

CHAPTER 5 SUPPLEMENTARY PROVISIONS

Section 5.01 Accessory Uses

In any zoning district accessory uses incidental to a principal permitted use or approved special land use are allowed on the same lot as the principal use, or on a contiguous lot under the same ownership. Accessory uses shall not involve the conduct of any business, trade, or industry except where such type of use is otherwise permissible pursuant to this Ordinance.

Section 5.02 Accessory Buildings

- A. If an accessory building is attached to the principal building, it shall comply in all respects with the requirements of this Ordinance applicable to the principal building.
- B. The distance between a detached accessory building and any principal building shall be at least 10 feet. Accessory buildings shall be considered as attached to a principal building when the distance between the two buildings is solidly covered by a breezeway, portico, covered colonnade or similar permanent roofed structure or architectural device.
- C. A garage may be placed in the front yard of any lawful waterfront lot, if it is an accessory building and is located at least 30 feet from the edge of the lake or river and does not obstruct the water view of adjacent properties.
- D. No accessory building or structure shall include residential or living quarters for human beings.

Section 5.03 Temporary Uses or Structures Requiring Zoning Administrator Authorization

- A. Temporary office building for construction site. Upon application, the Zoning Administrator shall issue a permit for a temporary office building or yard for construction materials and/or equipment which is both incidental and necessary to construction at the site where located for a period of not more than six calendar months and may be renewed by the Zoning Administrator for up to four additional successive periods of six calendar months or less at the same location if such building or yard is still incidental and necessary to construction at the site where located.
- B. Temporary office building for housing development. Upon application, the Zoning Administrator shall issue a permit for a temporary office which is both incidental and necessary for the sale or rental of real property in a new subdivision or housing project for a period of not more than six calendar months and may be renewed by the Zoning Administrator for up to four additional successive periods of six calendar months or less at the same location if such office is still incidental and necessary for the sale or rental of real property in a new subdivision or housing project, and if same has been developed and used in compliance with the permit.

- C. Temporary use of motor home/recreation vehicle as dwelling. Upon application, the Zoning Administrator may issue a permit for a motor home or recreation vehicle to be used for temporary dwelling purposes on premises having running water and sewage facilities. Such a permit shall not be issued for a total of more than 14 days in each six month period on lots with less than 100,000 square feet in area.
- D. Temporary occupancy of dwelling while new dwelling on same site is constructed. Upon application, the Zoning Administrator may issue a permit for occupancy of an existing permanent dwelling while another permanent principal dwelling is under construction or retrofitted to the site. The permit may be issued for not more than 12 consecutive months, after which the original principal dwelling shall be removed or demolished within a thirty-day period. The applicant shall submit a scale sketch plan showing the dimensions of the lot and where both dwellings will be located. The applicant must post a security in an amount equal to a bona fide bid by a company for the demolition and/or removal of the original principal dwelling. Failure to comply with the conditions of the permit may result in the forfeiture of the security and removal/demolition of the original principal building by the City.
- E. Temporary event. Upon application, the Zoning Administrator may issue a permit for a temporary event in the LI and MU districts, subject to the following regulations applicable to any such temporary event:
1. The application shall specify the temporary event for which the permit is requested; the day(s) the event is proposed to be held; the proposed hours during which any aspect of the proposed event will be operating; and emergency contact information for the person or persons who will supervise the proposed event and be responsible for the health, safety, and well-being of all persons participating or assisting in the event.
 2. The event shall be incidental to another permissible use of the subject property that has previously obtained all applicable zoning approvals.
 3. The event shall be compatible with adjacent properties.
 4. The applicant or other party responsible for the event shall make adequate provisions for all of the following with respect to the event, as applicable: parking, traffic circulation, lighting, security and other safety services, garbage/rubbish containment and removal, drinking water, and sanitary facilities.
 5. The event shall not exceed seven consecutive days. No such event shall be held on the subject property more than four times per calendar year, and at least 30 days shall lapse between such events.
 6. The Zoning Administrator may issue a permit for signage for the temporary event pursuant to applicable provisions of Chapter 13, subject to the following requirements and limitations:

- a. The signage shall be limited to 400 square feet, inclusive of all signs, banners and/or flags relating to the event.
 - b. The number, type, and size of all signs shall be provided with the temporary event permit application.
 - c. The permitted signage shall not be in place more than three days prior to the day on which the event begins, and shall be removed not later than the day following the last day of the permitted event.
7. An applicant may propose a temporary event exceeding the seven day limitation specified in subsection E.5; provided that any such application shall not be approvable by the Zoning Administrator, but may be approved by the Planning Commission as an overlay special land use in the zoning districts specified above, subject to the following provisions of this Ordinance:
- a. All of the preceding requirements and limitations of sub-parts 1-6 of subsection E., except the seven consecutive day limitation on the duration of the temporary event.
 - b. All applicable provisions of Chapter 10, Special Land Uses.
 - c. All other applicable provisions of this Ordinance.

F. Temporary use of mobile home as dwelling. The Zoning Administrator may issue a permit for the temporary use of a mobile home for dwelling purposes that does not satisfy all the requirements for a "dwelling unit" as defined in Chapter 2, provided the mobile home is located upon the premises of the applicant and has running water and sewage facilities of not less than septic-tank quality available for the occupants. The permit shall only be issued in the event of an emergency situation where the applicant has sustained damage to his or her permanent dwelling which makes it impossible to reside in that dwelling. The permit may be issued for a period not exceeding 30 days, but the Zoning Administrator may grant one or more extensions for good cause; provided, the total period of occupancy shall not exceed six months.

