existing roads which are not "all weather" roads.
2. Sufficient setbacks shall be provided from all property lines and public highways to assure adequate lateral support for adjacent public and private property. All excavation operations shall be at least 150 feet from interior boundary lines of the property, and the Planning Commission may increase such setback if required to adequately protect adjoining properties. However, if the adjoining property is also used for such mining and excavation operation, then the Planning Commission may reduce or eliminate the required setback from that interior boundary line. In addition, such setback may be temporarily reduced to 50 feet if reclamation of the land is promptly effected to increase the setback to at least 150 feet in accordance with the reclamation plan approved by the Commission and adequate lateral support is at all times maintained. However, notwithstanding the foregoing, all excavation operations shall be at least 400 feet from any dwelling, regardless of the zoning district in which such dwelling may be located.
3. All excavation operations shall be at least 50 feet from adjoining public rights-of-way except for lowering of land adjoining the rights-of-way to the grade level of the rights-of-way. Excavation operations shall not be allowed where adequate lateral support for the maintenance of adjoining lands is not maintained.

4. A processing plant and its accessory structures shall be located at least 250 feet from the interior property lines and adjoining public rights-of-way and shall, where practicable, be located at a lower level than the surrounding terrain to lessen visual and noise impact. In addition, the foregoing shall apply to digging or excavating apparatus and to the stockpiling or loading of materials and to the location of transportation equipment. However, notwithstanding the foregoing, all excavation operations shall be at least 400 feet from any dwelling, regardless of the zoning district in which such dwelling may be located.
5. All excavation operations, processing plants, and accessory structures shall be at least 250 feet from the banks of any lake, stream, or other watercourse unless a lesser setback is approved, in writing, by the Michigan Water Resources Commission or such other State agency having jurisdiction thereof. No such mining operations shall interfere with the natural established flow of surface waters to the detriment or damage of adjoining public or private properties. Where it appears that substantial sediment may be carried into any nearby watercourse, the Planning Commission may require, as a condition of approval, that the applicant construct an adequate sediment basin.
6. All private drives and private access routes serving excavation or processing operations shall be located at least 250 feet from any dwelling, regardless of the zoning district in which such dwelling may be located.

B. Sight Barriers:

1. Sight barriers shall be provided along all boundaries of the site which lack natural screening conditions through existing contours or evergreen growth. Such barriers shall consist of one or more of the following:
 - a. Earth berms constructed to a height of 6 feet above the mean elevation of the center line of the adjacent public highway or 6 feet above the general level of terrain along interior property lines, as the case may be. Such berms shall have slopes that are not in excess of 1 foot vertical to 3 feet horizontal and shall be planted with grass, trees or shrubs.
 - b. Plantings or evergreen trees or shrubbery in rows parallel to the boundaries of the property, not less than 4 feet in height at the time of planting and which grow to not less than 6 feet in height at maturity and sufficiently spaced to provide effective sight barriers when 6 feet in height.
 - c. Masonry walls or attractive solid fences made of uniform new materials, constructed to a height of not less than 6 feet and maintained in good repair.

C. Nuisance Abatement:

1. Noise and vibration shall be minimized in their effect upon adjacent properties by the utilization of modern equipment designed to accomplish such minimization

and by the proper use of berms, walls, and natural planting screens. All equipment shall be maintained and operated in such a manner so as to eliminate, as far as practicable, excessive noise and vibrations which are not necessary in the operation of such equipment.

2. Air pollution in the form of dust and dirt shall also be kept to a minimum by the use of modern equipment and methods of operation designed to avoid any excessive dust or dirt or other air pollution potentially injurious or substantially annoying to adjoining property owners. Interior and adjoining roads used in the operations shall have their surface treated to minimize any such nuisance.
3. The operation shall be restricted to the hours of 7:00 a.m. until 7:00 p.m. and no operations shall be allowed on Sundays or legal holidays.
4. All dangerous excavations, pits, pond areas, banks or slopes shall be fenced and posted with signs around the perimeter thereof and maintained to prevent injury to children or others, and shall be eliminated as expeditiously as possible.

D. Environmental Protection:

1. Earth removal operations shall not create erosion problems, or alter the ground-water table of the area.
2. Earth removal operations shall not cause the creation of sand blows, stagnant water pools, or stagnant swampy areas.
3. Earth removal operations shall not cause a permanent adverse affect to the environment, the natural topography, or any natural resource, other than the earth materials involved.

E. Reclamation of Mined Areas:

1. Reclamation and rehabilitation of mined areas shall be accomplished as soon as practicable following the mining or excavation of an area. Rehabilitation and reclamation shall be commenced immediately upon the termination of the mining or excavation operations in any area consisting of one acre or more. Substantial completion of reclamation and rehabilitation shall be effected with one year of termination of mining or excavation activity. Inactivity for a 12-month consecutive period shall constitute, for this purpose, termination of mining activity.
2. The following standards shall control reclamation and rehabilitation:
 - a. All excavation shall be either to a water-producing depth of not less than 5 feet below the average summer level of water in the excavation, or shall be graded or back-filled with non-noxious, non-inflammable and non-combustible solids to insure:

- (1) that the excavated area shall not collect stagnant water and not permit the same to remain therein; or
- (2) that the surface of such area which is not permanently submerged is graded or back-filled as necessary to produce a gently rolling surface that will minimize wind and water erosion, and which will be generally compatible with the adjoining land area.
- (3) The banks of all excavations shall be sloped to the waterline in a water-producing excavation, and to the pit floor in a dry operation, at a slope which shall not be steeper than 1 foot vertical to 3 feet horizontal.
- (4) Top soil of a quality at least equal to that occurring naturally in the area shall be replaced on excavated areas not covered by water, except where streets, beaches, or other planned improvements are to be completed within a one-year period. Where used, top soil shall be applied to a minimum depth of 4 inches and sufficient to support vegetation.
- (5) Vegetation shall be restored by the appropriate seeding of grasses or the planting of trees and shrubs, to establish a permanent vegetative cover on the land surface and to minimize erosion.
- (6) Upon cessation of mining operations by abandonment or otherwise, the operating company, within a reasonable period of time not to exceed 12 months thereafter, shall remove all structures, foundations, buildings, stockpiles and equipment, provided that buildings and structures which have a function under the reclamation plan and which can be lawfully used under the requirements of the zoning district in which they will be located under such plan may be retained.
- (7) A performance bond or cash shall be furnished to the township clerk insuring the proper rehabilitation and reclamation of the mined and excavated areas prior to the commencement of any such mining or excavating operations. The amount of the guarantee shall be not less than \$5,000 per acre proposed to be mined or excavated in the following 12-month period and which has previously been mined or excavated during any preceding period and not reclaimed and rehabilitated in accordance with this section and the applicant's filed plan. Mined areas resulting in a water depth of 5 feet or more shall be deemed to be reclaimed areas to within 15 feet of any vertical shore line thereof and to the extent of the shore line where the same has been sloped to a grade of not more than one foot vertical to three foot horizontal, for the purpose of this financial guarantee. The Zoning Administrator and/or

Planning Commission may review such financial guarantee annually, on or about the anniversary date of the excavation permit, for adjustment and compliance with the foregoing requirements. In no event shall such financial guarantee be less than \$5,000 in amount.

