

BURR OAK TOWNSHIP
ST. JOSEPH COUNTY, MICHIGAN
ZONING ORDINANCE

Adopted Date: April 1, 2002

Effective Date: June 1, 2002

Current Ordinance No. 2016-1
October 2016

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PREAMBLE

BURR OAK TOWNSHIP ORDINANCE NO. 2002-1

Adopted: April 1, 2002

Effective: June 1, 2002

An ordinance to provide for the establishment in the unincorporated portions of Burr Oak Township of zoning districts within which the proper use of land and natural resources may be encouraged or regulated, and within such districts' provisions designating the location of, the size of, the uses that may be made of, the minimum open spaces, sanitary, safety, and protective measures that shall be required for, and the maximum number of families that may be housed in dwellings, buildings, and structures, including tents and trailer coaches, that may be erected or altered after the effective date of this Ordinance; to provide for a method for the adoption of ordinances and amendments thereto; to provide for the administering of ordinances adopted; to provide for conflicts with other acts, ordinances, or regulations; to provide penalties for violations; to provide for petitions, public hearings, and referenda; to provide for appeals; and to provide for the repeal of ordinances in conflict with the Ordinance.

THE TOWNSHIP OF BURR OAK

ST. JOSEPH COUNTY, MICHIGAN

ORDAINS:

ARTICLE 1

TITLE

This Ordinance shall be known and cited as the Burr Oak Township Zoning Ordinance.

ARTICLE 2

PURPOSE

The purpose of the Ordinance is to:

- A. Promote the public health, safety, and general welfare;
- B. To encourage the use of lands in accordance with their character and adaptability;
- C. To limit the improper use of land;
- D. To protect and conserve natural resources and energy;
- E. To meet the needs of the state's residents for food, fiber and other natural resources, places of residence, recreation, industry, trade, service and other uses of land;
- F. To insure that uses of the land shall be situated in appropriate locations and relationships;
- G. To avoid the overcrowding of population;
- H. To provide adequate light and air; to lessen congestion on the public roads and streets;
- I. To reduce hazards to life and property;
- J. To facilitate adequate provision for system of transportation, sewage disposal, safe and adequate water supply, education, recreation, and other public requirements; and
- K. To conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources and properties.

**(Note: Article 2 amended by the following Ordinances:
Ordinance No 2007-3, effective 3/21/07
Ordinance No 2015-2, effective 1/10/16)**

ARTICLE 3

DEFINITIONS

Certain terms used in this Ordinance are herewith defined. When not inconsistent with the context, words used in the present tense include the future tense. Words used in the singular include the plural number. The word "shall" is always mandatory and not merely discretionary.

Accessory Building or Structure: A building or structure customarily incidental and subordinate to the principal building and located on the same lot as the principal building.

Accessory Use: A use naturally and normally incidental and subordinate to a principal use on the same premises.

Adult Entertainment Business: Means and shall include, but is not limited to, the following:

1. Adult bookstore;
2. Adult video store;
3. Adult motion picture theater;
4. Adult cabaret;
5. Massage establishment

Adult Bookstore or Adult Video Store: A commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

1. Books, magazines, periodicals or other printed matter, or photographs, films, motion picture, video cassettes or video reproductions, slides or other visual representations which depict or describe specified sexual activities or specified anatomical area; or
2. Instruments, devices or paraphernalia, which are designed for use in connection with specified sexual activities.

A commercial establishment may have other business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be categorized as an adult bookstore or adult video store. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an adult bookstore or adult video store. So long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials, which depict or describe specified sexual activities or specified anatomical areas. A principal business purpose is understood to be a primary use of an establishment.

Adult cabaret: Any cabaret that features:

1. Persons who appear in a state of semi-nudity; or
2. Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or
3. Films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; or
4. Persons who engage in lewd, lascivious, or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

Adult Motion Picture Theater: An enclosed building used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas” for observations by patrons therein.

Antenna: Any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiates or captures electromagnetic waves, digital signals, radio frequencies (excluding radar signals), wireless telecommunication signals or other communication signals.

Billboards: An outdoor sign, structure or symbol advertising services or products which are not made, produced, assembled, stored, or sold upon or from the premises upon which the same is located.

Building: A building is an edifice, framed, or constructed and designed to stand permanently and covering a space of land, for use as a dwelling, store, warehouse, factory, sign, shelter, or for some other useful purpose.

Building Line: A line extending the full width of a lot from side lot line to side lot line, which line is parallel to the right-of-way line of such highway, road or street, which said lot fronts upon.

Communications Tower: Any structure which is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio, and similar communication purposes, including self supporting lattice towers, guyed towers, or monopole towers. The term includes: radio signal towers, television transmission towers, microwave towers, common-carrier towers, and the like; the structure and any support thereto, including cables, wires, braces and masts, etc.; and alternative tower structures such as man-made trees, clock towers, bell steeples, light or electric poles and similar alternative design mounting structures on which antennas are mounted, Not included within this definition are supporting structures for television reception devices, including antennas and satellite dishes, and transmission and receiving devices for citizen band radios, short wave radios, federally licensed amateur (ham) radios, and towers on governmental facilities that are subject to state or federal law or regulations which pre-empt municipal regulatory authority.

Dwelling: Any house or building, or portion thereof, which is occupied wholly as the home, residence, or sleeping place of one or more human beings, either permanently or transiently, but in no case shall a Recreational Vehicle, automobile chassis, tent, or portable building be considered as a dwelling.

Erected: The act of constructing, reconstructing, or altering (structural or otherwise), any structure or building, including the excavation, filling or drainage of a lot or building site.

Essential Services: The erection, construction, alteration or maintenance by public utilities or township departments or commissions of underground or overhead gas, electrical, steam or water transmission or distribution systems, collections, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, telephone exchange and/or repeater buildings, electric substations and substation buildings, gas regulator stations and regulator buildings and other similar equipment and accessories in connection therewith (**but not including any buildings EXCEPT THOSE EXPRESSLY REFERRED TO HEREIN**) reasonably necessary for the furnishing of adequate service by such public utilities or

township departments or commissions or for the public health or safety or general welfare. Essential services shall not include a “communication tower” as that term is defined herein.

Family:

- A. **Domestic Family:** One or more persons living together and related by the bonds of consanguinity, marriage, or adoption together with servants of the principal occupants and not more than one additional unrelated person, with all of such individuals being domiciled together as single, domestic housekeeping unit in the dwelling.
- B. **Functional Family:** Persons living together in a dwelling unit whose relationship is of a permanent and distinct character and is the functional equivalent of a domestic family with a demonstrable and recognizable body, which constitutes the functional equivalent of the bonds, which render the domestic family a cohesive unit. All persons of the functional equivalent of the domestic family must be cooking and otherwise housekeeping as a single nonprofit unit. The definition shall not include any society, club, or fraternity, sorority, associated lodge, coterie, organization, or group where the common living arrangements and/or the basis for the establishment of the functional equivalency of the domestic family is likely or contemplated to exist for a limited or temporary duration. There shall be a rebuttable presumption enforced by the Zoning Administrator in the first instance that the number of persons who may reside as a functional equivalent family shall be limited to six (6).

Family Business: An occupation, business or activity, which is incidental to the principal residential use of the property (but which is not a Home Occupation as defined and regulated in this Ordinance) and is operated/conducted by a specified number of family members.

Farms: All of the unplatted, contiguous, neighboring or associated land operated as a single unit on which bonafide farming is carried on directly by the owner-operator, manager, or tenant-farmer by his own labor or with the assistance of members of his household or hired employees; provided, however, that land to be considered a farm hereunder shall include a contiguous, unplatted parcel of not less than twenty (20) acres in area; provided further, that orchards, hatcheries, and similar specialized agricultural enterprises may be considered a farm, but establishments keeping furbearing animals, game, or operated as fish hatcheries, dog kennels, stock yards, slaughterhouses, stone quarries, gravel pits or for the removal and sale of topsoil, fertilizer works, bone yards, piggeries, specialized feeding enterprise, or for the reduction of animal matter or for the disposal of garbage, sewage, rubbish, junk or offal, shall not constitute a farm hereunder, nor shall any such activity constitute a farm or agricultural activity.

Floor Area: The area of all floors computed by measuring the dimensions of the outside walls of a building, excluding attic and basement floors, porches, patios, breezeways, carports and garages.

Height: The vertical distance between the highest part of a structure and the average ground level around the structure.

Highway, Road or Street: Any public vehicular thoroughfare which has been dedicated to the public use or which has become public through the constant use thereof by the public, including county, federal and state roads and highways.

Home Occupations: A gainful occupation conducted by members of the family only within its place of residence, provided, that the space used is incidental to residential use and

occupies not more than twenty-five percent (25%) of the area on one floor and employs not more than one paid assistant.

Junkyard: Any land or building used for commercial storage and/or sale of paper, rags, scrap metals other scrap or discarded materials, or for the dismantling, storage or salvaging of automobiles or other vehicles not in running condition, or of machinery or parts thereof, but not including a dump.

Lot: The parcel of land on which one principal building and its accessories are placed, together with the open spaces required by this ordinance. (A lot need not be a lot existing of record).

Low Impact Development (LID): an ecologically friendly approach to site development and storm water management that aims to mitigate development impacts to land, water and air. LID emphasizes the integration of site design and planning techniques that conserve natural systems and hydrologic functions on a site by increasing infiltration and decreasing impervious surfaces.

Massage Establishment: An enclosed building used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas” for observation by patrons therein.

Mobile Home: A structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling with or without a permanent foundation, and which is connected to the required utilities, and includes the plumbing, heating, air-conditioning, electrical systems contained in the structure.

Mobile Home Park: A parcel or contiguous combination of land under the control of private ownership upon which three (3) or more mobile homes are located on a continual, non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home.