As a condition of granting the permit, the applicant shall agree to immediately remove the mobile home from the premises upon completion of repairs to/replacement of the permanent dwelling. The Zoning Administrator may require the posting of a performance bond in an amount not to exceed \$5,000 to assure compliance with the conditions contained herein.

In addition, public utilities may have mobile homes upon their improved business or industrial park property regardless of zone during emergency situations as determined by state or municipal authorities when necessary to perform services for the public, provided that running water and toilet facilities are available upon the property for persons using said mobile homes.

Section 5.04 Additional Setbacks for Structures on Waterfront Lots

Structures on waterfront lots shall be subject to such minimum required setback greater than the generally applicable setback requirements as may be necessary to not obstruct the view of the waterfront by the occupants of adjoining properties.

Section 5.05 General Lighting Requirements

- A. Lighting. All lighting upon any premises, regardless of zone, shall be so arranged that such lighting does not produce any glare which is a nuisance or annoyance to residents or occupants of adjoining premises or a hazard to vehicles on public or private roadways. The following standards shall be met with respect to outdoor lighting:
1. Direct or directly reflected light shall be confined to the site.
 2. Lamps and luminaries shall be shielded, hooded, and/or louvered to provide a glare-free area beyond the property line and upon any public right-of-way, or the light source shall not be otherwise directly visible from beyond the boundaries of the site.
 3. The light from any illuminated source shall be designed so that light intensity or brightness at any property line shall not exceed four lux/lumen or 0.4 footcandle.
 4. Lighting fixtures shall have 100% cut-off above the horizontal plane at the lowest part of the point light source and light rays shall not be emitted by the installed fixture at angles above the horizontal plane. No light fixture shall be mounted higher than 33 feet above the grade at the pole, or 23 feet when the site abuts a residential district.
 5. Building-mounted fixtures shall be directed downward, away from adjacent lots, and shall be no higher than the first story eave or, where no eave exists, no higher than eight feet above the finished grade.
 6. Outdoor recreation area lighting may use standard color metal halide sources and standard sports lighting fixtures if they are mounted at a sufficient height and properly equipped with baffling, glare guards or lenses to meet the requirements of this section.
 7. There shall be no lighting of a blinking, flashing, or fluttering nature, including changes in light intensity, brightness, or color, except for temporary decorative or seasonal lighting. Beacon and search lights are not permitted.
 8. No colored lights shall be used at any location or in any manner so as to be confused with or construed as traffic control devices.
 9. A photometric grid shall be submitted with any site plan where lighting is proposed on the site.

- B. Zoning Administrator determination on adequacy of lighting. In the event of any controversy as to the creation of any nuisance or annoyance by artificial lighting, the Zoning Administrator shall determine whether the same is in violation of these lighting provisions and the purpose herein sought to be accomplished for the prevention of nuisance from artificial lighting.
- C. Planning Commission modification of lighting requirements. The Planning Commission may modify the general lighting requirements specified in subsection A above, upon a site-specific determination that compliance with the generally applicable requirements will not be necessary or effective to satisfy the intent of the requirements as applied to the specific site. In making this determination, and determining the resulting modified requirements applicable to the lighting for a specific development on a specific site, the Planning Commission shall consider the following standards:
1. Whether parking, vehicular circulation, or existing or planned land uses are such that compliance with the generally applicable requirements will not achieve the desired effect, or such effect will be better achieved by a lighting plan that includes modifications from the generally applicable requirements.
 2. Whether the public benefit intended by the generally applicable requirements can be better achieved by a lighting plan that includes modifications from the generally applicable requirements.
 3. Whether greater efficiency of the site design will be accomplished by a lighting plan that includes modifications from the generally applicable requirements.
 4. Whether the modified requirements will facilitate compliance with the standards for approval of a site plan specified in Chapter 9.

Section 5.06 Minimum Landscape and Screening Requirements

- A. Intent of requirements. The intent of this section is to promote the public health, safety and welfare by establishing minimum requirements for the design, installation and maintenance of landscaping. Landscaping is necessary for the continued protection and enhancement of all land uses. Landscaping enhances the visual image of the area, preserves natural features, improves property values, and alleviates the impact of noise, traffic, and visual distraction.
- B. Scope of development requirements.
1. The requirements in this section apply to all lots and uses, and additional requirements may apply to specific uses or specific types of areas, such as landscaping of off-street parking areas in certain districts. No site plan or other development plan shall be approved unless the landscaping therein is consistent with all applicable requirements of this Ordinance.
 2. These requirements are minimum requirements, and nothing herein shall preclude the applicant and the Township from agreeing to more extensive landscaping.

3. Creativity in landscape design is encouraged. The requirements are intentionally flexible to encourage adaptability and creative design. Required trees and shrubs may be planted at uniform intervals, at random, or in groupings, depending on the designer's desired visual effect and the intent and requirements of this section.