F. Submission of Operational and Reclamation Plans:

1. No earth removal, quarrying, gravel processing, mining, and related mineral extraction shall be allowed or commenced until a plan has been submitted to the Planning Commission disclosing compliance with all of the provisions of this chapter or the manner in which compliance will be secured by the applicant. Such plans shall comply with the final site plan content requirements in Article XXI of this chapter, and shall also include the following:
 - a. A contour map of the tract of land involved in the operations, including dimensions of the same, access to abutting public streets, and whether or not the same are "all weather" roads, additional roads, if any, to be constructed, and the location and nature of abutting improvements on adjoining property.
 - b. The number of acres and the location of the same proposed to be operated upon within the following 12-month period after commencement of operations.
 - c. The type of mining or processing proposed to be conducted and the nature of the equipment to be used.
 - d. The location of the principal processing plant and the distance of any proposed excavation or mining from the boundaries of the site.
 - e. A map or plan disclosing the final grades and elevations to be established following the completion of the mining operations, including the proposed uses then contemplated for the land, future lakes and roads and such other matters as may evidence the bona fide nature of the reclamation and rehabilitation plans and the fact that the land will not be devastated and rendered unusable by the proposed mining activities.

G. Review and Approval Criteria:

1. Planning Commission review and approval of a special land use request and site plan review for an aggregate processing/quarrying/commercial excavation operation shall be in accordance with all applicable provisions of this chapter; and, recognizing the unique land use aspects of earth removal operations, shall also be based on a consideration of the following factors:
 - a. The most advantageous use of the land, resources and property.

- b. The character of the area in question and its peculiar suitability, if any, for particular uses.
- c. Conservation of property values, as well as natural resources and the general and appropriate trend and character of development in the subject area.
- d. The protection and preservation of the general health, safety and welfare of the Township.
- e. The scarcity or value of the minerals sought to be mined as compared with the affect of the proposed operations upon the adjacent community.
- f. Whether or not the operations were previously in existence prior to the adoption of the text provisions of this chapter concerning the same, and the extent and character of such previous operations.
- g. In making any decision, the Planning Commission shall have the right and authority to impose such additional conditions and safeguards as it deems necessary and within the scope of its authority under Articles XX and XXI of this chapter. It may also limit the length of time the special land use approval is to be effective and may provide for a periodic review of the operations to ascertain compliance with the conditions and limitations imposed upon the same. The Planning Commission shall renew or extend a special land use approval where all standards and conditions are complied with, and may revoke or refuse to renew the same where non-compliance exists, in accordance with this chapter. No revocation or failure to renew or extend a prior approval shall release the applicant from the duty of rehabilitation and reclamation of the mined or disturbed area. The operator shall be required to pay an annual fee to cover the cost of inspections and additional meetings of the Planning Commission as may be established by the Township Board.

H. Liability Insurance:

- 1. All owners/operators of property involved in such operations shall be required to carry personal injury and property damage insurance while any unreclaimed or un-rehabilitated area exists, in the amount of not less than \$100,000 for each person or property injured or damaged and not less than \$300,000 for injury or damage to more than one person or one person's property arising out of one occurrence. Such insurance shall cover injury or damage occurring upon the site of the operations as well as upon properties adjoining thereto, as a result of conditions, or activities existing upon the site. A copy of the policy shall be filed with the Township Clerk.

Item 2---Bed and Breakfast Facility.

- A. All bed and breakfast facilities shall be subject to and comply with the characteristics of a "home occupation" as set forth in § 220-2-2.
- B. A dwelling in which a bed & breakfast facility is allowed shall be occupied by the owner of the premises as his/her principal residence.
- C. Sufficient off-street parking area shall be available on the premises so as to provide one parking space per sleeping room, not including spaces required for the permanent occupants of the premises.
- D. All bed & breakfast facilities shall have a smoke detector in proper working order in every sleeping room, and a fire extinguisher in proper working order on every floor of the dwelling.

Item 3--- Day Care Facility.

- A. The premises shall be accessed by an all-weather public road, as defined by the Barry County Road Commission for ingress or egress thereto.
- B. [The specific standards in Item 6 of this section for a Group Day Care Home are all hereby incorporated by reference; with the proviso that for purposes of this provision sub-part A.(1) therein shall read "Another state licensed day care facility of any type"].

Item 4---Family business.

- A. The premises shall have a lot area of at least 100,000 square feet (approximately 2.3 acres). Note: this provision is intended to accommodate a "family business" use on a parcel of at least 100,000 square feet in the AG/OS District; it is not intended to change the 1 acre minimum lot area requirement applicable to new lots in that district.
- B. All work in connection with the family business shall be conducted solely within an enclosed building (the dwelling itself, an attached garage, or otherwise permissible garage or other accessory building).
- C. The business shall be located on the same premises as the family's dwelling.
- D. In addition to those family members residing on the premises, no more than four other individuals may work on the premises in connection with the business.
- E. All goods sold from the premises shall either be created on the premises or be incidental to services sold on the premises.
- F. There shall be a minimum distance of 150 feet between any building where the business activity is conducted and any existing dwelling on adjoining property.

- G. Noise, smoke, odor, electrical disturbance, lighting or other objectionable characteristics associated with the business activity shall not be discernable beyond the boundaries of the premises upon which the business is conducted.
- H. No outdoor storage shall be allowed unless same cannot be reasonably stored within a building or structure. Such outdoor storage area shall be located to the rear of the building in which the business is conducted, and shall be screened to effectively block all view from adjoining properties and roads.
- I. There shall be no public display on the premises of articles offered for sale; and no exterior evidence indicating the premises are being used for any non-residential purpose, except a nameplate sign not exceeding four square foot in area containing only the name and occupation or business activity of the occupant of the premises.
- J. Off-street parking shall be provided on the premises sufficient to accommodate all employees and customers of the business, in addition to the residents of the premises.
- K. The Planning Commission may limit the family business to a particular type of business, and may impose additional conditions pursuant to this chapter and applicable law.
- L. There shall be no expansion of the physical area of the business without the further approval of the Planning Commission.

Item 5---Foster Care (Large Group) Home.

- A. It shall be located at least 1,500 feet from any of the following facilities (measured along a road, street or other thoroughfare open to use by the public as a matter of right for the purpose of vehicular traffic, excluding an alley):
 - 1. Another state licensed group day care home;
 - 2. Another adult foster care small group home or large group home licensed by the State of Michigan under the Adult Foster Care Facility Licensing Act (1979 Public Act 218, as amended --- MCL 400.701 et seq);
 - 3. A facility offering substance abuse treatment and rehabilitation service to 7 or more people licensed by the State of Michigan under article 6 of the Michigan Public Health Code (1978 Public Act 368, as amended --- MCL 333.6101 et seq);
 - 4. A community correction center, resident home, half way house, or other similar facility which houses an inmate population under the jurisdiction of the Michigan Department of Corrections.
- B. It shall have appropriate fencing enclosing all outdoor play areas intended for children, as determined by the Planning Commission. Such fencing shall be at least 54" high and non-climbable in design.