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

Office: A room, suite of rooms, or building in which are located desks, chairs, tables, couches, bookcases, (accounting, filing, recording, communication and /or stenographic) equipment for current use in administrative, professional, political, informative, research and/or clerical duties; and other similar, related or incidental furniture, equipment or personnel connected or concerned with the performance of a personal service which causes or creates no external disturbance, nuisance, or annoyance beyond the confines of said rooms or building.

Outdoor Light Fixtures: Outdoor electrically powered illuminating devices, outdoor lighting or reflective surfaces (e.g., polished, glossy or mirrored surfaces), lamps and similar devices used for illumination or advertisement. Such devices shall include, but are not limited to, lights for:

- a. Recreational uses
- b. Building and structures
- c. Parking Lots
- d. Landscaped areas

- e. Signs and billboards
- f. Streets
- g. Product display areas
- h. Building overhangs and canopies
- i. Outdoor storage areas
- j. Area Lighting

Parking Space: An area enclosed or unenclosed, sufficient in size to store one (1) automobile together with a driveway connecting the parking space with a street or alley and permitting egress and ingress of an automobile.

Principal Building: A dwelling unit in all zoning districts except the Commercial District and the Industrial District.

Principal Use: The primary or predominant use of the premises.

Portable Building: A building not permanently affixed to the ground or attached to something permanently affixed to the ground.

Public Utilities: Any person, firm or corporation, municipal department, board or commission duly authorized to furnish and furnishing under federal, state or municipal regulations to the public, gas, steam, electricity, sewage disposal, communication, television, telegraph, transportation or water via the public road right-of-ways under the jurisdiction of the township. Public utilities shall not include the owners or operators of communication towers.

Recreational Vehicle: A vehicle primarily designed and to be used as temporary quarters for recreational, camping, or travel purposes, including a vehicle having its own motor power or a vehicle mounted or drawn by another vehicle.

Riding Stable: A building used or to be used by the owner or operator thereof for the housing of horses for hire and/or for payment of boarding expenses.

Roadside Stand: Any structure or building for the storage and sale of agricultural products, which have been raised on the farm from which the same are to be sold.

Setback: The distance between the property line and the nearest wall or foundation of any part of a building which is roofed.

Screening: Whenever screening is required or premises or operations are required to be screened under the provisions of the Burr Oak Township Zoning Ordinance, the same shall be construed to require one or more of the following as may be determined to be necessary and adequate under the circumstances prevailing for the purposes intended by the Zoning Board of Appeals, unless otherwise specified in the ordinance.

1. A natural compact planting area composed of upright conifers: Said area shall be planted so that spacing shall be such that density and screening effects are maintained throughout the calendar year. The area shall not be less than 4 feet in height at the time of planting. The planting area shall be maintained in a neat and attractive manner.
2. An artificial wall or fence of sufficient density or compactness to screen the structures and activities required to be screened from the view of occupants of adjoining premises or public highways, not less than 6 feet in height, and maintained in a neat and attractive manner commensurate with adjoining development.

3. A berm of not less than 15 feet in width and 4 feet 6 inches in height constructed with 1 foot of rise for each 2 ½ feet of horizontal rise, or a 1 on 2 ½ slope. Said berm shall be seeded with appropriate grass seed, and shall be covered with an organic mulch. Said berm shall be landscaped with shrubbery and trees to enhance the screening effect and aesthetic appearance of same, and shall be maintained in a neat and attractive manner.

Shopping Centers: A shopping center is an architecturally integrated group of three or more commercial establishments, which are planned, developed, owned and /or managed as one unit, and which have a minimum of 50,000 square feet of gross floor area.

Showroom: A showroom is a commercial establishment, the building for which is primarily used for the display of merchandise samples.

Sign: An outdoor sign, structure, or symbol advertising services or products, which are produced, assembled, stored, or sold upon or from the lot of premises upon which the same is located.

Specified Anatomical Areas: Specified anatomical areas are defined as less than completely and opaquely covered:

- A. Human genitals, pubic region, buttocks, and female breast below a point immediately above the top of the areola; and
- B. Human male genitals in a discernible turgid state, even if completely and opaquely covered.

Specified sexual activities: Specified sexual activities are defined as:

- A. Human genitals in a state of sexual stimulation or arousal;
- B. Acts of human masturbation, sexual intercourse or sodomy; and /or
- C. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

Structure: Anything constructed, assembled or erected, the use of which requires location on the ground or attachment to something having location on or in the ground; this term shall include fences which are more than 50% solid, tanks, towers, dish antennae, advertising devices, bins, tents, wagons, trailers, dining cars, camp cars or similar structures on wheels or other support used for business or living purposes. The word “structures” shall not apply to wires and their supporting poles or frames or electrical or telephone utilities or to service utilities or to service utilities below the ground.

Watershed: A watershed is the area of land bordered by hills and ridges that catches rain and snow and drains or seeps into a common outlet, such as a marsh, stream, river, lake or groundwater. Just as creeks drain into rivers, watersheds are nearly always part of a larger watershed. For example, the Prairie River Watershed is part of the St. Joseph River Watershed, which is part of the Lake Michigan Watershed.

Yard: The area or space of a lot open to the sky and unoccupied or unobstructed on the same lot with a building or structure. Yard measurements shall be the minimum horizontal distances.

- A. **Yard, Front:** A yard extending the full width of the lot or parcel of land between the right-of-way line of the highway, road or street and the nearest line of the main building.

- B. **Yard, Rear:** A yard extending across the full width of the lot between the rear lot line and the nearest line of the main building.
- C. **Yard, Side:** A yard extending from the front yard to the rear yard between the side lot line and the nearest line of the main building or any accessory building.

Zoning Act: The Michigan Zoning Enabling Act, Public Act 110 of 2006 (MCL 125.3101 et seq.) of Public Acts of Michigan, as amended.

(Note: Article 3, amended by the following Ordinances:

- Ordinance No. 2003-2, effective 4/12/03,**
- Ordinance No. 2006-3, effective 12/31/06,**
- Ordinance No. 2007-3, effective 3/21/07,**
- Ordinance No. 2008-1, effective 7/03/08,**
- Ordinance No. 2008-2, effective 7/3/08,**
- Ordinance No. 2015-2, effective 1/10/16,**
- Ordinance No. 2015-3, effective 1/10/16,**
- Ordinance No. 2016-1, effective 10/20/16.)**

ARTICLE 4

ZONING DISTRICTS

The Township of Burr Oak shall be divided into zoning districts, as hereinafter described, within which districts no building or premises shall be used and no building or structure shall hereafter be erected, altered or located except for the uses and purposes hereinafter set forth as "Permitted Uses" under each separate zoning district classification, or hereinafter set forth as "Special Exception Uses" under such zoning district classification; provided, however, that prior approval as is hereinafter required shall be obtained from the Township Planning Commission for such "Special Exception Uses". The zoning district classifications are as follows:

"A"	Agricultural District
"R-1"	Residential District
"R-2"	Residential Resort District
"R-3"	Residential Mobile Home Park District
"C"	Commercial District
"I"	Industrial District

The location of zoning districts in the Township of Burr Oak shall be shown on a map entitled "The Zoning Map of Burr Oak Township." This map and all information and proper notations shown thereon are hereby made a part of this Ordinance and the Zoning Board of Appeals is hereby specifically given this authority to interpret, upon proper application, the specific boundaries of such zoning districts where any controversy arises and the determination of such Board shall be final.

The zoning map shall be amended from time to time to reflect changes in zones and to reflect the rezoning of property shown thereon in the manner provided by law. Such changes shall be recorded to scale on duplicate copies of the original official zoning map and shall be accomplished by written legal descriptions in appropriate amending ordinances.

ARTICLE 5

“A” AGRICULTURAL DISTRICT

Section 5.1 – Description of District

This District is composed of certain land in outlying areas presently of rural character. Such land is zoned for the agricultural use with the intent that agriculture will be the principal land use within the foreseeable future. The regulations for this District are designed to stabilize and protect the essential characteristics of the District without unduly restricting its use solely to that of an agriculture nature. To these ends, development is limited to a low concentration and to those uses that would not be detrimental to future development.

Section 5.2 – Permitted Uses

- A. Any farm or agricultural activity.
- B. Single-family dwellings according to Section 18.6
- C. Dwelling structures (temporary for up to ninety days occupancy) for migrant workers subject to building code compliance and public health department compliance.
- D. Roadside stands.
- E. Accessory buildings or uses customarily incidental to each of the above permitted uses.

Section 5.3 – Special Exception Uses

- A. Churches, schools, libraries and publicly owned buildings.
- B. Hospitals, medical and dental clinics, convalescent homes and similar structures designed for human or animal care.
- C. Home occupations, provided, however, that there shall be no external evidence of such occupation except a nameplate or sign not exceeding two (2) square feet in area and that the use of the occupation shall not require or effect a change in the external character or appearance of the dwelling. (See Home Occupations under Article 3 - Definitions.)
- D. Public utility buildings.
- E. Community country clubs, fraternal lodges and similar civic or social organizations when not operated for profit.
- F. Parks, playgrounds, golf courses, public and private swimming pools, and similar facilities for outdoor exercise and recreation.
- G. Buildings and structures customarily incidental to farming provided that no obnoxious fumes, dust, smoke, noise or odors are emitted to such a degree as to be considered offensive, unhealthful or harmful to the public health.
- H. Farm equipment sales and services.