C. General requirements.

1. Coverage. Unpaved portions of the site shall be planted with grass, ground cover, shrubbery, or other suitable live plant material. Areas to be preserved in a natural state may be planted with native groundcover and maintained in an unimproved state.
2. Compliance. The landscaping requirements shall be met prior to the issuance of a certificate of occupancy, or prior to any actual occupancy where such a certificate is not required, unless the Planning Commission or Zoning Administrator (as applicable) approves a weather-related extension of this landscaping planting requirement. All required landscaping shall thereafter be maintained in a healthy and vigorous growing condition.
3. Landscaping of rights-of-way. Public rights-of-way located adjacent to required landscaped areas and greenbelts shall be planted with grass or other suitable live ground cover, and shall be maintained by the owner or occupant of the adjacent property as if the rights-of-way were part of the required landscaped areas or greenbelts.
4. Screening utility structures. Utility structures such as electrical transformers or sewer pump stations shall be screened from view by landscaping. A minimum of three evergreen trees shall be planted adjacent to the utility structure to screen it from view. All landscape plantings shall be spaced a minimum of 15 feet from any fire hydrant.
5. Maintenance of unobstructed visibility for drivers. Where a driveway intersects a public right-of-way or private road or where a site abuts the intersection of public rights-of-way or private roads, landscaping within the clear sight area shall not exceed a height of 36 inches above the pavement grade at the edge of the pavement.
6. Berms. Where required or provided, berms shall conform to the following standards:
 - a. Berms shall be at least three feet above grade elevation, and shall be constructed with slopes no steeper than one foot vertical for each three feet horizontal, with at least a two-foot flat area on the top. The Planning Commission may modify the height requirement in cases where sufficient room does not exist to construct a three-foot-high berm.
 - b. Berms shall be planted with grass, ground cover, or other suitable live plant material to prevent erosion and retain its height and shape.

- c. Berms shall be designed to meander to provide visual interest and to allow for adequate drainage.
7. Screening. Except as otherwise provided in this Ordinance, all premises used for commercial or industrial purposes shall be screened from adjoining premises located in any adjoining residential district by either of the following:
 - a. A natural compact planting area of evergreens or shrubbery which retain their density and screening effect throughout the calendar year, not less than five feet in height at the time of planting, and maintained in a neat and attractive manner, compatible with the adjoining residential district.
 - b. An artificial wall or fence of sufficient density or compactness to screen the activities of the business from the view of occupants of adjoining premises, not less than five feet in height and maintained in a neat and attractive manner, compatible with the adjoining residential district. No such planting area, wall or fence shall be closer than 10 feet from any adjoining street right-of-way line.
 - c. The Planning Commission shall have the authority to modify the preceding requirements for screening when the public benefit could still be achieved with a plan that varies from the above.
8. Modification of landscape requirements. The Planning Commission may reduce or modify the landscape requirements in this section based upon a determination that the landscaping and screening required will not be necessary or effective in meeting the intent of this section. In making this determination, the following shall be considered:
 - a. Whether existing natural vegetation that meets the requirements of this section will be preserved as part of the site plan.
 - b. Whether parking, vehicular circulation, or existing or planned land use are such that required landscaping would not enhance the site or result in the desired screening effect.
 - c. Whether the public benefit intended by the landscape regulations could be better achieved with a plan that varies from the strict requirements of this section.
 - d. Whether the intent to comply with the standards has been demonstrated by the applicant with alternatives considered by the applicant prior to the Planning Commission consideration of modification to requirements.
 - e. Whether greater efficiency of site design could be accomplished with a plan that varies from the strict requirements of this section.

D. Standards for landscape materials. Unless otherwise specified, all landscape material shall comply with the following standards:

1. Plant quality. Plant materials used in compliance with the provisions of this Ordinance shall be nursery grown, free of pests and diseases, hardy in Barry County, in conformance with the standards of the American Nursery and Landscape Association or ANSI American Nursery Stock Index, and shall have passed inspections required under state regulations. Landscaping shall be native to the State of Michigan. Growth stunted or dwarf trees shall not be permitted.
2. Plant material specifications. The following minimum specifications shall apply to all plant material at the time of planting proposed in accordance with the landscaping requirements of this Ordinance:

Minimum Plant Material Size

Plant Type	Minimum Caliper (inches)	Height (feet)	Minimum Spread
Deciduous shade trees	3	4 feet first branch	—
Ornamental trees	2	6	—
Evergreen trees	—	6	2 feet
Shrubs	—	2	15 inches
Hedges	—	4	—

3. Turf areas. Turf area(s) shall be planted using species normally grown as permanent lawns in Barry County. Grass, sod, and seed shall be clean and free of weeds, noxious pests, and diseases. Straw, mulch, or biodegradable seed stabilizing mesh/netting shall be used to protect newly seeded areas.
4. Suggested plant material. The following table lists recommended plant materials for required landscaping. Plant materials of equal or better quality may be substituted for suggested plant materials.

<u>Recommended Plant Materials</u>		
<u>Common Name</u>		<u>Genus</u>
<i>Deciduous Canopy Trees</i>		
1.	Oaks	Quercus
2.	Hard Maples (except Japanese)	Acer
3.	Hackberry	Celtis
4.	Planetree (Sycamore)	Platanus

<u>Recommended Plant Materials</u>		
<u>Common Name</u>		<u>Genus</u>
5.	Birch	Betula
6.	Beech	Fagus
7.	Ginkgo (male)	Ginkgo
8.	Honeylocust (Thornless Cultivars only)	Gleditsia
9.	Hophornbeam (Ironwood)	Ostrya
10.	Linden	Tilia
11.	Hickory	Carya
12.	Hornbeam (Blue Beech)	Carpinus
<i>Deciduous Ornamental Trees</i>		
1.	Amelanchier	Amelanchier
2.	Redbud	Cercis
3.	Dogwood (Tree Form)	Cornus
4.	Hawthorn	Crataegus
5.	Flowering Crabapple (disease resistant cultivars)	Malus
6.	Flowering Plum (tree form)	Prunus
7.	Flowering Pear	Pyrus
8.	Magnolia	Magnolia
9.	Hornbeam	Carpinus
10.	Rose of Sharon	Hibiscus
<i>Evergreen Trees*</i>		
1.	Fir	Abies
2.	Hemlock	Tsuga