- C. It shall maintain the property consistent with (or better than) the visible characteristics of the neighborhood.
- D. It shall meet all applicable sign regulations in this chapter.
- E. It shall meet all applicable off-street parking requirements in this chapter; and in addition shall provide a designated passenger loading/unloading area near a barrier-free entrance to the facility, and a loading/unloading area of adequate dimensions for delivery vehicles servicing the facility.
- F. A landscape buffer shall be provided along all property lines that abut a less intense land use and around the perimeters of all parking and loading/unloading areas visible from adjacent properties or streets.
- G. All exterior lighting of entryways, parking spaces, and loading/unloading areas shall be directed and/or hooded so as to not reflect onto adjacent properties or streets.

Item 6---Group Day Care Home.

- A. It shall be located at least 1,500 feet from any of the following facilities (measured along a road, street or other thoroughfare open to use by the public as a matter of right for the purpose of vehicular traffic, excluding an alley):
 - 1. Another state licensed group day care home;
 - 2. Another adult foster care small group home or large group home licensed by the State of Michigan under the Adult Foster Care Facility Licensing Act (1979 Public Act 218, as amended --- MCL 400.701 et seq);
 - 3. A facility offering substance abuse treatment and rehabilitation service to 7 or more people licensed by the State of Michigan under article 6 of the Michigan Public Health Code (1978 Public Act 368, as amended --- MCL 333.6101 et seq);
 - 4. A community correction center, resident home, half way house, or other similar facility which houses an inmate population under the jurisdiction of the Michigan Department of Corrections.
- B. It shall have appropriate fencing enclosing all outdoor play areas, as determined by the Planning Commission. Such fencing shall be at least 54" high and non-climbable in design.
- C. It shall maintain the property consistent with (or better than) the visible characteristics of the neighborhood.
- D. It shall not exceed 16 hours of operation during a 24 hour period, operating only between 6:00 a.m. and 10:00 p.m.

- E. It shall meet all applicable sign regulations set forth in this chapter.
- F. It shall meet all applicable off-street parking requirements set forth in this chapter.

Item 7---Kennel.

- A. All kennel facilities, including animal run areas, shall be located at least 200 feet from all property lines. Each kennel facility shall provide sufficient square footage for each animal kept, boarded, bred or trained on the property, in accordance with applicable state laws, and the recommendations of the American Kennel Association. All kennel facilities shall have waste disposal systems adequate to handle all animal waste generated from the kennel facilities.
- B. Noise, odor, or other objectionable characteristics incident to the facility shall not be discernible beyond the boundaries of the premises upon which the facility is conducted.
- C. All kennel facilities shall be designed, constructed, operated and maintained in such a manner as to provide humane and sanitary conditions for each animal kept, boarded, bred or trained upon the premises.

Item 8---On-Farm Biofuel Production Facility (Type II or Type III).

- A. The facility has all of the characteristics for the term "On-Farm Biofuel Production Facility (Type II or Type III)" as defined in Section 220-2-2.
- B. The application for special land use approval included, in addition to the content required by any other provision of this chapter, all of the following:
 - 1. A description of the process to be used to produce biofuel.
 - 2. The number of gallons of biofuel anticipated to be produced annually, and the designed annual biofuel production capacity (in gallons) of the facility.
 - 3. An emergency access and fire protection plan that has been reviewed and approved by the Barry County Sheriff's Department and the B.I.R.C.H. Fire Department.
 - 4. For an ethanol production facility that will produce more than 10,000 proof gallons (as defined in 27 Code of Federal Regulations 19.907) annually, completed United States Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau Forms 5000.29 (Environmental Information) and 5000.30 (Supplemental Information on Water Quality Considerations Under 33 USC 1341(a)), or successor forms, required to implement regulations under the National Environmental Policy Act of 1969, 42 USC 4321 to 4347, and the Federal Water Pollution Control Act, 33 USC 1251 to 1387.
 - 5. Information that demonstrates the biofuel production facility will comply with all of the special land use approval standards specified herein.

6. Any additional information requested by the Planning Commission relevant to compliance with any provision of this chapter pertaining to special land use application, review, or approval, including any lawful conditions imposed on approval.
- C. (required condition on approval) Before the facility begins operation, all buildings, facilities, and equipment used in the production or storage of biofuel shall comply with all applicable local, state and federal laws.
- D. (required condition on approval) Before the facility begins operation, the owner or operator of the biofuel production facility has provided the Township with proof that all necessary approvals have been obtained from the Michigan Department of Environmental Quality (or a successor agency) and other state and federal agencies that are involved in permitting any of the following aspects of biofuel production:
 1. Air pollution emissions.
 2. Transportation of biofuel or additional products resulting from biofuel production.
 3. Use or reuse of additional products resulting from biofuel production.
 4. Storage of raw materials, fuel, or additional products used in, or resulting from, biofuel production.
- E. (required condition on approval) Before the facility begins operation, the biofuel production facility includes sufficient storage for raw materials, fuel, and additional products resulting from biofuel production or the capacity to dispose of additional products through land application, livestock consumption, sale, or other legal use.

Note: the Planning Commission is required to hold a hearing on an application for special land use approval of an On-Farm Biofuel Production Facility (Type II or Type III) not more than 60 days after a (complete) application is filed. *MCL 125.3513(4)*.

Item 9---Open space preservation development.

- A. Purpose. The purpose of an open space preservation development is to preserve the rural character of Rutland Township while permitting reasonable use of the land consistent with the Master Land Use Plan. Provisions set forth provide incentives to encourage innovative residential development, which results in an enhanced living environment by preserving natural features and rural landscape. By grouping dwellings together in clusters on a limited portion of a development property, much of the rural land and natural features will be preserved, and construction and maintenance of streets, utilities, and public services will be achieved in a more economical and efficient manner.
- B. Open space preservation development option. Within the AG/OS, CR, MDR, and HDR Districts, a landowner shall have the option to develop land located outside a platted or condominium subdivision in accord with the terms of this section.

C. Permitted uses. An open space preservation development may include the following land uses:

1. Detached single-family dwellings.
2. Attached single-family dwellings which shall number no more than 25% of the total number of dwellings and which shall not exceed four dwelling units in one building.
3. Accessory buildings.
4. Common open space.
5. Recreational uses, provided such uses are accessory to the residential uses and designed primarily to be used by residents of the open space preservation community.
6. Farming activities conducted in the common open space in such a manner as to not pose a nuisance or hazard to residents.

D. Development requirements.

1. Ownership and control. The proposed open space preservation development shall be under a single ownership, such that one person or legal entity shall be empowered to apply for Township approval and make reliable and binding commitments on behalf of the applicant. The applicant shall provide documentation of ownership or control in a form acceptable to the Township.
2. General approval standards. In addition to specific standards set forth in this section, the Planning Commission shall evaluate all open space preservation development applications based on standards for site plan approval in § 220-21-3.
3. Dimensional standards. The following dimensional standards shall apply to residential parcels and condominium units in open space preservation developments:
 - a. Setbacks.
 - (1) In open space preservation developments, the following minimum yards shall be provided:
 - (a) Front yard setback: 25 feet.
 - (b) Rear yard setback: 30 feet.
 - (c) Side yard setback: 10 feet (25 feet for corner lots).