- I. Intensive livestock operations subject to Right to Farm Act compliance and generally accepted agricultural management practices.
- J. Communications tower.
- K. Accessory buildings and uses customarily incidental to each of the above special exception uses.
- L. Family Business. The following minimum standards shall be included in a special exception use permit granted to a family business:
 - 1. All work in connection with any family business permitted hereunder shall be conducted solely within an enclosed building or buildings.
 - 2. No outdoor storage shall be allowed unless the family business involves storage needs that cannot reasonably be accommodated within a building or structure. In such event an allowed outdoor storage area shall be located to the rear of the building in which the business is conducted, and shall be adequately screened to effectively block all view from adjoining roads or properties as defined in the site plan section and definitions in the ordinance.
 - 3. The business shall not operate between the hours of 9:00 p.m. and 7:00 a.m.
 - 4. There shall be no expansion of the family business facility permitted hereunder without further approval of the Township Planning Commission.
 - 5. Noise, smoke, odor, electrical disturbance or lighting shall not be discernible beyond the boundaries of the property from which the business is conducted.
 - 6. The building or buildings where the business is to be conducted shall be located at least 150 feet from any existing residence on adjoining property and at least 50' from the principal residence.
 - 7. The minimum acreage required for allowing a family business is 1 acre.
 - 8. The building or buildings where the family business is conducted will be no larger than 1% of the square foot acreage in total and will not exceed 6000 ft² in total and will not consist of more than two buildings.
 - 9. Prior to the issuance of the special exception use permit, the building where the business is to be conducted shall be inspected by the Township's construction code officials /inspectors and shall meet all requirements of Michigan's Construction Code for the type of business being conducted.
 - 10. The business shall be located on the same parcel as the family's dwelling.
 - 11. At least one family member residing on the parcel must be engaged in the family business but no more than a total of (6) six individuals may work on the premises in connection with the family business.
 - 12. The site (plan) review shall, at a minimum, consist of reviewing the type of family business to ensure the family business is conducive to the area and has minimal impact on the neighbors and neighborhood.
 - 13. Instead of running with the land, the family business special exception use shall be identified as conditional and only valid with the owner who has requested the special exception. Once permission is granted, the conditional use shall be registered with the County Register of Deeds.

Section 5.4 – Lot, Yard and Area Requirements

Except as elsewhere specified herein, the lot, yard and area requirements shall be as specified in ARTICLE 25.

**(Note: Article 5 amended by Ordinance No. 2003-2, effective 4/12/03
Ordinance No. 2008-2, effective 7/3/08)**

ARTICLE 6

“R-1” RESIDENTIAL DISTRICT

Section 6.1 – Description of District

This District is composed of certain lands where low to medium density residential development either has occurred or appears likely to occur in the near future. The regulations for this District are designed to protect and stabilize the essential characteristics of these areas and to promote and encourage a suitable and safe environment for family life.

Section 6.2 – Permitted Uses

- A. Single-family dwelling, according to Section 18.6.
- B. Two-family dwelling, duplex (minimum 720 sq feet per unit).
- C. Accessory buildings and uses customarily incidental thereto, 6% of the lot size not to exceed a consolidated sum of twenty four hundred (2400) square feet of floor area for all accessory buildings.

Section 6.3 – Special Exception Uses

- A. Churches, schools, libraries and publicly owned buildings.
- B. Hospitals, medical and dental clinics, convalescent homes and similar structures designed for human or animal care.
- C. Home occupations, provided, however, that there shall be no external evidence of such occupation except a nameplate or sign not exceeding two (2) square feet in area and that the use of the occupation shall not require or effect any change in the external character or appearance of the dwelling. (See Home Occupations under Article 3 - Definitions.)
- D. Public utility buildings.
- E. Community country clubs, fraternal lodges and similar civic or social organizations when not operated for profit.
- F. Parks, playgrounds, golf courses, public and private swimming pools, and similar facilities for outdoor exercise and recreation.
- G. Accessory buildings and uses customarily incidental to each of the above special exception uses.

Section 6.4 – Lot, Yard and Area Requirements

Except as elsewhere specified herein, the lot, yard and area requirements shall be as specified in ARTICLE 25.

(Note: Article 6 amended by Ordinance No. 2015-2, effective 1/10/16)

ARTICLE 7

“R-2” RESIDENTIAL RESORT DISTRICT

Section 7.1 – Description of District

This District is composed of certain lands where residential development either has occurred or appears likely to occur in the near future with the accent being on the resort character of such areas. Generally, these areas will be located adjacent to a lake, stream, river, pond or other area where recreational activities normally occur. The regulations for this District are designed to protect and stabilize the essential characteristics of these areas and to promote and encourage a suitable and safe environment for family life and recreation.

Section 7.2 – Permitted Uses

- A. All permitted uses in the “R-1” Residential District.
- B. Noncommercial docks.

Section 7.3 – Special Exception Uses

- A. All special exception uses set forth in the “R-1” Residential District.
- B. The following commercial enterprises provided, however, that the Township Planning Commission specifically finds that there will be no adverse effect on surrounding residentially zoned or developed properties, or the natural environment, and that the spirit and intent of the Ordinance are complied with:
 - 1. Campgrounds.
 - 2. Resort Hotels.
 - 3. Boat Liveries.
 - 4. Boat Shops.
 - 5. Bait Shops.
 - 6. Marinas.
 - 7. Snowmobile Sales and Service Shop.

7.4 – Lot, Yard and Area Requirements

Except as elsewhere specified herein (especially Article 22), the lot, yard and area requirements shall be as specified in ARTICLE 25.

(Note: Article 7 amended by Ordinance No. 2015-3, effective 1/10/16)

ARTICLE 8

“C” COMMERCIAL DISTRICT

Section 8.1 – Description of District

This District is established for the accommodation of community wide needs for general retail sales and service facilities, office facilities and general service facilities. The regulations are designed to permit development of the enumerated functions to protect the abutting and surrounding properties.

Section 8.2 – Permitted Uses

- A. Stores, showrooms and shops for the conduct of retail business when conducted within fully enclosed buildings.
- B. Personal service shops such as barber shops, beauty parlors, shoe repair shops, and laundry and dry cleaning shops.
- C. Offices.
- D. Banks, credit unions, savings and loan associations and similar uses.
- E. Hospitals, medical and dental clinics, convalescent homes and similar structures designed for human care.
- F. Art, photograph or interior decorating studios.
- G. Public utility buildings.
- H. Indoor storage facilities.
- I. Restaurants.

Section 8.3 – Special Exception Uses

- A. Food processing and packaging industries.
- B. Farm and automobile equipment sales and service businesses.
- C. Gravel and sandpits.
- D. Recycling areas.
- E. Air fields and airports.
- F. Outdoor theaters, dance halls, recreational halls and other enterprises of recreation and amusement.
- G. Outdoor advertising signs exceeding thirty-two (32) square feet in area.
- H. Hotels and motels.

- I. Gasoline and oil service stations, garages and new and used car lots, provided, however, that the storage, processing or sale of used automobile parts is prohibited.
- J. Bars (1,000 feet from residentially zoned areas, churches or schools).
- K. Accessory buildings and uses customarily incidental to each of the above special exception uses.

Section 8.4 – Lot, Yard and Area Requirements

Except as elsewhere specified herein, the lot, yard and area requirements shall be as specified in ARTICLE 25.

(Note: Article 8 amended by Ordinance No. 2015-2, effective 1/10/16)

ARTICLE 9

“I” INDUSTRIAL DISTRICT

Section 9.1 – Description of District

This District is composed of certain lands that are located along State highways, major county thoroughfares and railroad right-of-way. The District is designed to provide land for industries of a manufacturing nature where all work is carried on within an enclosed building and producing as little external impact as possible of an objectionable nature.

Section 9.2 – Permitted Uses

- A. Offices and office buildings.
- B. Manufacturing, compounding, assembling or treatment of articles or merchandise, where all work is carried on within an enclosed building, and where any outdoor storage is limited to not more than fifteen percent (15%) or the lot area and is maintained within the rear yard area or within twenty (20) feet of any side yard or fifty (50) feet of any public or private road.
- C. Public utility buildings.
- D. Fully enclosed warehouses.
- E. Accessory buildings not exceeding seven hundred twenty (720) square feet of floor area and uses customarily incidental to each of the above permitted uses.

Section 9.3 – Special Exception Uses

- A. Slaughterhouse, tanneries, glue factories, rendering works.
- B. Privately operated waste disposal sites of a commercial nature.
- C. Junk or salvage yards.
- D. Outdoor advertising signs exceeding thirty-two (32) square feet in area.
- E. Storage facilities (with up to fifteen (15) percent of lot area (rear yard only) available for outdoor storage).
- F. Communications tower.
- G. Any industrial use which meets the intent and purpose of this District but is not specifically enumerated herein, provided that all work is carried on with in an enclosed building and further provided that the same does not emanate noise, vibration, odors, smoke, liquid waste or light to such an extent as to be objectionable to surrounding properties. A determination of the Zoning Board of Appeals established under State statute and this Ordinance shall be conclusive on any question of nuisance of any business or operation under the terms of this Section.

H. Adult Entertainment Business conducted within a fully enclosed building not within 1,000 feet of residentially zoned areas, churches, schools, restaurants, and drive-in restaurants and not within 1,000 feet of another adult entertainment business.

Section 9.4 – Lot, Yard and Area Requirements

Except as elsewhere specified herein, the lot, yard and area requirements shall be as specified in Article 25.

**(Note: Article 9 amended by the following Ordinances:
Ordinance No. 2006-3, effective 12/31/06,
Ordinance No. 2015-2, effective 1/10/16)**

ARTICLE 10

“R-3” RESIDENTIAL MOBILE HOME PARK DISTRICT

Section 10.1 – Description of District

This District is designed solely for mobile home parks and manufactured housing communities and such accessory structures and uses normally associated therewith, in accordance with those regulations specified by the Michigan Manufactured Housing Commission.