<u>Recommended Plant Materials</u>		
<u>Common Name</u>		<u>Genus</u>
3.	Spruce	Picea
4.	Pine	Pinus
5.	Douglas Fir	Pseudotsuga
*Dwarf, Globe, Pendulous species/Cultivars are not permitted.		
<i>Narrow Evergreens*</i>		
1.	Juniper	Juniperus
2.	Arborvitae	Thuja
*Dwarf, Globe, Spreading Species/Cultivars are not permitted.		
Large Shrubs		
<i>Deciduous</i>		
a.	Dogwood (shrub form)	Cornus
b.	Cotoneaster	Cotoneaster
c.	Forsythia	Forsythia
d.	Mock-Orange	Philadelphus
e.	Lilac	Syringa
f.	Viburnum	Viburnum
g.	Witchhazel	Hamamelis
h.	Euonymus	Euonymus
i.	Privet	Ligustrum
j.	Ninebark	Physocarpus
<i>Evergreens</i>		
a.	Juniper (Hetz, Pfitzer, Savin)	Juniperus

<u>Recommended Plant Materials</u>			
<u>Common Name</u>			<u>Genus</u>
	b.	Yew (Pyramidal Japanese)	Taxus
<i>Small Shrubs</i>			
<i>Deciduous</i>			
	a.	Barberry	Berberis
	b.	Boxwood	Buxus
	c.	Quince	Chaenomeles
	d.	Cotoneaster	Cotoneaster
	e.	Euonymus	Euonymus
	f.	Forsythia	Forsythia
	g.	Hydrangea	Hydrangea
	h.	Holly	Ilex
	i.	Privet	Ligustrum
	j.	Potentilla	Potentilla
	k.	Currant	Ribes
	l.	Lilac	Syringa
	m.	Viburnum	Viburnum
	n.	Weigela	Weigela

5. Installation and maintenance. The following standards shall be observed where installation and maintenance of landscape materials is required:
- a. Installation. Landscaping shall be installed in a professional manner to ensure the continued growth of healthy plant material.
 - b. Protection from vehicles. Landscaping shall be protected from vehicles through curbing. Landscape areas shall be elevated above the pavement to a height adequate to protect the plants from snow removal, salt, and other hazards.

- c. Maintenance. Required landscaping shall be maintained in a healthy, neat, and orderly appearance, free from refuse and debris. All unhealthy and dead plant material shall be replaced in the next appropriate planting period.

Section 5.07 Fences and Hedges

- A. Fences and hedges on the premises of a residential use shall not exceed six feet in height.
- B. No fence or hedge shall obstruct the view of the front setback of a lake lot, or the front setback of a non-lake lot, by the occupants of adjoining properties.
- C. Barbed wire and electric fences are not permitted.
- D. All fences shall have the decorative or finished side toward the outside of the property line.
- E. All fences shall be kept in an upright position, and otherwise properly repaired and maintained so as to not become unsightly or dilapidated.
- F. Except as otherwise specified in this Ordinance, fences are not subject to minimum setback requirements.
- G. No fence shall be installed before a zoning compliance permit has been obtained from the Zoning Administrator as required by Section 4.02 herein.

Section 5.08 Swimming Pools

- A. Pool licensed by state. Any swimming pool licensed by the state shall abide by all applicable regulations.
- B. Pool not licensed by state. Any pool not subject to a state licensing requirement is subject to the following regulations before any use of the pool:
 - 1. Permit required. A private or public swimming pool shall be considered a structure for purposes of this Ordinance, and therefore requires issuance of a building permit and/or zoning compliance permit, as applicable.
 - 2. Fence/wall required. All ground level swimming pools shall be enclosed by a fence, wall, or other structure at least four feet in height as measured from the outside that impedes climbing by small children. Any opening in the fence or wall shall be equipped with a gate that is a self-closing and latching type with the latch on the pool side of the gate. The entrance way shall lead to the shallow end of the pool. If the entire premises is enclosed by an approved fence or wall, this requirement may be waived by the Zoning Administrator. Above ground swimming pools are not subject to the enclosure requirements of this section, if the steps and pool entrance are secured by a self-closing and latching gate with the latch on the pool side of the gate.

3. Setback and yard requirements. The pool location, including fencing (except otherwise permissible fencing enclosing the entire premises on which the pool is located), shall comply with the applicable minimum setback requirements of the district in which the pool is located.
4. Electrical installations. All electrical installations or wiring in connection with swimming pools shall conform to the provisions of the State Electrical Code. If service drop conductors or other utility wires cross under or over a proposed pool area, the applicant shall make satisfactory arrangements with the utility involved for the relocation

Section 5.09 Junkyards and Similar Businesses

Any junkyard, salvage yard, dismantling yard, or business dealing in same, including scrap dealers, shall operate only as authorized by this Ordinance, and where otherwise permissible shall meet the following conditions and regulations:

- A. Any such activity or business shall be carried on entirely within a building or buildings or fully enclosed structure, or within a fenced-in area entirely surrounded by a solid fence or natural screen at least eight feet in height, constructed of new materials or of natural shrubbery or trees, and sufficient to at all times effectively screen the activities conducted within same from view from surrounding properties or adjoining roads.
- B. Such business or activity shall be conducted only between the hours of 7:00 a.m. and 6:00 p.m. daily.
- C. The premises shall be kept and maintained in a clean, sanitary, and neat condition, and so that rats, vermin, and fire hazards are kept to a minimum, and rubbish or garbage is not present on the premises other than in normal containers pending periodic removal.
- D. No materials shall be stock-piled above the height of the fence or solid screen.
- E. There shall be no burning of any items upon the premises other than the normal burning of trash made of paper products or wood.
- F. The setback requirements for industrial uses shall apply. Where a fence or a solid screen is used, same shall not be located within any required setback area.
- G. All such activities shall be currently licensed by the State of Michigan.