- (2) Accessory buildings shall meet the minimum setbacks specified in [1] above, except the rear yard may be reduced to 20 feet.
- (3) Open space preservation development that include attached units shall be exempted from side yard requirements pertaining to dwelling units attached to one another.

- b. Lot or parcel width and area. The following minimum parcel area and width standards shall be applied in an open space preservation development:

Zoning District	Detached Units		Attached Units					
			2 Units		3 Units		4 Units	
	Area (square feet)	Width (feet)	Area (square feet)	Width (feet)	Area (square feet)	Width (feet)	Area (square feet)	Width (feet)
AG/OS	30,000	100	40,000	135	60,000	165	80,000	190
CR	30,000	100	40,000	135	60,000	165	80,000	190
MDR	7,500	70	20,000	135	45,000	165	60,000	190
HDR	7,500	70	15,000	110	22,950	140	30,600	160

- c. Cluster size and isolation. A cluster may not exceed 12 dwelling units, and clusters shall be separated from one another and from adjoining developments by a minimum of 150 feet of common open space.
 - d. Common open space area. Common open space may not constitute less than 50% of the adjusted parcel acreage.
 - e. Departures from standards. The Planning Commission may approve departures from the standards in subsection D.3.a-d where the applicant demonstrates the proposed open space preservation development will include features or design techniques that achieve the objectives of such standards.
4. Density standards.
 - a. The total number of residential dwelling units permitted in an open space preservation development may be up to 125% of the number provided by the base density as allowed in the underlying zoning district. The base density shall be determined by a comparison plan, which shall illustrate the total area of regulated wetlands, bodies of water with surface area greater than one acre, streams, rivers, and permanent easements that restrict development. These areas shall be subtracted from the gross area of the site to determine adjusted parcel acreage. In the event the parcel includes more than one underlying zoning district, this calculation shall be applied to the portion of the site lying in each zoning district and the result for all districts shall be summed.

- b. The comparison plan shall meet the development requirements to illustrate a feasible development pursuant to the underlying zoning. The comparison plan shall be reviewed by the Zoning Administrator for compliance with the requirements of the underlying zoning. The Zoning Administrator shall provide an evaluative report on the feasibility of the comparison plan.

5. Rural and scenic easement. A rural and scenic easement shall be incorporated into an open space preservation development, consisting of a natural area located parallel to and abutting any existing public roads. Such rural and scenic easement may be included in the required common area and shall be of sufficient depth and/or include sufficient year-round vegetation to preserve the character of the abutting roadway and minimize the visibility of the proposed development from the roadway. For the purposes of this subsection, the rural and scenic easement shall be measured from the edge of the public right-of-way and shall be considered sufficient if it meets the following dimensions, regardless of vegetation:

- a. In the AG/OS Districts: 150 feet.
- b. In the CR District: 100 feet.
- c. In the MDR and HDR Districts: 30 feet.

- E. Open space preservation development review process. The following steps shall be completed to implement an open space preservation development:

1. Prior to proposing an open space development project design, the applicant shall conduct a preliminary development review with the Zoning Administrator. The purpose of this review will be to discuss the nature of the site and the development, the potential for use of the site as an open space preservation development, and to advise the Township of the applicant's intent to proceed.
2. The applicant shall then complete a site analysis and prepare a detailed site inventory including a narrative description of the site. The site analysis shall address and locate water features, wetlands, topography, significant wooded areas, wildlife habitat areas, views, easements and rights-of-way, historic or cultural resources, steep slopes and any other features deemed important by the applicant. In a written narrative, the applicant shall discuss each of the features identified on the site and make an evaluation of each relative to the existing rural character of the Township. The site analysis will be illustrated on a topographic survey of the site prepared by a licensed surveyor. The Planning Commission may require the site analysis to illustrate the topography of the site with not greater than two-foot contour intervals where dwellings will be located, and not greater than ten-foot intervals where common open space will be located.

3. Based on the site analysis, the applicant shall identify common open space areas in the order of their importance to the protection of the overall natural features of the site and its immediate vicinity. The applicant may use the Rutland Township natural features inventory and community opinion survey as guidance in completing the ranking of natural features. As a general guideline, the following listing of important natural features is presented:
 - a. Preservation of plant and animal habitat.
 - b. Preservation of open fields and vistas.
 - c. Protection of wetlands, streams, and lakes.
 - d. Preservation of large woodlots and hunting land.
 - e. Potential recreation and hunting areas.
 - f. Important agricultural land.
 - g. Educational and cultural enrichment.
 - h. Historic and cultural resource protection.
4. Common open space may not constitute less than 50% of the adjusted parcel acreage. The applicant shall calculate the base density for the proposed development in accordance with the provisions of this chapter. A majority (more than 50%) of the common open space shall be contiguous.
5. Potential building sites shall be identified in areas outside the common open space areas. The number of potential building sites shall not exceed the permitted density determined in accord with this chapter. The Planning Commission may require the potential building sites to be illustrated on a tracing paper or acetate overlay on the site analysis. The clustering requirements shall be met in laying out building sites. The lot or condominium lines may also be required to be illustrated for each building site. These may be reflected on a tracing paper or acetate overlay on the site analysis. The dimensional requirements of this chapter shall be met in the layout of the lot lines.
6. The road system shall comply with the terms of this chapter, including where applicable § 220-17-13 pertaining to private roads. The road system may be illustrated as an overlay on the site analysis.
7. A preliminary site plan shall be prepared which illustrates the proposed project layout, including the common open space, scenic easements, trails, building sites, road systems, and lot or condominium lines. If the project will be undertaken in phases, an implementation schedule for each phase shall be provided as a part of the site plan, and failure to comply with the phasing schedule shall require an amendment to the site plan. The preliminary site plan

shall meet the standards of above subsection D (development requirements), and shall include a detailed narrative description of the site analysis and the management plan for the perpetual preservation of the proposed common open space. Any clearance, earth changes or recreational uses proposed to be included within the common open space shall be clearly described.

8. The preliminary site plan and the site analysis with all overlays shall be presented to the Zoning Administrator and the Township Planner for review and comment. Within 30 days of submission of all required information, the Zoning Administrator and the Township Planner shall provide to the applicant written comments on the preliminary site plan. Based on the comments of the Zoning Administrator and the Township Planner, the applicant may make needed adjustments to the preliminary site plan and prepare a final plan as directed by the Zoning Administrator or seek advisory judgment from the Planning Commission on any issues in dispute prior to preparing a final plan. When the final plan is prepared, it shall be submitted for Planning Commission review and approval.
9. The Planning Commission shall hold a public hearing on the open space preservation development final plan, pursuant to § 220-20-2.

F. Use and preservation of common open space and natural features.

1. Further subdivision of open space lands, or their use for other than recreation, conservation or agricultural use by site owner(s) shall be prohibited.
2. All dwellings and accessory structures shall be located at least 100 feet from any lakes, ponds, rivers, or streams. A roadway may be placed within 100 feet of lakes, ponds, rivers, or stream area only with the approval of the Planning Commission.
3. If the open space lands are common lands owned jointly by an association or group, the applicant and all subsequent owners shall establish, register and maintain a viable legal entity, which may be a homeowners' association, a condominium association or other organization acceptable to the Township which shall assume responsibility for the preservation of common open space. Common open space shall be set aside by the applicant through an irrevocable conveyance to said entity through a deed, master deed, irrevocable conservation easement, or other form of conveyance acceptable to the Township. All forms of ownership intended to protect common open space within an open space preservation development shall be subject to the review of the Township Attorney.