Section 10.2 – Permitted Uses

Mobile home parks (manufactured housing communities) in compliance with current Michigan Manufactured Housing Commission rules and regulations and those uses customarily incidental to such principal use.

Section 10.3 – Regulations Required of Mobile Home Parks

Rules and regulations of the Michigan Manufactured Housing Commission shall be required.

ARTICLE 11 AND ARTICLE 12

(R E S E R V E D)

ARTICLE 13

PRIVATE ROAD STANDARDS AND PROCEDURES

Section 13.1

A. Access Requirements: All parcels of land which are not part of a recorded plat shall have access to a dedicated public street or access to a private road as described herein.

B. Required Approval: No person shall commence construction of a private road within the Township without prior approval by the Township Board. Applications for approval shall conform to the rules of procedure as promulgated by the Township Engineer and as adopted by the Township.

A construction permit for a private road as approved by the Township Board shall be valid for a period of not more than two years. The developer of a private road shall be responsible for maintenance of the private road until such time a dwelling is built and occupied or a maintenance agreement is in effect. The developer is also responsible for policing all parcels that remain unsold of all dumping and trash.

C. Standards:

1. All private roads shall meet the specifications of the St. Joseph County Road Commission.
2. No private road shall:
 - a. Provide access to more than one dedicated public road.
 - b. Provide access to another private road.
 - c. Be located within twenty five (25) feet of a lot line.
3. The applicant shall submit at least two proposed names for a private road to the Township Board.
4. The applicant shall submit a drawing of said private road, as well as a letter of intent stating general specifications for said private road, including total proposed length. In no event shall any private road be extended beyond the length as shown on said drawings and letter of intent.
5. For any parcel of land not fronting on an established public road, an easement for the construction and maintenance of various public utilities including natural gas, electric, telephone, sewer, water, storm sewer, or similar improvement shall be provided. No building permit shall be granted for any parcel fronting on the private road until such easement has been provided by the application.

D. Deed Restrictions:

1. Prior to the approval of the proposed private road, the applicant shall submit to the Township a set of deed restrictions in a form acceptable to the Township which shall provide for the creation of the private road easement and the creation of a homeowners association whose members shall be the property owners abutting said road. The association shall be responsible for the upkeep and maintenance of said road. No more than one association shall be responsible for any one private road.

The Township shall be given the authority to assess the parcels of owners who become delinquent in the payment of their portion of the maintenance and upkeep costs and fees expended by the Township relating to this assessment. Said restrictions shall be recorded prior to the completion of the road.

2. The applicant shall also submit to the Township a document, in a form sufficient for recording with the County Register of Deeds stating that in no event shall the association, the individual homeowners, the applicant or their heirs or assigns hold the Township liable for the costs of road signs, traffic control signs, maintenance, lighting or snow removal.
3. Owners of private roads existing as of the date of the adoption of this Ordinance may petition the Township Board for permission to enter into a maintenance agreement, with authority given to the Township Board to assess the parcels of owners who become delinquent in the payment of their portion of the maintenance and upkeep costs, as provided in this Ordinance by submitting to the Township Board the following;
 - a. A petition, executed by 100 percent of the owners of said private road, requesting that the Township be given the authority to make the assessments provided for herein.
 - b. A set of proposed deed restrictions or in the alternative, a proposed maintenance agreement, in form acceptable to the Township Boards, in a form sufficient for recording with the County Register of Deeds, executed by 100 percent of the owners of the private road which shall provide for the maintenance and upkeep of the private road and which shall also give the Township Board the authority to make the assessments provided in this Ordinance. In the event of ownership by joint tenants, tenants-in-common, or tenants by the entireties, signatures of all those with an ownership interest in the private road shall be required. The maintenance agreement or deed restrictions shall be considered covenants running with the land.
 - c. One hundred percent (100%) of the owners of the private road shall also submit to the Township a document, in a form sufficient for recording with the County Register of Deeds, stating that in no event shall the association, if any, the individual owners, or their heirs or assigns hold the Township liable for the cost of road signs, traffic control signs, lighting or snow removal.

The Township Board shall have the discretion to accept or reject any request to assume partial or total responsibility for the making of the assessments provided for herein. If the Board accepts the request, the proposed deed restrictions and/or maintenance agreement shall be executed forthwith and recorded in the office of the County Register of Deeds, prior to the making of any assessments by the Township. Term owners of private road shall be construed to mean those properties that either abut or front said private road.

- d. Preparations of Plans and Legal Descriptions: All drawings, legal descriptions and private road specifications shall be prepared and sealed by a registered civil engineer and /or registered land surveyor.

e. Conditions for Issuing of Permit:

1. Except as provided in this Ordinance, no building permits shall be issued for parcels abutting private roads until the Township Engineer has reported to the Township Board that said private road meets the standards provided herein.
2. Building permits may be issued prior to the required reports by the Township Engineer when any or all of the following conditions are satisfied, and subject to the sub-base being installed within the private road and approved by the Township Engineer.
 - a. The subject parcel also abuts a dedicated public county road and,
 1. Construction permits have been obtained by the applicant for by the applicant for the building permit from the County Road Commission for the construction of an entrance from the subject parcel onto the County right-of-way;
 2. The applicant's plans provided that no other parcel shall have access permitted through said entrance to the county right-of-way unless the driveway is improved to the standards contained herein.
 - b. The building permit applicant supplies a performance bond guaranteeing the completion of the private road according to the standards provided herein. The surety bond, to be executed by a surety company authorized to do business in the State of Michigan shall be in an amount determined by the Township Board to be reasonably necessary to insure compliance hereunder.
 - c. In fixing the amount of such surety bond, the Township Board shall take into account the size of the proposed private road, the current prevailing costs of completing the road upon default of the applicant, the estimated expense to compel the applicant to comply with the terms of this Ordinance by court order or such other conditions and facts as might be relevant in determining the sum reasonable in light of all facts and circumstances surrounding each application. In the alternative, the Township Board may accept a cash bond to be held by the Township under the terms of a written agreement between the applicant and the Township.
3. Notwithstanding the provisions of this Ordinance, certificates of occupancy will not be issued until the Township Engineer has reported the completion of the road as provided for in this Ordinance.

ARTICLE 14 AND ARTICLE 15

(R E S E R V E D)

ARTICLE 16

ZONING BOARD OF APPEALS

Section 16.1 – Establishment of a Zoning Board of Appeals

There shall be a Zoning Board of Appeals which shall consist of three regular members and up to two alternate members. The Zoning Board of Appeals shall have such powers and duties as prescribed by state law and in this Ordinance. Membership on the Zoning Board of Appeals, including any alternate members appointed, shall be governed by the Zoning Act. The Zoning Board of Appeals shall specify the grounds for each of its decisions or determinations.

Section 16.2 – Duties and Powers

The Zoning Board of Appeals shall have the following specified duties and powers:

- A. **Appeals:** The Zoning Board of Appeals shall hear and decide appeals from and review any order, requirement, decision, or determination made by the Zoning Administrator or other administrative officer or body of the Township in the administration of this Ordinance.
- B. **Interpretation:** The Zoning Board of Appeals shall have the power to:
 - 1. Hear and decide upon request for the interpretation of the provisions of the text of this Ordinance; and
 - 2. Determine the precise location of boundary lines between Zoning Districts upon appeal from a decision regarding the location by the Zoning Administrator.
- C. **Non-Use Variance.** The Zoning Board of Appeals shall have the power to authorize specific non-use (dimensional) variances from the requirements of this Ordinance.
- D. **Use Variances.** The Zoning Board of Appeals shall not have the power to authorized use variances.

Section 16.3 – Applications and Hearings

- A. An application to the Zoning Board of Appeals shall consist of a completed application form, provided by the Township, a fee as established by the Township Board, which shall be paid to the Township Clerk at the time of filing, and a scaled drawing with sufficient detail to indicate the nature and necessity of the request. The Zoning Board of Appeals may request additional detail on the drawing or other information that they deem necessary to make a decision on the application.
- B. Upon receipt of a complete application the Township shall cause notice of the hearing as follows:
 - 1. If the application requests a variance, notice shall be given as provided in the Zoning Act (currently MCL 125.3103).
 - 2. If the application is for an interpretation of the zoning ordinance or an appeal of an

administrative decision, notice shall be given as provided in the Zoning Act (currently MCL 125.3604(5)).

Section 16.4 – Appeals

- A. Appeals to the Board of Appeals may be taken by any person aggrieved, or by any officer, department or board of the Township. Applications for appeals shall be filed within twenty-one (21) days after the date of the decision which is the basis of the appeal. The appellant must file with the Zoning Administrator a notice of appeal specifying the nature and grounds for the appeal. The Zoning Administrator shall transmit to the Board of Appeals all the papers constituting the record upon which the action appealed from was taken.
- B. An appeal to the Zoning Board of Appeals stays all proceedings in furtherance of the action appealed from unless the body or officer from whom the appeal is taken certifies to the Zoning Board of Appeals after the notice of the appeal is filed that, by reason of facts stated in the certificate would in the opinion of the body or officer cause imminent peril to life or property, in which case proceedings may be stayed by a restraining order issued by the Zoning Board of Appeals or a circuit court.
- C. The Board of Appeals shall base its decision upon the record submitted to the person or body responsible for making the decision that is being appealed. No additional information or evidence shall be submitted by the appellant which was not otherwise available to the person or body making the decision from which the appeal was taken.