Section 5.10 Waterfront Property Development Regulations

- A. Intended scope and applicability of regulations. The regulations in this section are intended to apply when property in any zoning district with frontage on a navigable waterway, such as a lake or river, is proposed to be developed for a new subdivision, condominium/site condominium development, multiple-family dwelling unit development (apartment building), or any other multi-lot/unit development, in such a manner as to provide a right of use or access to the waterfront portion of the property to

the owner(s) or occupant(s) of any other lot(s)/unit(s) within the development that do not have any direct frontage on the waterway, whether such right of use/access is by single-fee ownership, common-fee ownership, condominium document, easement, lease, license, or other arrangement. This type of use of waterfront property to provide waterfront access to non-waterfront lots/units in a development is often known as developmental “funneling” or “keyholing”.

The regulations in this section are not intended to apply, and such regulations shall therefore not be applied, so as to restrict any owner/occupant of a single-family dwelling on an existing waterfront single-family lot in any zoning district from allowing other persons access to the waterfront and waterway for non-commercial recreational use, including such activities as swimming, fishing, boating, and seasonal boat moorage at any dock that is otherwise permissible pursuant to any other applicable provisions of this Ordinance (which does not include this section), in the same manner as the owner/occupant of the waterfront lot could use such lot themselves. Such use and access is explicitly not intended to constitute developmental keyholing or funneling regulated by this section.

B. Developmental anti-funneling/anti-keyholing minimum frontage and depth requirement.

In all zoning districts a new subdivision, condominium/site condominium development, multiple-family dwelling unit development (apartment building), or any other multi-lot/unit development, that proposes to provide a right of use or access to the waterfront portion of the property to the owner(s) or occupant(s) of any other lot(s)/unit(s) within the development that do not have any direct frontage on the waterway, shall provide an amount of lineal frontage (using a traverse line, not a meandering line) at the normal high water line of the waterway equal to at least the minimum lot frontage requirement applicable to the zoning district in which the property is located for each lot/ or dwelling unit intended to have a right to use or access the waterway through such waterfront property either individually or in common with others. Any such waterway access lot shall also have a depth of at least 150 feet for the entire width of the access lot.

C. Waterway access lot use limitations. A waterway access lot created in a new subdivision, condominium/site condominium development, multiple-family dwelling unit development (apartment building), or any other multi-lot/unit development, to which the developmental anti-funneling/anti-keyholing minimum frontage and depth requirement applies pursuant to subsection B above, shall also be subject to the following use limitations:

1. Not more than one dock shall be allowed for each lot or dwelling unit with a right to use/access the waterway as determined pursuant to subsection B. All such permissible docks and associated dockage or mooring of boats in such a development shall be subject to all provisions of this Ordinance (if any) generally regulating docks/dockage, and to all other applicable ordinances.
2. Buildings and structures are not permissible on any portion of a waterway access lot created pursuant to subsection B above, except for the following structures to the extent they are otherwise permissible and in accordance with all applicable

provisions of this Ordinance: fencing; trash receptacles; boat ramp; swings, slides, volleyball courts, and similar outdoor recreational facilities; picnic tables; and otherwise permissible docks as provided above.

3. Overnight vehicle parking is not permissible on any portion of a waterway access lot created pursuant to subsection B above. Any area of such a waterway access lot otherwise permissibly used for the non-overnight parking of motor vehicles shall not be required to be paved, but shall otherwise be subject to all applicable provisions of this Ordinance regulating parking standards and requirements.
- D. Shoreline alteration and new channelization prohibited. In all zoning districts a new development subject to this section shall not alter the existing shoreline of any waterway in such a manner as to intend to create or have the effect of creating new channels, canals, or additional shoreline for additional development lots/units or a waterfront access lot pursuant to subsection B above. Otherwise permissible shoreline alteration pursuant to this subsection D shall also conform with all laws and regulations of the State of Michigan applicable to such matters.

Section 5.11 Media Production on Public Property

Any media production on public property shall be subject to the following regulations:

- A. Definition. For purposes of this section "media production" shall mean any of the following or a combination thereof, whether for commercial, nonprofit, artistic, or any other purpose:
 1. Photographing, producing, videotaping, or other filming of movies, television programs, commercials, print advertising, or other media.
 2. Still photo shoots.
- B. Permit required. No person, firm, association, or other entity shall operate or engage in any media production on public property without first obtaining a permit from the Zoning Administrator as required herein; provided the provisions of this section shall not apply to current news productions and local cable public television access productions, including reporters, photographers, and camera persons in the employment of a newspaper, news service, broadcasting agency, or to college or other educational facility productions, or any similar entity.
- C. Permit application. An application for a media production permit shall be filed with the Zoning Administrator at least seven days before the intended beginning date for any production activity involving public property, including any preproduction activities, for review and action as provided herein. The application shall include all of the following information:
 1. Applicant's name, primary business address, temporary local address, telephone number, and any other pertinent local contact information, including the name and

direct telephone number of the applicant's designated local liaison with the Zoning Administrator.