G. General development standards. The following standards shall be observed in the preparation of an open space preservation development:

1. Siting. Dwelling units shall be carefully sited and designed to screen homes from off-site vantage points whenever possible, away from environmentally

sensitive areas, existing agricultural uses and away from areas subject to land management practices that will cause dust, noise, smoke, odors or similar problems.

2. Sanitary sewer. If either public sanitary sewer or private sanitary sewers are provided within the development, all provisions for review and approval by the Township must be followed.
3. Stormwater. An open space preservation development shall meet the requirements of the Barry County Drain Commissioner for containing stormwater within the development.
4. Septic system. If not served by public or private sanitary sewer system, the proposed open space preservation development shall fully comply with the requirements of the County Health Department and/or the Michigan Department of Environmental Quality as they apply to siting and development of on-site wastewater treatment and disposal. With the approval of the Planning Commission, the County Health Department, and the homeowners' or condominium association, an approved drainfield may be located within an area dedicated as common open space.
5. Prior to construction. All required approvals shall be completed prior to the start of any construction.
6. Performance guarantees. The Township may require the posting of a performance bond or irrevocable letter of credit to assure the completion of the proposed open space preservation development.
7. Minor amendments. A minor change to a final plan approved by the Planning Commission may be approved by the Zoning Administrator, after notifying the Planning Commission of the minor change and that such change does not substantially change the basic design or alter the conditions required by the Commission. Should the Zoning Administrator determine the requested modification to the approved final plan is not minor, the proposed change shall be submitted to the Planning Commission for review pursuant to all applicable provisions of this chapter.
8. Suitable name. The applicant shall give the development a suitable name, subject to Planning Commission approval.

Item 10---Parks, playgrounds, recreation areas and summer camps.

- A. Public, private and municipally owned parks, playgrounds and recreation areas, and summer camps are subject to the following standards and regulations, as applicable:
 1. All park/playground/recreation area facilities shall close a half-hour after sundown and remain closed until sunrise.

2. Activities shall be adequately screened from adjoining residentially developed or residentially zoned property by an evergreen planting at least five feet in height at the time of planting. Further, all parks and recreation areas shall be provided with gates adequate to insure compliance with park closing regulations.
3. Structures shall not be constructed to a height exceeding 35 feet and must be a minimum distance from adjoining property lines of 250 feet. Concession stands shall sell or dispense only those items designed or intended for use and consumption on the premises.
4. No person shall deposit or abandon in any park, recreation area, playground or adjoining property any garbage, sewage, refuse, trash, waste or other obnoxious material except in receptacles provided for such purpose and the area must be maintained in a clean and orderly manner at all times.
5. All group park activities must be limited to designated areas and adequately supervised by the Park Director or his or her designated agent.
6. Adequate off-street parking must be provided to insure adequate parking space to meet the reasonably foreseeable demands anticipated for the park or recreation area or playground facilities.
7. Vehicular entrances into and exits from the park, playground or recreation facilities shall be constructed with approach lanes so as to not interfere with moving traffic.
8. All facilities shall be provided with safe and adequate sanitation and drinking facilities constructed so as to meet the requirements of the Barry County Health Department.
9. Swimming shall be restricted to those areas specifically designated for said purpose as posted by the Park Director at which facilities a lifeguard must be employed at all times during which swimming is allowed.
10. The park owners shall provide adequate public liability insurance covering all facility activities.
11. Vehicular raceways, trail bike trails, snowmobile trails, runs, etc., shall be limited to designated areas provided for said purpose by the Park Director, which facilities may not be located nearer than 500 feet from any adjoining residentially developed land or residentially zoned land.
12. No overnight camping shall be allowed.
13. In approving plans, the Township Planning Commission shall seek the advice and recommendations of the Barry County Soil Conservation District.

14. Shooting ranges may be allowed if in a safe location and remote from permanent habitation.
15. Dogs and other pets allowed within the park, playground or recreational area shall be kept on a leash not longer than 10 feet in length.
16. Peddling, hawking, soliciting, begging, advertising or carrying on any business or commercial enterprise shall be strictly prohibited.
17. No person shall post, paste, fasten, paint or affix any placard, bill, notice or sign upon any structure, tree, stone, fence, thing or enclosure along or within any park, playground or recreation area, except for necessary informational signs placed under direction of the Park Director.
18. Fires may be built only in picnic stoves or other equipment or space approved by the Park Director and only in such areas as shall be designated by him or her. It shall be unlawful to start or cause to be started any other fire whatsoever in any park, playground or recreation area.
19. Drunkenness, immorality, gambling or gaming devices shall not be allowed within the limits of any park, recreation area or playground.
20. All vehicular raceways, trail bike trails, roads and other trails of every kind shall be so treated so as to eliminate and prevent dust from said trails from drifting onto adjoining properties.

B. Seasonal tent and recreation vehicle campgrounds are also subject to the following additional conditions and limitations:

1. Seasonal tent and recreation vehicle campgrounds, including recreation areas incidental thereto, must contain at least five acres in area.
2. Areas designated for recreation vehicles, or for cabins, shall comply with the applicable requirements of the Michigan Public Health Code *MCL §333.12501 et. seq.*, as amended, and such rules and regulations as may be promulgated thereunder by the State of Michigan.
3. Any sale of foodstuff or merchandise shall be clearly incidental to the needs of the occupants and users of the property while therein and shall consist of packaged merchandise only.
4. Activities shall be adequately screened from adjoining residentially developed or residentially zoned property by an evergreen planting at least three feet in height at the time of planting. In addition, the area must be fenced by a fence constructed in a manner approved by the Planning Commission.

5. All facilities shall be provided with safe and adequate sanitation and drinking facilities constructed to meet the requirements of the Barry County Health Department.
6. Fires may be built only in picnic stoves or other equipment or space designated by the park owner. It shall be unlawful to cause any other fire whatsoever in any park, playground or recreation area.
7. No person shall deposit or abandon any garbage, refuse, sewage, trash, waste or other obnoxious material except in receptacles provided for such purpose, and the grounds must be maintained in a clean and orderly manner at all times.
8. The owner or operator shall be responsible to regulate noise and litter so as to not be detrimental to the use and enjoyment of adjoining property, as determined by the Planning Commission.
9. Overnight camping shall be restricted to areas designated and posted for this purpose as authorized in the campground permit, which areas shall be a distance of at least 75 feet from any adjoining property.
10. Adequate off-street parking must be provided to insure adequate parking space to meet the reasonably foreseeable demands anticipated for the campground or recreation area.
11. Vehicular entrances into and exits from the campground or recreation area shall be constructed with approach lanes approved by the County Road Commission so as not to interfere with moving traffic.
12. Dogs and other pets allowed in the campground and recreation area shall be kept on a leash.

Item 11---Small Wind Energy Conversion System.