Section 16.5 – Review Standards for Variances

Non-Use Variance: A non-use or dimensional variance may be allowed by the Zoning Board of Appeals only in cases where there is reasonable evidence of practical difficulty in the official record of the hearing and that ALL of the following conditions are met:

- A. Variance will not permit establishment of use not allowed as permitted or special exception use in zoning district.
- B. Compliance with zoning ordinance would unreasonably prevent owner of property from using property.
- C. Granting of variance is not based on self-created hardship, but rather on unique characteristics of property such as:
 - 1. exceptional narrowness, shallowness or shape of a specific property on the effective date of this chapter;
 - 2. exceptional topographical conditions;
 - 3. by reason of the use or development of the property immediately adjoining the property in question; or
 - 4. any other physical situation on the land, building or structure deemed by the Zoning Board of Appeals to be exceptional or extraordinary.
- D. In granting a variance, conditions may be imposed to ensure applicant does not receive relief beyond that which is necessary to achieve justice under the zoning ordinance.

Section 16.6 – Decisions

- A. The concurring vote of a majority of the membership (two (2) votes) of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator, to decide in favor of any application on any matter upon which the Board is required to pass under this Ordinance; and to effect any variance from this Ordinance.
- B. The Zoning Board of Appeals shall return a decision upon each case within a reasonable time after the scheduled hearing has been held.
- C. The decision of the Zoning Board of Appeals shall be effective immediately and the decision shall become final. An appeal of a decision by the Zoning Board of Appeals shall be filed with the circuit court within 30 days after the Zoning Board of Appeals certifies its decision in writing to the Township Clerk, or approves the minutes of its decision, whichever occurs first.
- D. An applicant who receives a favorable decision shall have up to one year from the date of the decision to start construction or initiate other action for completion as authorized by the decision. The applicant may apply for a 6-month extension. However, if construction or other action has not been initiated in the one year time frame, then said decision shall become null and void.
- E. No application which has been denied wholly or in part by the Board shall be resubmitted for a period of one year from the date of the last denial, except on grounds of changed conditions that would significantly change the nature of the request or affect the reason for denial first ordered by the Board.

**(Note: Article 16 amended by the following Ordinances:
Ordinance No. 2007-3, effective 3/21/07,
Ordinance No. 2015-2, effective 1/10/16)**

ARTICLE 17

ADMINISTRATION AND ENFORCEMENT

Section 17.1 – Zoning Administrator

The provisions of this Ordinance shall be administered and enforced by a Township Zoning Administrator who shall be appointed by the Burr Oak Township Board to serve at its pleasure.

Section 17.2 – Certificates of Approval

- A. No building or structure, subject to the provisions of this Ordinance, shall hereafter be erected or moved and used upon any premises until application for a certificate of approval has been filed with the Township Zoning Administrator and the Administrator has issued each certificate. Such certificate shall be nontransferable and must be granted before any work or excavation, construction or movement is begun.
- B. The application shall be signed by the owner of the premise or his qualified agent, and shall certify that all provisions of this Ordinance and other applicable law and requirements are to be complied with.
- C. The application shall be made in triplicate on forms provided by the Township which forms shall provide space for declaring such information and intent required to determine compliance with the Ordinance.
- D. The Zoning Administrator shall determine whether the building or structure and the land use thereof as set forth in the application are in conformity with the provisions of this Ordinance and if he so finds, he shall issue a certificate of approval; and when such certificate is refused, he shall state the cause in writing. One (1) copy of the application with proper notations thereon or attached thereto, including approval or disapproval and date, shall be placed on file with Township Clerk as a record. One (1) copy shall be returned to the applicant. Accessory buildings, when erected at the same time as the principal buildings, and shown on the application, shall not require a separate certificate.
- E. Certificates of approval under which no work has been done above the foundation walls within six (6) months from the date of issue shall expire by limitation. However, they may be renewed for an additional six (6) months from the date of expiration upon application and payment of fifty percent (50%) of the total of the original fee to the Township Treasurer, subject, however, to the provisions of the Zoning Ordinance when in force.
- F. The Zoning Administrator shall have the power to revoke or cancel any certificate of approval in case of failure or neglect to comply with any of the provision of this Ordinance, or in any case of any false statement or misrepresentation made in the application. The owner of the premises shall be notified of such revocation in writing.
- G. It shall be the duty of all architects, contractors, and other persons having charge of erection, alteration or movement of a building or structure, subject to the provisions of this Ordinance, to determine that proper certificate has been granted therefore before undertaking any such work. All such persons performing any work in violation of the provisions of this Ordinance shall be deemed guilty of violation in the same manner as the owner of the premises.

- H. For each certificate of approval issued, the prescribed fees shall be paid to the Township Treasurer to the credit of the general fund of the Township.
- I. It shall not be necessary to obtain a certificate of approval to do any repair or maintenance work on any existing structure if the original shape and size of the foundation and the purpose of the building is not altered.
- J. The regulations contained in this subsection shall be in addition to any requirements imposed by any Township Building Code.

Section 17.3 – Remedies and Enforcement

- A. Any use of land or a dwelling, building, or structure, including a tent or recreational vehicle, used, erected, altered, razed, or converted in violation of this Ordinance is a nuisance per se.
- B. A violation of this Ordinance constitutes a municipal civil infraction.
- C. Any person who violates, disobeys, omits, neglects or refuses to comply with any provision of this Ordinance, or any permit or approval issued hereunder, or any amendment thereof, or any person who knowingly or intentionally aids or abets another person in violation of this Ordinance, shall be in violation of this Ordinance and shall be responsible for a civil infraction.
- D. The civil fine for a municipal civil infraction shall be determined in accordance with the following schedule:

	<u>Minimum</u>	<u>Maximum</u>
* 1 st Offense within 3-year period	\$ 75.00	\$500.00
* 2 nd Offense within 3-year period	\$150.00	\$500.00
* 3 rd Offense within 3-year period	\$325.00	\$500.00
* 4 th Offense within 3-year period	\$500.00	\$500.00

*Determined on the basis of the date of commission of the offense(s)

- E. A person violating this Ordinance shall be responsible to reimburse the Township for its reasonable attorney fees for obtaining the remedies permitted by this Section. Additionally, a violator shall pay costs which may include all expenses, direct and indirect, which the Township incurs in connection with the municipal civil infraction.
- F. Nothing in this Ordinance shall be interpreted or construed to limit the Township’s right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order, or other appropriate remedy to compel compliance with this Ordinance,
- G. Each day that a violation exists shall constitute a separate offense.

(Note: Article 17 amended by Ordinance 2007-3, effective 3/21/07)

ARTICLE 18

SUPPLEMENTARY REGULATIONS

Section 18.1 – Parking of Motor Vehicles

- A. Every property owner shall provide and maintain at all times an adequate number of off-street parking spaces, and the necessary loading and unloading facilities associated thereto, in each district for all the occupants, employees and patrons of said property.
- B. A plan showing the required parking and loading spaces including the means of access and interior circulation, except for one family and two family dwellings, shall be provided at the time of application for a building permit for the erection or enlargement of any building.
- C. Parking space shall be provided in the manner and location herein specified.
 - 1. No parking area, parking space or loading space which exists at the time this Ordinance becomes effective or which subsequent thereto is provided for the purpose of complying with the provisions of this Ordinance shall thereafter be relinquished or reduced in any manner below the requirements established by this Ordinance, unless additional parking area or space is provided sufficient for the purpose of complying with the provisions of this Ordinance within three hundred (300) feet of the proposed or existing uses for which such parking will be available.
 - 2. Parking of motor vehicles in residential zones, except those used for farming, shall be limited to passenger vehicles, and not more than one (1) commercial vehicle not to exceed two (2) tons. The parking of any other type of commercial vehicle, or buses, except for those parked on school property, is prohibited in a residential zone.
- D. Requirements for all parking spaces and parking lots:
 - 1. Each automobile parking space shall be not less than one hundred eighty (180) square feet not less than nine (9) feet wide exclusive of driveway and aisle space.
 - 2. All off-street parking facilities shall be drained so as to prevent damage to abutting properties or public streets and shall be constructed of materials which will have dust free surface resistant to erosion.
 - 3. Any lighting fixtures used to illuminate any off-street parking area shall be so arranged as to reflect the lights away from any adjoining residential lots.
 - 4. No parking space shall be closer than five (5) feet to any property line.
 - 5. Off-street parking facilities in non-residential zones shall be effectively screened on any side which adjoins or faces property in any residential zone by a wall, fence, or compact planting not less than four (4) feet more than eight (8) feet in height, and such screening shall not be so placed or maintained as to provide a traffic hazard through obstruction of visibility.
 - 6. All off-street parking areas that make it necessary for vehicles to back out directly into a public road are prohibited, provided that this prohibition shall not apply to off-street parking areas of one or two family dwellings.

7. Space for all necessary loading and unloading operations for any commercial, industrial or other use must be provided in addition to the required off-street parking space. All loading and unloading operations must be carried on entirely within the lot area of the use it serves and shall not interfere with pedestrian or vehicular movement.
8. Requirements for the provision of parking facilities with respect to two (2) or more property uses of the same or different types, may be satisfied by the permanent allocation of the requisite number of spaces for each use in a common parking facility, cooperatively established and operated, provided that the number of spaces designated is not less than the sum of individual requirements and provided further, that the specifications in regard to location, plan, etc., are complied with.
9. The number of parking spaces required for land or buildings used for two or more purposes, shall be the sum of the requirements for the various individual uses, computed in accordance with this Section; parking facilities for one use shall not be considered as providing the required parking facilities for any other use.