2. A description of the proposed production, generally, and a specific description of the portion of the production involving public property.
 3. A description of the proposed location(s) for the production, including the dates and times for the portion involving public property from setup through conclusion of the production.
 4. A copy of the certificate of insurance and hold-harmless agreement form required by subsection D.3 herein.
- D. Standards for permit issuance. Within five days after receipt of an administratively complete application, the Zoning Administrator shall issue a permit upon finding all the following standards to be met:
1. All permits required by any applicable construction code have been issued by the appropriate Building Official.
 2. Any permits or other approvals required by any other unit of government have been issued.
 3. Proof of general liability insurance of at least \$1,000,000 covering all aspects of the media production on public property and naming the City and Township and the officials, employees and agents of each as additional insureds in effect at all times during the media production; and a standard hold-harmless agreement executed by the applicant holding the City and Township and the officials, employees and agents of each harmless from any liability of any kind claimed to be caused by any act or omission relating in any manner to the permitted media production, and further obligating the applicant to provide a legal defense against any such liability claim brought against the City or Township or the officials, employees or agents of each.
 4. The media production will not be detrimental to the public health, safety, or general welfare, either generally or with specific regard to the particular dates and times for the intended use of the specific locations of public property.
 5. The media production will not be unreasonably detrimental to the use or occupancy of any private property adjacent to the intended public property production location(s) or any other private property in the vicinity of same.
 6. The media production will not involve any obscene matter or performance in violation of law, or otherwise violate any local ordinance or state or federal law.
 7. The applicant has the ability and intention to at all times comply with the foregoing standards and all conditions attached to the permit.

E. Permit conditions. The permittee shall comply with the following conditions imposed on a permit issued pursuant to this section:

1. All public property used for a media production shall be kept in a safe and clean condition for all participants in the production and the general public.
2. The permittee shall provide on-site security if and to the extent deemed necessary by the Zoning Administrator to insure the public health, safety, and general welfare.
3. The permittee shall be responsible for all costs of security, and for the costs of all damage and cleanup to public property and any incidental damage and cleanup to private property resulting from the production.
4. The following conditions shall apply to that portion of any media production involving a public street:
 - a. Base camps shall not be located on a public street.
 - b. A public street shall not be closed or otherwise obstructed for longer than reasonably necessary pursuant to the issued permit, and any such closure or obstruction shall be subject to immediate termination by the Zoning Administrator or any law enforcement authority with jurisdiction over the street to facilitate immediate access to and use of the street by emergency vehicles.
 - c. Only necessary production vehicles may be parked on a public street; all other vehicles and equipment shall be parked at a predetermined approved location.
5. The permittee shall allow the Zoning Administrator and Building Official (or their designees) a right of access at any time to any production location involving public property for the purpose of verifying continuing compliance with all permit approval standards and conditions.

F. Suspension or revocation of permit. The Zoning Administrator may temporarily suspend any permit issued under this section in the event of noncompliance with any provision of this section or any applicable City of Hastings ordinance or state or federal law, where the Zoning Administrator determines the permittee can and likely will abate the noncompliance within a reasonable period of time; and the permit shall be reinstated when the Zoning Administrator determines such noncompliance has been abated. The Zoning Administrator may revoke a permit issued under this section in the event of any ongoing or otherwise non-abated noncompliance with any provision of this section or any other applicable City ordinance or state or federal law.

The Zoning Administrator shall promptly give to the permittee notice of any such permit suspension, permit reinstatement, or permit revocation. Such notice may initially be given

orally, but any such oral notice shall be followed by written notice at the earliest feasible opportunity.

Section 5.12 Private Roads

- A. Purpose and Applicability. The Joint Planning Commission has determined the Michigan Land Division Act may allow property to be divided in such a manner as to create new parcels that are “accessible” to a public road as required by that Act, but without the minimum frontage on a public street or sometimes a private road as required by the Planning Commission’s zoning regulations to be “buildable”. The construction, improvement, extension, relocation, and use of private roads is regulated herein as an overlay special land use in any zoning district, to assure they are designed and constructed with a sufficient width, surface, and grade to provide safe passage and maneuverability of private vehicles and emergency services vehicles, and to protect against or minimize soil erosion and prevent damage to the natural environment, including lakes, streams, and wetlands, and to require such private roads to be sufficiently repaired and maintained to facilitate continued safe and convenient use. This section includes provisions pertinent to the continuation of existing private roads, the extension of existing private roads to serve additional lots or building sites, and the construction and use of new private roads where such roads are allowed by this section. This section also distinguishes between private roads and “shared driveways”.