- A. The system may be portable, or attached to a building, tower, or other structure, subject in each instance to the following applicable height limitation, measured from grade directly below the supporting base of the system to the uppermost component of the system at its highest vertical position:
 1. For parcels of less than two acres in area---35 feet.
 2. For parcels of two-five acres in area---60 feet.
 3. For parcels greater than five acres in area---not exceeding such height as is permissible to comply with the setback/location requirements in subsection C below.
- B. The minimum vertical blade tip clearance from grade shall be 20 feet.

- C. No part of the system, including guy wire anchors, may extend closer than ten feet to the property boundaries of the site upon which it is installed. The tower structure shall be setback from all adjoining property lines and rights-of-way (public or private) a distance equivalent to or greater than the height of the system in its highest vertical position.
- D. The system shall not cause a sound pressure level in excess of 60 decibels, as measured at any property line.
- E. The system shall be equipped with the following safety-related components: an automatic braking, governing or feathering system to prevent uncontrolled rotation or over-speeding; lightning protection; and a locking safety ladder for a tower installation.
- F. A building/electrical permit application for the system shall be accompanied by standard drawings of all components of the system, including any tower, base, and footings.
- G. The system shall comply with applicable federal and state regulations pertaining to tall structures that may interfere with aircraft, including any necessary approvals for installations in close proximity to an airport.
- H. The system shall not be connected to a utility grid electric system until utility company approval of the connection has been filed with the Zoning Administrator.
- I. The system shall not be operated until the applicant has provided to the Zoning Administrator the statement of a licensed professional engineer certifying the system was installed in compliance with all applicable building and electrical code requirements, and otherwise complies with all the foregoing standards and requirements.

Item 12---Wireless Communications Support Structure (including equipment compound and wireless communications equipment).

- A. Purpose. The purpose of this portion of Chapter 220 is to establish standards for the siting of wireless communication support structures/equipment compounds and wireless communications equipment (for convenience sometimes referred to as "towers" or "communication towers" and "antennas") based on the following goals: (1) protect residential areas and land uses from potential adverse impacts of towers and antennas; (2) encourage the location of towers in non-residential areas; (3) minimize the total number of towers throughout the community; (4) strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers; (5) encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal; (6) encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques; (7) enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently; (8) protect the public health and safety; and (9) avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.

B. Definitions. The following terms used herein shall be defined as follows:

1. "Alternative tower structure" means man-made trees, clock towers, steeples, light poles and similar alternative-design mounting structures that camouflage or minimize the presence of antennas or towers.
2. "Antenna" means any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals, or other communication signals.
3. "Backhaul network" means the lines that connect a provider's towers/cell sites to one or more wireless telephone switching offices, and/or long distance providers, or the public switched telephone network.
4. "Collocate" means to place or install wireless communications equipment on an existing wireless communications support structure or in an existing equipment compound. "Colocation" has a corresponding meaning.
5. "Communication Tower" or "Tower" means the same thing as wireless communications support structure, except where the context of the usage of the term is clearly applicable to only a tower type of support structure.
6. "Equipment Compound" means an area surrounding or adjacent to the base of a wireless communications support structure and within which wireless communications equipment is located.
7. "Height" means, when referring to a wireless communications support structure, the distance measured from the finished grade to the highest point on the structure, including the base pad and any antenna.
8. "Wireless Communications Equipment" means the set of equipment and network components used in the provision of wireless communications services, including, but not limited to, antennas, transmitters, receivers, base stations, equipment shelters, cabinets, emergency generators, power supply cables, and coaxial and fiber optic cables; but does not include any wireless communications support structure, alternative tower structure, or other structure or device designed to support or capable of supporting wireless communications equipment.
9. "Wireless Communications Support Structure" (see definition in § 220-2-2).

C. Information Required with Special Land Use Application.

1. In addition to any information required for applications for special land use permits pursuant to § 220-20-2, applicants for a special land use permit for a communication tower/antenna shall submit the following information:

- a. A scaled site plan clearly indicating the location, type and height of the proposed tower, specifications on all proposed antennas, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), Master Plan classification of the site and all properties within the applicable separation distances set forth in subpart D(3), adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking, and other information deemed by the Zoning Administrator or Planning Commission to be necessary to assess compliance with the standards for approval in this section.
- b. Legal description and ownership of the parent parcel (and leased parcel, if applicable).
- c. The setback distance between the proposed tower and the nearest dwelling unit, and the nearest property in a Residential zoning district.
- d. An inventory of existing towers, antennas, or sites approved for towers or antennas, that are owned/used by the applicant or any affiliated entity within Barry County, or within any adjoining township/county within 1 mile of Rutland Charter Township. This inventory shall include the location, height, and design of each existing tower. The location of all such existing towers, and sites approved for towers or antennas, shall also be depicted on a single scaled map. The applicant shall also designate on this map the location of all existing towers not owned/used by the applicant or any affiliated entity located within Rutland Charter Township or within 1 mile of any boundary thereof, and indicate the owner/operator of such towers if known.
- e. A landscape plan showing fencing and specific landscape materials.
- f. Finished color and, if applicable, the method of camouflage and illumination.
- g. A description of compliance with all applicable federal, state and local laws.
- h. A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future users.
- i. Identification of the entities providing the backhaul network for the tower(s) described in the application and other wireless sites owned or operated by the applicant or any affiliated entity in the Township.
- j. A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or

structures to provide the services to be provided through the use of the proposed new tower.

- k. A description of the desirable characteristics justifying the suitability of the proposed location.
- l. Point of view renderings of how the proposed tower will appear from the surrounding area.
- m. Any additional information requested by the Planning Commission relevant to compliance with any provision of Chapter 220 pertaining to special land use application, review, or approval, including any lawful conditions imposed on approval.

All information of an engineering nature, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer.

Note: Section 3514 of the Michigan Zoning Enabling Act, as amended by 2012 Public Act 143, requires a special land use application for this land use to be reviewed by the Zoning Administrator to determine whether it is administratively complete. The application shall be considered administratively complete 14 business days after receipt of the application, unless the Zoning Administrator determines the application is administratively complete within that 14 day period, or before expiration of that 14 day period notifies the applicant (in writing, or electronically) that the application is not administrative complete and specifies the information and/or application fee payment necessary to make the application administratively complete. The statute also requires the Planning Commission to approve or deny a special land use application for this land use not more than 90 days after the application is considered to be administratively complete.

D. Specific Standards for Approval of Special Land Use Permit for Wireless Communication Support Structure. In addition to the generally applicable standards for approval of special land use permit applications pursuant to § 220-20-3, the applicant for special land use approval of a wireless communications support structure, also sometimes referred to as a "tower", shall present evidence demonstrating compliance with the following standards specific to this land use:

- 1. Availability of Suitable Existing Towers, Other Structures, or Alternative Technology. The applicant shall demonstrate that no existing tower, other structure, or alternative technology that does not require the use of towers or structures, can accommodate the applicant's proposed antenna, based on information submitted by the applicant showing any of the following:
 - a. No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.
 - b. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.