E. Minimum required parking spaces:

1. Apartment Houses, Two Family Semi-Detached Dwellings, and Garden Apartment Developments – two (2) spaces per family unit.
2. Office Buildings – One (1) parking space for each two hundred (200) square feet of floor space utilized for work space of employees.
3. Retail Stores, Super Markets, Department Stores, Personal Service Shops and Shopping Centers – One (1) parking space for each one hundred (100) square foot area in the basement and on the first floor used for retail sales, and one (1) space for each one hundred fifty (150) square feet of floor area on the second floor used for retail sales and one (1) space for each three hundred feet of floor area on the third floor used for retail sales and one (1) space for each four hundred (400) square feet on any additional floor used for retail sales.
4. Manufacturing Buildings – One (1) parking space for each three (3) employees on the maximum shift.
5. Libraries, Museums and Post Offices – One parking space for each one hundred (100) square feet of floor area.
6. Bowling Alleys – three (3) parking spaces for each alley.
7. Motels and /Tourist Homes - One (1) parking space for each separate unit.
8. Theaters, Auditoriums, Stadiums and Churches – One (1) parking space for each four (4) seats.
9. Dance Halls, Assembly Halls and Convention Halls without fixed seats – one (1) parking space for each one hundred (100) square feet of floor area if to be used for dancing or assembly.
10. Restaurants and Night Clubs - One (1) parking space for each one hundred (100) square feet of floor area.

11. Schools: Private or Public Elementary and Middle School – One (1) parking space for each employee normally engaged in or about the building or grounds.
12. Senior High Schools and Institutions of Higher Learning – One (1) parking space for each employee normally engaged in or about the building or grounds and one (1) additional space for each five (5) students enrolled in the institution.
13. Family Business – One parking space for each employee not living on the property and no more than four parking spaces for guests.

Section 18.2 – Signs and Outdoor Advertising Structures

- A. In any residential zone, no signs or outdoor advertising shall be permitted except for one (1) incidental sign not exceeding two (2) square feet in area to advertise only home occupations or professional services; such sign may be attached to the building, or may be located on the property of such use, but may be no closer to the street than the building setback line.
- B. In any zone where agricultural use is permitted, no signs or outdoor advertising shall be permitted except for one (1) incidental sign advertising the sale of farm products grown on the premises; such sign shall not exceed forty-eight (48) square feet in area and shall be so located that it will not interfere with the full view of traffic.
- C. In any zone, one (1) temporary real estate sign not exceeding six (6) square feet in area shall be permitted for each lot, parcel or tract under twenty-five thousand (25,000) square feet in area. Such sign may be increased in size, or additional signs permitted for each additional twenty-five thousand (25,000) square feet of property advertised. No single sign shall exceed two hundred fifty (250) square feet in area, and in no event shall more than two (2) such two hundred fifty (250) square foot signs be permitted on (1) parcel or tract advertised regardless of property area.
- D. Building contractors' and professional persons' temporary signs on buildings under construction shall be limited to a total area for all such signs to forty-eight (48) square feet.
- E. In any commercial or industrial district, a sign is permitted only where it advertises a business occupying the same lot or parcel of land upon which the sign is erected. Signs shall meet the building setback and height requirements, except for, and in addition to, the requirements provided below.
 1. In any commercial or industrial district a sign may be affixed flat against the wall of a building, or may project there from not more than forty-two (42) inches. Signs projecting over public property shall be a least eleven (11) feet above the finished grade, or sidewalk. The total sign area shall not exceed two (2) square feet for each foot in length or height (whichever is greater) of the wall to which it is affixed. No such sign shall extend more than four (4) feet in height above the building wall to which it is affixed.
 2. One (1) identification sign may be erected for a shopping center or other integrated group of stores or commercial buildings, which sign may be a freestanding or pylon sign. The area of said sign shall be based on one (1) square foot for each front foot of building or buildings for which it is established; however, it shall not exceed four hundred (400) square feet in area, nor be closer to the front, side or rear property

line, than one-half the distance of the required building setback.

3. One (1) identification sign may be erected for each separate commercial enterprise situated on an individual lot and operated under separate ownership from any adjoining commercial enterprise. Such sign shall not exceed forty (40) square feet in the "C" Commercial District not be closer to the front, side or rear property line than one-half the distance of the required building setback in said district.
 4. Outdoor advertising signs (billboards), being any sign over thirty-two (32) square feet in area not specifically permitted by another section of this Ordinance, are permitted only in commercial or industrial zones, and only under the following conditions:
 - a. Except as otherwise provided herein, signs and outdoor advertising structures are required to have the same setback as other principal structures or buildings in the zone in which they are erected.
 - b. Where two or more outdoor advertising structures are located along the frontage of a single street or highway, they shall not be less than five hundred (500) feet apart. A double face, (back to back) or a v-type structure shall be considered as a single structure.
 - c. The total surface area facing in the same direction, of any outdoor advertising structure shall not exceed five hundred (500) square feet.
 5. No sign or outdoor advertising structure shall be erected at any location where by reason of the position, size, shape or color, it may interfere with, obstruct the view of or be confused with any authorized traffic sign, signal or device or so as to interfere with, mislead or confuse traffic.
 6. Signs of medical practitioners, commercial and industrial establishments and outdoor advertising structures may be illuminated; however, such illumination shall be concentrated upon the surface of the sign and to avoid glare or reflection onto any portion of any adjacent highway, or into the path of oncoming vehicles, or onto any adjacent premises.
 7. In no event shall any sign, or outdoor advertising structure, have flashing, or intermittent lights, or be permitted to rotate, or oscillate.
 8. Signs of a public or quasi-public nature noting special events of general interest such as a county fair, public or general election, horse show, etc., are permitted in all zones, but shall not exceed eighty (80) square feet in area except by special exception. Such sign shall be removed within ten (10) days after the event.
- F. In any agricultural zone where a Family Business is permitted as a special exception use, one (1) incidental sign not exceeding four (4) square feet in area to advertise only the family business; such sign may be attached to the building, or may be located on the property of such use, but may be no closer to the street than the building setback line.

Section 18.3 – Storage of Refuse and Motor Vehicles

This Section deleted.

Section 18.4 – Essential Services

The erection, construction, alteration or maintenance by public utilities or municipal departments or commissions, of overhead or underground gas, electrical, steam or water

distribution of transmission systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police all boxes, traffic signals, hydrants, towers, poles and other similar facilities and accessories in connection therewith reasonably necessary for the furnishing or adequate service by such public health or safety or general welfare, shall be permitted as authorized or regulated by law, and other ordinances of the Township of Burr Oak in any use district, it being the intention hereof to except such erection construction, alteration and maintenance from the application of this Ordinance. Public utility buildings, however, are so regulated as set forth in this Ordinance.

Section 18.5 – Recreational Vehicles

Use. Recreational Vehicles shall not be used for dwelling purposes outside of properly licensed campground that is in compliance with this ordinance except as follows:

A. In the Agricultural, Residential and Residential Resort Districts, a Recreational Vehicle may be used to house guests of the owner or lessee of the property subject to all of the following conditions:

1. The owner(s) of the property or the person or persons leasing the property from its owner(s) pursuant to a written lease shall apply for and receive a temporary dwelling permit for the Zoning Administrator which shall be valid for the calendar year within which the permit was issued;
2. The application for the permit shall state the dates that the Recreational Vehicle will be used as a temporary dwelling while the permit is valid and shall provide the names of the individuals who will be staying in the Recreational Vehicle on each date;
3. The applicant(s) shall pay a permit fee set by the Township Board;
4. There must be a primary dwelling present on the property;
5. Only one Recreational Vehicle may be used to house guests at one time;
6. The use shall be limited to no more than 21 days in a calendar year (whether consecutive or non-consecutive);
7. The Recreational Vehicle shall have a current, valid license plate;
8. The Recreational Vehicle shall not be connected to a sewer or septic system; and
9. The Recreational Vehicle shall not be parked in any required front, side or rear yard setback as specified for the principal structure.

B. In the Agricultural, Residential and Residential Resort Districts, a Recreational Vehicle may be used as to house occupants of the principal dwelling present on the property if all of the following conditions are met:

1. The primary dwelling is being constructed, re-constructed or remodeled pursuant to a validly issues building permit;
2. The owner or a person leasing the property from its owner(s) applies for, pays for, and receives a temporary dwelling permit from the Zoning Administrator which shall

be valid for no more than six months from the date the permit is issued;

3. The Recreational Vehicle shall have a current, valid license plate; and
4. The Recreational Vehicle shall not be parked in any required front, side or rear yard setback as specified for the principal dwelling.

C. Storage. In the Residential and Residential Resort Districts, all of the following conditions shall apply with regard to the outside storage of Recreational Vehicles:

1. Only one Recreational Vehicle may be stored on a lot or parcel;
2. The Recreational Vehicle must be titled in the name of an owner of the property where it is being stored or in the name of a person who is leasing the entire parcel of property where the Recreational Vehicle is being stored from the owner of the property pursuant to a written lease;
3. A Recreational Vehicle shall not be stored outside on a parcel or lot that does not contain a primary dwelling; and
4. The Recreational Vehicle shall not be stored in any required front, side or rear yard setback as specified for the principal structure.

Section 18.6 – Requirements for Single-Family Homes

The purpose of this provision of the Zoning Ordinance is to provide reasonable standards which ensure that all single-family homes regardless of construction type (e.g. site-built or factory built) are compatible within the same residential zone.

Conditions: Sufficient evidence must be submitted to the Building Inspector to ensure that the following standards are met by single-family homes prior to location on a site in the Township.

- A. All homes permitted under this Section shall meet all requirements imposed under the appropriate zoning district.
- B. All mobile homes shall be in compliance with all state and federal laws including: Mobile Home Construction and Safety Standards: as promulgated by the U.S. Department of Housing and Urban Development, being 24 CFR 3280, and as the same may, from time to time, be amended, and regulations pertaining to mobile homes as well as local and state plumbing and fire codes before being moved into the Township.
- C. All homes permitted under this Section shall be firmly attached to their foundations in compliance with the provisions of the Township building code and state law.
- D. Any accessory uses involving the construction of accessory buildings and /or additions to the home shall meet the requirements of this Ordinance and the Township building code.
- E. All homes shall have a minimum living area of 1000 square feet and a minimum core area of 24 feet by 24 feet (length and width).