The provisions of this section are not intended to apply to any of the following:

1. access roads and driveways internal to any individual lot which has direct public street frontage access and is under the control of one person or entity, where the access road does not provide access to any abutting lot.
 2. a shared driveway, as defined herein.
 3. access roads that are subject to site plan review and formal approval by the Planning Commission pursuant to other provisions of this Ordinance (pertaining to commercial developments, for example).
- B. Definitions. For purposes of this section, and elsewhere in this Ordinance where the usage of the term is consistent with the usage of that term in this section, the following terms are defined as follows:
- EXISTING DWELLING UNIT — A dwelling unit lawfully existing before December 11, 1996.
 - EXISTING LOT — A lot existing before December 11, 1996 which meets at least one of the following conditions:
 1. The lot consists of a parcel described by metes and bounds for which a deed has been recorded with the Barry County Register of Deeds, or a parcel described by a land contract or memorandum of land contract which has been recorded with the Barry County Register of Deeds;

2. The lot has been assigned its own parcel number by the Assessor and is individually assessed and taxed on that basis; or
3. The lot consists of a "condominium unit" (i.e., a portion of a condominium project designed and intended for separate ownership and use as described in the condominium master deed) located within a "site condominium" development for which a condominium master deed has been recorded with the Barry County Register of Deeds in accordance with the requirements of the Michigan Condominium Act (PA 59 of 1978, as amended, MCL § 559.101 et seq.) and other applicable laws and ordinances.

- EXISTING PRIVATE ROAD --- A private road, as defined herein, which was actually and physically existing before December 11, 1996.
- EXISTING SHARED DRIVEWAY --- A shared driveway, as defined herein, which was actually and physically existing before December 11, 1996.
- PRIVATE ROAD --- A road, easement, or right-of-way not dedicated to public use which is used or intended to be used to provide access to four or more lots, or four or more separate dwelling buildings.
- SHARED DRIVEWAY --- A road, easement, or right-of-way not dedicated to public use which is used or intended to be used to provide access to two or three lots, or two or three separate dwelling buildings.

C. Continuation of existing private roads and shared driveways. Any lawful existing private road, and lawful existing shared driveway, as defined in this section, may continue to exist as it actually and physically existed before December 11, 1996, without being subject to the other requirements of this section, but shall not be changed except in compliance with this section.

D. Changes to an existing private road or existing shared driveway. Changes to an existing private road or existing shared driveway shall comply with all the provisions of this section pertaining to new private roads.

E. New private roads.

1. After December 11, 1996 no new private road shall be constructed, and no existing private road shall be extended, relocated, or otherwise changed, except in accordance with the standards and requirements and review procedures specified in this section.
2. A private road is allowable in any zoning district, as an overlay special land use.

F. Procedure for review of private roads.

1. Construction permit application and content. An application to construct, extend, or relocate a private road shall be filed with the Zoning Administrator with the application fee (which shall be sufficient to cover all costs and expenses incurred to review and administer the application, and administer an issued private road construction permit, and a final private road permit, including legal and engineering fees). The application shall contain or be accompanied by the following information:
 - a. the name(s) of the owner(s) and any other parties having any legal interest in the private road and the property across which it is to be constructed.
 - b. the property tax parcel number and legal description of the property over which the private road is to be constructed.
 - c. a site location map showing the location of the property containing the road and surrounding properties and roadways (public and private) within 1/2 mile of the site.
 - d. a scaled drawing showing the precise location, route, elevations, dimensions, specifications and design of the private road and any proposed extensions of the road, existing or proposed curb cuts, and the location and distance to any public street which the private road is to intersect.
 - e. a scaled drawing illustrating the existing and proposed lots accessed by the private road, including the dimensions of all such lots.
 - f. a proposed maintenance/access agreement, and any applicable deed restrictions, as addressed in subsection I herein.
 - g. a driveway permit from the Barry County Road Commission or Michigan Department of Transportation or City of Hastings, as applicable.
 - h. the proposed private road name, and a letter from the Barry County Planning Department indicating there is no known duplication of the proposed name.
 - i. an approved soil erosion permit from Barry County.
 - j. a letter from a professional engineer licensed in Michigan certifying the proposed private road meets all applicable design and construction specifications in this section.

2. Review of construction permit application.
 - a. The Zoning Administrator shall review the application for completeness, and for apparent compliance with the requirements of this section, and shall forward an administratively complete application to the Hastings City Clerk to process for Joint Planning Commission review pursuant to this section.
 - b. The Planning Commission shall review the application pursuant to the standards and requirements of this section, assisted by such consultation with the location Fire Chief and the City Attorney, Engineer, and Planner as the Planning Commission deems necessary.
 - c. If the Planning Commission determines the application meets the standards and requirements of this section, it shall approve the application and direct the Zoning Administrator to issue a construction permit for the approved private road. The construction permit is not a final private road permit and does not authorize the construction of any dwelling units or other buildings to be accessed by the private road. The construction permit is valid for a period of one year from the date of approval. If construction of the private road has not commenced before this date the construction permit is deemed expired and abandoned, and a new permit application must be submitted and approved before any construction can begin. The approved private road must be completed within one year from the beginning of construction.

G. Standards for Planning Commission review and approval of private road construction permit application.

1. The Planning Commission shall review a private road application for compliance with the standards generally applicable to all special land uses as specified in Chapter 10 and for compliance with the additional standards and requirements as specified herein. In applying these standards to an application the Planning Commission shall also give consideration to the following factors:
 - a. the impact of the proposed private road and resulting development on nearby properties.
 - b. the impact of the proposed private road and resulting development on the long-range planning goals of the Joint Planning Commission.
 - c. the potential for conflicts between the proposed land uses and existing land uses (i.e., residential development in an agricultural area).
 - d. the health, safety and general welfare of the surrounding community.
 - e. the potential for traffic congestion or intersection interference or other similar or related problems created by the private road.

- f. the potential for soil erosion, or other damage to the natural environment, including lakes, streams, and wetlands.