- c. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
 - d. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
 - e. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
 - f. There are other limiting factors that render existing towers and structures unsuitable.
 - g. An alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/ receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.
2. Setbacks. The tower base must be set back a distance equal to 110% of the height of the tower from any adjoining lot line; provided that the Planning Commission is authorized to approve a lesser minimum setback in circumstances where the tower is designed, in the event of failure, to fold-over or otherwise collapse within a fall zone less than the total height of the tower. The Planning Commission determination as to the appropriate minimum required setback shall be based on the tower design and other pertinent circumstances of each individual application, and shall be made pursuant to the general standards for special land use approval in § 220-20-3. Tower support apparatus, including guy lines and accessory buildings, must satisfy the minimum building/structure setback requirements for the applicable zoning district.
3. Separation.
- a. Separation from off-site uses/designated areas. The tower shall comply with the minimum separation requirements from off-site uses and designated areas as specified in Table 1, measured from the base of the tower to the lot line of the off-site uses and/or designated areas (straight line measurement):

Table 1

Off-Site Use/Designated Area

Separation Distance

Single-family, two-family or multiple-family residential uses	200 feet or 300% of height of tower, whichever is greater
Areas in any Residential zoning district	200 feet or 300% of height of tower, whichever is greater
Non-residentially zoned lands and non-residential uses	None; only setbacks apply

- b. Separation distances between towers. The tower shall comply with the minimum separation requirements from other towers as specified in Table 2, measured between the bases of the proposed tower and preexisting towers (straight line measurement).

Table 2

Existing Towers - Types

	Lattice	Guyed	Monopole 75 Ft in Height or Greater	Monopole Less Than 75 Ft in Height
Lattice	5000 ft.	5000 ft.	1500 ft.	750 ft.
Guyed	5000 ft.	5000 ft.	1500 ft.	750 ft.
Monopole 75 Ft in Height or Greater	1500 ft.	1500 ft.	1500 ft.	750 ft.
Monopole Less Than 75 Ft in Height	750 ft.	750 ft.	750 ft.	750 ft.

4. Maximum Tower Height. The maximum tower height is 300 feet.
5. Colocation. The tower shall be designed and constructed (structurally, electrically, and in all other respects) to accommodate the applicant's antennas and compatible antennas for at least two other users, unless the Planning Commission determines pursuant to specific information submitted by the applicant that this multiple user requirement is not technically feasible for the site, or would result in a tower that fails to otherwise comply with all applicable special land use approval standards. Where a multiple user tower is proposed, or is otherwise required by the Planning Commission pursuant to this Item 12, the applicant shall furnish a written agreement providing that the applicant shall not prevent or deny

space on the tower for compatible antennas of other users, and shall make the tower available to share at a fair market rate as determined by customary industry standards.

6. Security fencing; safety. The equipment compound shall be enclosed by security fencing or other suitable enclosure not less than six feet in height, to be determined by the Planning Commission, sufficient to restrict access to authorized personnel only. The tower shall be equipped with an appropriate anti-climbing device.
7. Landscaping and Site Maintenance. A six foot tall landscape screen is required to effectively screen the equipment compound from adjacent residential property, streets and public property, except in locations where the Planning Commission determines the visual impact of the equipment compound would be minimal. The tower site shall be mowed or otherwise maintained in such a manner as to effectively control undesirable or noxious weeds.
8. Lighting. The tower shall not be illuminated by artificial means and shall not display strobe lights unless specifically required by the Federal Aviation Administration or other federal or state authority for the tower. If lighting is required it shall be oriented inward so as to not project onto surrounding property or roadways, shall be designed to cause the least disturbance to surrounding properties, and shall be designed to minimize bird collisions with the tower.
9. Signs. The use of any portion of a tower/antenna or equipment compound for signs other than warning or equipment information is prohibited.
10. Weather Resistance. The tower and all antennas located on the tower shall be designed, constructed and maintained so as to withstand all generally expected weather conditions in the area.
11. Non-Interference. The tower and all antennas located on the tower shall not interfere with any radio or television transmission or reception in the area.
12. Abandonment of Unused Towers or Portions of Towers. The applicant shall be required by deed, land contract, lease, or license agreement provisions to remove the tower or portion of tower and associated facilities upon cessation of the use of same. A tower or portion of tower that has no users for a continuous period of at least 1 year shall be considered abandoned, and shall be dismantled and removed from the premises within 90 days after receipt of notice of such abandonment to the owner of the subject premises.
13. Aesthetics. Towers and antennas shall meet the following requirements:
 - a. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.

- b. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

Notwithstanding the foregoing, the Planning Commission may also require tower and guy wire devices designed to minimize bird-tower collisions.

14. **Accessory Structures.** The design of the buildings and other accessory structures at or in an equipment compound shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them in with the surrounding environment. All such buildings/structures shall meet the minimum setback requirements of the underlying zoning district. Ground mounted equipment shall be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood.
15. **Inspection and Maintenance.** An approved tower/antenna shall be inspected at regular intervals, not less than once a year, and shall be serviced as frequently as may be necessary to maintain same in a safe and weather-withstanding condition. Reports of all inspections and maintenance shall be made available to the Township upon written request.
16. **Minimum Lot and Yard Requirements.** For purposes of determining whether a proposed tower site complies with zoning regulations for the applicable district, including minimum lot area, maximum lot coverage, and yard requirements, the dimensions of the entire lot shall control where a proposed tower site is created pursuant to a lease or license agreement encompassing less than the entire lot.

E. **Installation of Antenna or Other Wireless Communications Equipment on Existing Tower or in Existing Equipment Compound.** The following provisions govern the installation of antenna apparatus and other wireless communications equipment on an existing communication tower or other wireless communications support structure or within an equipment compound on the site of an existing communication tower:

1. Where the existing tower has been granted special land use and site plan approvals, no further zoning approvals are required if the Zoning Administrator determines the proposed wireless communications equipment and, where applicable, proposed associated accessory buildings/structures and proposed changes to the existing equipment compound, are in complete conformance with the underlying special land use permit and approved site plan for the tower with respect to the total approved number of antenna apparatus on the tower, the array of the antenna apparatus, and the number, size and location of associated accessory buildings/structures.

2. Where the existing tower has been granted special land use and site plan approvals, or has not been granted such approvals but is determined by the Zoning Administrator to otherwise be in compliance with Chapter 220, no further zoning approvals are required if the Zoning Administrator further determines the proposed wireless communications equipment and, where applicable, proposed associated accessory buildings/structures, or proposed changes to the existing equipment compound comply with all of the following (as applicable):
 - a. The wireless communications equipment will be collocated on an existing wireless communications support structure or in an existing equipment compound.
 - b. The existing wireless communications support structure/existing equipment compound is itself in compliance with Chapter 220.
 - c. The wireless communications equipment will not increase the overall height of the existing support structure by the greater of 20 feet or 10% of its original height.
 - d. The wireless communications equipment will not increase the width of the existing support structure by more than the minimum necessary to permit collocation.
 - e. The wireless communications equipment will not increase the area of the existing equipment compound so as to be more than 2,500 square feet.
 - f. The proposed change(s) will comply with the terms and conditions of any previous final approval of the existing support structure/compound.

A proposed change that does not comply with c, d, e, or f, but which otherwise is compliant with sub-part (2), is subject to zoning approval pursuant to approval of an amended site plan in accordance with all applicable provisions of Chapter 220, but without further special land use approval.

3. Where a proposed installation of wireless communications equipment on an existing wireless communications support structure is not subject to either preceding sub-parts (1) or (2) of this subsection E, the installation shall be subject to special land use and site plan approvals in a zoning district where Wireless Communications Support Structure is designated as a special land use.