- F. The standards do not allow or permit the placement or construction of a home in those areas where deed restrictions or other covenants prevent it.

Section 18.7 – Land Division Regulations

This section deleted

Section 18.8 – Performance Guarantee

In the interest of insuring compliance with this Zoning Ordinance and protecting the natural resources and the health, safety and welfare of the residents of the Township and future users or inhabitants of an area for which a site plan for a proposed use has been submitted,

the Zoning Board as a condition of approval of performance guarantee as set forth herein to insure completion of improvements connected with proposed use required by this Ordinance including but not limited to roadways, lighting, utilities, sidewalks, drainage, fences, screens, walls, landscaping, and widening strips.

- A. Performance guarantee as used herein shall mean a cash deposit, certified check, or irrevocable bank letter of credit in the amount of the estimated cost of the improvements to be made as determined by the applicant and confirmed and verified by a representative of the Township.
- B. Where the Planning Commission, as a condition of approval of a proposed use of land requires a performance guarantee, said performance guarantee shall be deposited with the Clerk of the Township prior to the issuance of a building permit by the Township for the development and use of the land. Upon the deposit of the performance guarantee the Township shall issue the appropriate building permit and the Township Clerk shall thereafter retain said deposit, however, if said deposit is in the form of cash or certified check, then it shall be transferred to the Township Treasurer for deposit in an interest bearing account.
- C. Where a performance guarantee is required by the Planning Commission as a condition of approval for a proposed use, the Planning Commission shall also prescribe the period of time within which the improvements for which the performance guarantee has been required are to be completed, said period to run from the date of the issuance of the building permit.
- D. In the event the performance guarantee deposited is a cash deposit or certified check, the Township shall rebate to the applicant amounts of money in reasonable proportions to the ratio of the work completed on the improvements by applicant as confirmed by the Township Engineer.
- E. Upon the satisfactory completion, as determined by the Township, of the improvement for which the performance guarantee was required, the Clerk shall notify the Treasurer of the Township to return to the applicant the performance guarantee deposited and any interest earned thereon.
- F. In the event the applicant defaults in making the improvements for which the performance guarantee was required within the time period established by the Township, the Township shall have the right to use the performance guarantee deposited and any interest earned thereon to complete improvements through contract

or otherwise, including specifically the right to enter upon the subject property to make the improvement.

- G. In the event the applicant defaults in making the improvements and the performance guarantee is not sufficient to allow the Township to complete the improvements for it was posted, the applicant shall be required to pay to the Township the amounts by which the cost of completing the improvements exceed the amount of the performance guarantee deposited.

Section 18.9 – Fences

Fences are permitted in any zoning district. Fences shall not exceed six (6) feet in height in residential zoning districts and eight (8) feet in height in industrial zoning districts. Any fence located in the required front yard setback may not exceed three (3) feet in height within ten feet of the nearest edge of the road or street right-of-way or easement, unless required to be higher for screening purposes as a condition of site plan review approval. Fences may be located on a lot line.

Section 18.10 – One Main Building to a Lot

No more than one principal building may be permitted on a lot or parcel.

**(Note: Article 18 amended by Ordinance No. 2007-3, effective 3/21/07,
Ordinance No. 2008-1, effective 07/03/08,
Ordinance No. 2008-2, effective 7/3/08,
Ordinance No. 2015-3, effective 1/10/16,
Ordinance No. 2016-1, effective 10/20/16.)**

ARTICLE 19

BUILDING UPON UNPLATTED LAND

- A. No building permit shall be issued therefore and no building shall be constructed, placed or moved upon a parcel of land having less than two hundred (200) feet of frontage upon a public street or a State, county or federal public road or a private road in compliance with Article 13; nor where the same should be located upon a parcel of land having a front-to-depth ratio of greater than one-to-four, as measured for width at the building setback line, and for depth along a line perpendicular to the abutting street right-of-way line, unless such parcel of land is included within a duly approved and recorded plat or site condominium.
- B. The Zoning Board of Appeals is hereby given the right to grant a variance from the foregoing where there are practical difficulties or unnecessary hardship in the way of carrying out strict compliance with the foregoing, or where, in the opinion of said Board, the spirit of the foregoing provisions are still observed, public safety, health and welfare secured, and substantial justice thereby accomplished.
- C. The Zoning Board of Appeals is hereby further given the right and authority to require the conveyance or dedication to the public of a sixty-six (66) foot wide right-of-way for ingress and egress to and from interior land having otherwise insufficient or inadequate public access for normal, proper and logical development as a condition to granting of any variance as herein provided and to further secure the public health, safety and general welfare.
- D. The purpose of the within provision is to secure the more orderly development of property in unplatted areas through the encouragement and regulation of open spaces between buildings, the lessening of congestion, the encouragement of more efficient and conservative land use, the facilitating of transportation, sewage disposal, water supply and other public requirements, and by providing for future access to interior land which might not otherwise be adaptable to property and advantageous development.
- E. The foregoing provisions shall not apply to any parcel of land the boundaries of which have heretofore been established by any instrument recorded previous to the effective date of this Ordinance, in the office of the Register of Deeds for St. Joseph County, Michigan, or previously established by operation of law.

ARTICLE 20

SITE PLAN REVIEW

All developments in C, and I, and non-agricultural Districts and all non-residential land uses within the A, R-1, R-2, and R-3 Districts and all projects with two or more dwelling units or building sites (in the case of condominium dwelling units) shall require site plan approval by the Planning Commission prior to issuance of building permit and shall comply with the following requirements and standards. Approval will be based on the Articles of this Ordinance.

A. Approval by the Planning Commission shall be contingent upon a finding that:

1. The site plan shows that a proper relationship exists between local streets and any proposed service roads, driveways, and parking areas to encourage pedestrian and vehicular traffic safety, and
2. All the development features including the principal building or buildings and any accessory buildings, or uses, open trash or refuse containers, and any service road, driveways and parking areas are so located and related to minimize the possibility of any adverse effects upon adjacent property, such as, but not limited to, channeling excessive traffic onto local residential streets, lack of adequate screening or buffering of parking or service areas, or building groupings and circulations routes located as to interfere with police or fire equipment access. Public streets adjacent or through the proposed development shall be required upon a finding that it is essential to promoting and protecting public health, safety and general welfare through continuation of the public street system.
3. The site plans and elevations of the buildings (principal and accessory) shall be in harmony with the general character of the area.
4. Preservation of natural features, such as lakes, ponds, streams, floodplains, floodways, wetlands, woodlands, steep slopes, and natural drainage patterns to the fullest extent possible and minimize site disturbance as much as possible.

The required number of copies of the Site Plan Review and /or Special Land Use application together with the same number of copies of all the required drawings and illustrations shall be presented to the Township Clerk 20 days prior to the next regular meeting of the Commission to be forwarded to the Planning Commission, Township Planner and Township Engineer and /or Township Attorney where necessary. All of the following detailed information must be submitted.

B. Application Form (obtainable from the Township Clerk)

1. Applicant's name and address
2. Name of the proposed development
3. Common description and attach aerial photography of the property and surrounding vicinity
4. Complete legal description

5. Dimensions of land, width, length and acreage Existing zoning and zoning of adjacent properties
 6. Proposed use of land
 7. Name, address, city and phone number of the firm or individual who prepared site plan.
 8. Name and address of applicant if not the legal owner.
 9. Signature of the legal owner, if not the applicant
- C. Site Plan (Drawing(s) and Illustration (s) fully dimensioned)
1. Location may be drawn to scale of 4" – 1 mile (show nearest major intersection).
 2. Location of all existing and proposed structures and uses.
 3. All aisles, drives and parking areas (include the number of spaces in each.)
 4. Screening and /or protective walls.
 5. Principal and accessory buildings.
 6. Location of existing and proposed rights-of-way, widths of all abutting streets, alleys and easements.
 7. Types of facing materials to be used on structures.
 8. Elevations (front, sides and rear views) of all sides of the building(s).
 9. Typical floor plan(s).
 10. Seal of registered Architect, registered land surveyor, Landscape Architect, Professional Planner or Civil Engineer who prepared the plan. In cases of minor structural alterations where professional services are not required, the Planning Commission may waive this requirement.
 11. Density calculations.
 12. Existing buildings or improvements on the site and all land adjacent to the site within 100 feet.
 13. Designation of units by type of buildings.
 14. Interior sidewalls and sidewalks within right-of-way.
 15. Exterior lighting locations and methods of shielding.
 16. Trash receptacle locations and method of screening.
 17. Landscape plan.

18. Drive or street approaches including acceleration, deceleration and passing lanes, if appropriate.
 19. All utilities located on or serving the site.
 20. Loading and unloading area.
 21. Total floor area.
 22. Designation of fire lanes.
 23. Where large equipment or machinery is to be installed as part of the development, the location type, horsepower, fuel, dimension, noise, vibration and emission levels and other data of such equipment or machinery.
 24. Location and extent of development of recreation areas, where necessary.
 25. Coordinate with receipt of applicable county (drain, soil erosion) and state permits.
 26. Show and label all stormwater best management practices on the site plan (rain gardens, swales, etc.).
 27. Show all soil erosion and sedimentation control BMPs on the site plan.
 28. Require the use of native or site suitable plants in all vegetative stormwater BMPs to help reduce storm water velocities, filter runoff and provide additional opportunities for wildlife habitat and prevent invasive species being introduced to the Township.
 29. Require the location of natural features, such as lakes, ponds, streams, floodplains, floodways, wetlands, woodlands, steep slopes, and natural drainage patterns be illustrated on the site plan.
 30. Require Drain Commissioner review in site plan process if discharging to a County drain.
- D. Sign Information: Separate drawings of the proposed sign(s) to be erected on the site may be submitted at the time of site plan review or at a later date. The location of all signs shall be shown on the site plan but the following detailed information may be deferred until later.
1. Height of the sign above the ground.
 2. Surface of the sign (material and dimensions).
 3. Area of sign surface.
 4. Lettering of sign drawn as it will appear on the erected sign need not be in the style of the finished sign but must be neatly printed in the size and weight approximating that of the final constructed sign.
 5. Method of illumination, if any.