H. General private road requirements and construction requirements.

1. The private road shall be designed and constructed to accommodate vehicle speeds of 35 mph.
2. The private road shall intersect with a public road.
3. A building lot shall have sufficient frontage on the private road to comply with the applicable minimum frontage requirement of the zoning district in which it is located.
4. The private road shall be centered within a sixty-six foot-wide easement or right-of-way.
5. The private road shall be constructed with sufficient slopes and grades as to provide adequate stormwater and road drainage; provided no part of the private road shall exceed a finished grade of more than 6% unless the Planning Commission approves a greater slope after consulting with the City Engineer.
6. The private road shall provide adequate culverts and ditches at all drainage courses and waterways. If a private road crosses a natural drainage course, stream or other natural body of water, the method of crossing (by bridge, culvert or other structure) must be certified by a professional engineer licensed in Michigan as complying with all applicable Barry County Drain Commissioner and State of Michigan structural and other requirements.
7. The private road shall have a surface layer of not less than six inches of 22A aggregate base gravel.
8. A private road serving seven or fewer dwelling units shall have a finished road surface of at least 18 feet in width. A private road serving more than seven dwelling units, or serving a commercial or industrial use, shall have a paved road surface of at least 22 feet in width, with six inches of 22A aggregate base gravel, two inches or 220#/syd of 20A bituminous base and 1.5 inches or 165#/syd of 36A bituminous surface. All paved road specifications shall be provided and certified by a professional engineer licensed in Michigan, and by the City Engineer, as complying with all applicable requirements.
9. A cul-de-sac shall have a minimum radius of 35 feet.
10. An intersection of the private road with a public street shall meet Barry County Road Commission standards (or MDOT or City standards, where applicable).

11. The private road shall have horizontal and vertical clear zones sufficient to accommodate local delivery and emergency vehicles as determined by the Planning Commission upon consultation with the City Fire Chief.
12. Each phase of construction of the private road shall be inspected by a professional engineer licensed in Michigan, and a written report of such inspection shall be promptly filed with the Zoning Administrator. After consultation with the City Engineer, the Zoning Administrator may require additional inspections at other times during construction of the private road.
13. The name of a private road and the assigning of numbers to all properties/buildings on the private road shall be in accordance with the Barry County Address Ordinance (as administered by the Barry County Planning Office).
14. Upon completion of construction a professional engineer licensed in Michigan shall certify to the Township in writing that the private road was constructed to all the applicable standards and requirements of this section.

I. Maintenance/access agreements and deed restrictions.

1. The proposed maintenance/access agreement/deed restrictions required to be submitted with a private road construction permit application, and the executed version of such document(s) required to be recorded prior to issuance of a final private road permit by the Zoning Administrator, shall have provisions determined by the City Attorney to adequately address all of the following:
 - a. A method of initiating and financing repairs and maintenance of the private road to keep the road in a safe and usable condition (such as a property owner's association).
 - b. A workable method of apportioning the costs of maintenance to one or more of the lots benefited by the private road.
 - c. An explicit declaration that, if repairs and maintenance are not made by the private party responsible for same, the City Council may establish a special assessment district without petition to finance the required repairs/maintenance and assess the owners of property on the private road for such costs, plus all administrative and legal expenses incurred by the City to create and administer the special assessment district.
 - d. An explicit declaration that no public funds of the City of Hastings are to be used to build, repair, or maintain the private road, at any time.
 - e. The granting of easements to the public for purposes of utilities, and for emergency services vehicles and other public vehicles for whatever public services are necessary.

- f. A provision obligating the owners of any property using the road to refrain from prohibiting, restricting, limiting or in any manner interfering with normal ingress and egress and use by any of the other owners or other parties with a legal right to use the road. Normal ingress, egress, and use shall include use by family, guests, invitees, tradesmen, and others bound to or returning from any of the properties having a right to use the road.
 - g. An explicit declaration obligating the owner(s) of the private road and the owners of all property benefited by the private road to indemnify and save and hold the City and Township and the boards, commissions, officers and employees of same harmless from all claims for personal injury and/or property damage arising out of the failure to properly construct, maintain, repair or replace the private road, or in any other manner claimed to be associated with the private road in any respect, including all legal fees and expenses incurred in defending such claims.
- J. Final compliance requirements. Upon completion of construction of the private road the applicant shall provide to the Zoning Administrator:
- 1. A letter from a professional engineer licensed in Michigan certifying the road has been constructed in compliance with the approved private road plans and all applicable requirements.
 - 2. Documentation that the executed road maintenance agreement/access easement/deed restrictions have been recorded with the Barry County Register of Deeds office.
- K. Final private road permit issuance. Upon approval of all items required for final compliance, the Zoning Administrator shall issue a final private road permit. This final private road permit constitutes zoning approval of the use of the private road, and authorization to apply for building/zoning permits for development on lots dependent on the private road in order to qualify as a buildable lot.
- L. Permits for buildings dependent on private road.
- 1. A building permit/zoning compliance permit shall not be issued for any property which derives its primary access or minimum required frontage from a new private road unless a private road construction permit has been issued pursuant to this section and either of the following applies:
 - a. The Zoning Administrator has issued a final private road permit for the completed road; or
 - b. The applicant for the building permit/zoning compliance permit or owner(s) of the private road have provided the City with cash, bond or irrevocable letter of credit in an amount determined by the City sufficient to insure completion of construction of the private road in accordance with the approved private road construction permit within one year from the

issuance of the building permit/zoning compliance permit. A bond or letter of credit shall contain a provision giving the City the right to access the letter of credit or bond if such letter of credit/bond is not renewed 30 days before its expiration date, and the final private road permit is not yet issuable.