Item 13---Utility-Scale Solar Energy Electricity Generating Facility.

- A. No part of the facility shall exceed the generally applicable maximum structure height limit for the District pursuant to the Schedule of Regulations in Article XV (35 feet).
- B. All collector panel structures shall be set back from lot lines a distance equal to at least twice the generally applicable principal structure setback requirements for the District pursuant to the Schedule of Regulations in Article XV; provided, the Planning

Commission may approve lesser setbacks (but not less than the minimum yard requirements for principal structures in the District as specified in the Schedule of Regulations in Article XV) pursuant to findings that all applicable approval standards and requirements, including the standards for special land use approval applicable to all special land uses as specified in § 220-20-3.A, will be met with the approved lesser setbacks due to existing and/or planted non-deciduous trees/shrubs, the isolation of the site from public roads and developed properties, or other characteristics specific to the site. Accessory buildings shall observe the setback requirements generally applicable to principal buildings in the District as specified in the Schedule of Regulations in Article XV.

- C. The total lot coverage of the facility shall not exceed 75%, or such lesser percentage as is necessary on a site-specific basis to meet all applicable setback requirements (as measured by drawing an imaginary line around the perimeter of all the collector panel structures, and adding to the area of that calculation the area of all other buildings/structures on the site).
- D. The collector panels and supporting structures shall be designed and/or located on premises so as to avoid any projection of glare onto public or private streets or any other premises; and/or shall be sufficiently screened to meet this standard.
- E. The facility shall be designed for interconnection to a public utility electrical power grid, and shall be operated with such interconnection.
- F. The portion of the premises on which the array of collector panel structures is located shall not be paved with asphalt or any other surface material that is impervious to rainwater.
- G. The facility shall have a decommissioning plan, documenting the anticipated useful life of the facility, including any collector panel replacements/upgrades, and detailing how the facility will be dismantled and the site restored when the facility is no longer in use. A facility shall be deemed no longer in use, for purposes of this provision, when it has not been operated for its designed and intended purpose for six months or more. The decommissioning plan shall be fully implemented and completed within six months after a facility is deemed no longer in use.
- H. The facility shall not be made operational until the applicant or the applicant's designee has provided to the Zoning Administrator the statement of a licensed professional engineer certifying all aspects of the facility, including the interconnection to a public utility power grid, complies with all applicable building and electrical code requirements, and complies with all the foregoing standards and requirements.

Item 14---Marihuana Business

- A. Each allowed type of Marihuana Business shall meet all of the following locational standards:

1. A Marihuana Business shall not be located in any dwelling unit.
 2. A Marihuana Business shall not be located within 1000 feet of a pre-existing private or public school providing education in kindergarten or any grades 1-12. This separation distance shall be measured in a straight line from the nearest property line of a protected use to the nearest portion of the building occupied by the Marihuana Business, and shall apply even if the protected use is located across the boundary line of the Township with another municipal entity.
- B. A Marihuana Microbusiness, Marihuana Retailer, and Medical Marihuana Provisioning Center shall comply with the locational standards in preceding subsection A, and shall also comply with all of the following additional standards:
1. All activities shall be conducted within an enclosed building.
 2. The business shall open no earlier than 9:00 a.m. local time and close no later than 9:00 p.m. local time.
- C. A Marihuana Grower, Marihuana Processor, Marihuana Safety Compliance Facility, Medical Marihuana Grower, Medical Marihuana Processor, and Medical Marihuana Safety Compliance Facility shall comply with the locational standards in preceding subsection A, and shall also comply with all of the following additional standards:
1. All activities shall be conducted within an enclosed building.
 2. The business shall be designed and operated to prohibit any unlawful discharge of pesticides, fertilizers, nutrients, marijuana, and other potential contaminants into the public wastewater and/or stormwater systems.
 3. No marijuana shall be cultivated, grown, manufactured, processed, handled or tested in any manner that allows the emission of odors beyond the interior of the building or which is otherwise discernable to another person outside of the building. Such odor emissions shall be prevented by the installation of operable filtration or ventilation and exhaust equipment.
 4. No marijuana shall be cultivated, grown, manufactured, processed, handled or tested in any manner that allows the emission of noise beyond the interior of the building or which is otherwise discernable to another person outside of the building.
 5. The business shall maintain a secure, closed environment where marihuana is to be stored, grown, processed, or tested, in order to prevent the inadvertent and/or unauthorized removal of marihuana from the facility.

- D. A Marihuana Secure Transporter and Medical Marihuana Secure Transporter shall comply with the locational standards in preceding subsection A, and shall also comply with all of the following additional standards:
1. All activities shall be conducted within an enclosed building, except where such activities are necessarily and lawfully conducted within a motor vehicle.
 2. All businesses, vehicles, and processes shall be designed and operated to comply with the odor emission requirements in preceding subsection C.3.
 3. All businesses, vehicles, and processes shall have security sufficient to prevent access to the marihuana by non-authorized personnel, including unauthorized removal.
 4. A secure transporting vehicle shall not bear any markings or identification that it is carrying marihuana.
- E. Signs for any marihuana business shall comply with the Township sign ordinance.
- F. All Special Land Use Permits granted to a Marihuana Business pursuant to Chapter 220 of the Rutland Charter Township Code shall be conditioned on issuance of a Municipal License for that Marihuana Business by the Rutland Charter Township Clerk pursuant to Ordinance No. 2022-180, and on issuance of a license to operate the business by the State of Michigan pursuant to MRTMA and/or MMFLA.
- G. Consistent with the Michigan Zoning Enabling Act, Special Land Use Permits shall be designated to the property where the Special Land Use is approved, not to the entity or individual applying for the Special Land Use Permit.

Item 15---Outdoor storage yard for recreational vehicles and boats.

- A. Storage on the premises is limited to recreational vehicles, boats (including boat trailers), and non-commercial vehicles only. This land use is not a storage yard for semi-trailers or other such commercial vehicles or conveyances.
- B. If access to the storage yard is restricted by a gate at the point of access to the premises from an adjoining public roadway, the gate shall be set back sufficiently from the roadway to allow any vehicle entering the premises to be completely off the public right-of-way when stopped at the access gate.
- C. All items permissibly stored on the premises shall be placed in the rear yard and/or side yard and so as to comply with the minimum yard requirements (setbacks) for a principle use in the LC Lake Commercial District or the LI Light Industrial District, as applicable, as specified in § 220-15-1 (Schedule of Regulations). No such stored items shall be placed within any part of the front yard area.

- D. No recreational vehicle, boat, or other item permissibly stored on the premises shall leak fuel, oil, grease, or any other substance that may contaminate soil, groundwater, or air.
- E. All lighting on the premises shall comply with § 220-17-5.A.
- F. If the storage yard abuts any premises in any Residential District, the storage area shall be screened from view on those premises by screening devices as specified in § 220-17-5.B. The Planning Commission may also require such screening if the storage yard abuts any premises not in a Residential District but lawfully used for existing residential dwelling purposes.
- G. The storage yard shall be designed and operated so as to comply with § 220-16-6 regarding obnoxious or dangerous conditions.