- E. Procedures: The application will be placed on the agenda of a regular meeting of the Planning Commission and consideration of acceptance, revision or disapproval will be given.

(Note: Article 20 amended by Ordinance No. 2015-2, effective 1/10/16)

ARTICLE 21

CONDOMINIUM REGULATIONS

Section 21.1 – Purpose

Article 21 is intended to provide for condominium projects within the Township, establish comparable regulations to guide development of such projects in a manner similar to comparable development allowed within the Zoning Ordinance, and to establish development standards and required information to assure adequate compliance within the purposes of this Ordinance including:

- A. orderly growth and harmonious development of the community as planned for in the Township Land Use Plan, and
- B. to secure adequate traffic circulation and safety through coordinated street systems with relation to the county and state paved road system, future development, public services and facilities, and
- C. to provide for development which can be timed in a manner consistent with planned or needed public improvements so as not to create an undue inconvenience, hazard or financial burden for present residents of the Township, and
- D. to secure adequate provisions for water supply, storm drainage, sanitary sewage disposal and other public health and safety needs, including safe and coordinated interconnection with existing and planned paved roadways, and to provide for the achievement of these purposes, and
- E. to provide for an environmental assessment and when necessary to evaluate the impact of proposed developments to assure minimum impact of the natural environment including but not limited to the wetlands, surface waters, groundwater, flora and fauna of the community.

Section 21.2 – Definitions

In addition to the terms defined in the Township Zoning Ordinance and Subdivision Ordinance the following terms shall have the meanings as shown in this Section. Terms defined in the Condominium Act, in addition to the terms defined herein, shall have the meanings as defined therein:

- A. **Building Site:** The condominium unit including the building envelope and contiguous limited common area or element. The functional equivalent of a lot when lot is used as a reference in the Zoning Ordinance the regulation shall also refer to building site.
- B. **Condominium Act:** Public Act 59 of the 1978 Acts of the Michigan Legislature, as amended (Section 559.101 et.seq. of the Michigan Compile Laws).
- C. **Condominium Plan:** The drawings and information prepared in compliance with the Zoning Ordinance which display the proposed site layout, survey and utility plans; floor plans; floodplain plans; and sections, as appropriate, showing the existing and proposed structures and improvements including the location thereof on the land.

The condominium plan shall show the size, location, area and horizontal boundaries of each unit as well as vertical boundaries and volume for each unit comprised of enclosed air space. A number shall be assigned to each condominium unit. The condominium plan shall include the nature, location and approximate size of common elements.

- D. Condominium Project: A plan or project consisting of not less than two condominium units if established and approved in conformance with the Condominium Act.
- E. Condominium Subdivision Plan: Shall mean the same as Condominium Plan.
- F. Condominium Unit: That portion of the condominium project designed and intended for separate ownership and use as described in the master deed and shall be equivalent to the term "lot" as used in the Township ordinances.

Section 21.3 – Required Information

Concurrently with notice required to be given the Township pursuant to Section 71 of Public Act 59 of 1978, as amended (MCL 559.171) a person, firm or corporation intending to develop a condominium project shall provide the following information with respect to the project:

- A. The name, address and telephone number of:
 - 1. All persons, firms or corporations with an ownership interest in the land on which the condominium project will be located together with a description of the nature of each entity's interest (for example, fee owner, optionee or land contract vendee).
 - 2. All engineers, attorneys, architects or registered land surveyors associated with the project.
 - 3. The developer or proprietor of the condominium project.
- B. The legal description of the land on which the condominium project will be developed together with appropriate tax identification numbers.
- C. The acreage content of the land on which the condominium project will be developed along with topographic maps and aerial photography of the site.
- D. The purpose of the project (for example, residential, commercial, industrial, etc.).
- E. Approximate number of condominium units to be developed on the subject parcel.
- F. Whether or not a community water system is contemplated.
- G. Whether or not a community septic system is contemplated.

Section 21.4 – Current Information

All information shall be furnished to the Zoning Administrator and shall be kept updated until such time as a Certificate of Occupancy has been issued.

Section 21.5 – Site Plans – New Projects – Master Deed, and Engineering and Inspections

Prior to recording of the Master Deed required by Section 72 of the Condominium Act, as amended (MCL 559.108), the condominium project shall undergo site plan review and approval. In addition, the Township shall require appropriate engineering plans and inspection prior to the issuance of any certificate of Occupancy. Prior to expansion or conversion of a condominium project to additional land the new conversion of a condominium project or additional land the new phase of the project shall undergo site plan review and approval.

Section 21.6 – Master Deed – Restrictive Covenants and “As-Built” Survey to be Furnished

The condominium project developer or proprietor shall furnish the Zoning Administrator with the following: One copy of the recorded Master Deed, one copy of all restrictive covenants and two copies of an “as-built survey”. The “as-built survey” shall be reviewed by the Township Engineer for engineering aspects and the Township Planner for compliance with Township ordinances. Fees for these reviews shall be established by resolution of the Township Board in addition to those otherwise required by Township ordinances.

Section 21.7 – Monuments Required – Site Condominium Projects

All condominium projects which consist in whole or in part of condominium units which are building sites, mobile home sites of recreational sites shall be marked with monuments as provided in this subsection.

- A. Monuments shall be located in the ground and made according to the following requirements, but it is not intended or required that monuments be placed within the traveled portion of a street to mark angles in the boundary of the condominium project if the angle points can be readily reestablished by reference to monuments along the sidelines of the streets.
- B. All monuments used shall be made of solid iron or steel bars at least one-half (1/2) inch in diameter and thirty –six (36) inches long and completely encased in concrete at least four (4) inches in diameter.
- C. Monuments shall be located in the ground at all angles in the boundaries of the condominium project; at all intersection lines of streets and at the intersection of the lines of street with the boundaries of the condominium project and at the intersection of alleys with the boundaries of the condominium project; at all points of tangency, points of compound curvature, points of reverse curvature and angle points in all side lines of streets and alleys; at all angles of an intermediate traverse line and at intersections with elements and all common elements.
- D. If the required location of a monument is an inaccessible place, or where the locating of monument would be clearly impracticable, it is sufficient to place a reference monument nearby and the precise location thereof be clearly indicated on the plans and referenced to the true point.
- E. If a point required to be monumented is on a bedrock outcropping, a steel rod, at least one-half (1/2) inch in diameter shall be drilled and grouted into solid rock to a depth of at least eight (8) inches.

- F. All required monuments shall be placed flush with the ground where practicable.
- G. All unit corners shall be monumented in the field by iron or steel bars or iron pipes at least eighteen (18) inches long and one-half (1/2) inch in diameter, or other approved markers.
- H. The Township Board may waive the placing of any of the required monuments and markers for a reasonable time, not to exceed one (1) year, on the condition that the proprietor deposits with the Township Clerk, cash or a certified check, or irrevocable bank letter of credit running to the Township, whichever the proprietor selects, in an amount set by resolution of the Township Board. Such cash, certified check or irrevocable bank letter of credit shall be returned to the proprietor upon receipt of a certificate by a surveyor that the monuments and markers have been placed as required within the time specified.

Section 21.8 – Monuments Required – All Condominium Projects

All condominium projects shall be marked at their boundaries with monuments meeting the requirements of Section 21.6B above.

Section 21.9 – Compliance with Federal, State and Local Law

All condominium projects shall comply with Federal and State statues and local ordinances.

Section 21.10 – State and County Approval

The developer or proprietor of the condominium project shall establish that appropriate state and county approvals have been received with regard to the fresh water system for the proposed project and with regard to the wastewater disposal system for the proposed project.

Section 21.11 – Temporary Occupancy

The Zoning Administrator may allow occupancy of the condominium project before all improvements required by this Ordinance are installed provided that a bond is submitted sufficient in amount and type to provide for the installation of improvements before the expiration of the Temporary Occupancy Permit without expense to the Township.

Section 21.12 – Street Standards, Site Plan Submittal, Inspections

All streets located within a Condominium Project shall be constructed and paved in accordance with the standards and specifications of the County Road Commission for public roads despite ownership status of roads within the condominium project for developments comparable in use, frontage, etc, to the condominium project. All condominium roads shall be designated and remain common elements as specified in the Master Deed. The Master Deed shall contain a clause approved by the Township Board which allows an assessment against condominium owners for road maintenance for the purposes of public safety and welfare. Where standards differ, the more restrictive standard shall apply. After submittal of the condominium plan and bylaws as part of the Master Deed, the proprietor shall furnish to the Township a copy of the site plan on a mylar sheet twenty-four by thirty-six (24 x 36) inches with an image not-to-exceed eight and one-half by fourteen (8 ½ x 14) inches.

Prior to issuance of a Final Certificate of Occupancy by the Township, the Township Engineer shall inspect all site improvements, including roads, water, sanitary and storm sewer facilities, grading and road signs, and determine compliance with all applicable Township ordinances and requirements.

ARTICLE 22

RIPARIAN LOT USE REGULATIONS

Section 22.1 – Intent

It is the intent of this section to promote the integrity of the lakes and rivers within the Township while preserving the quality of recreational use of the inland waters; to protect the quality of the lakes and rivers by discouraging excessive use; to promote the ecological balance of the waters by limiting incompatible land use of the wetlands associated with the lakes and rivers; and to maintain the natural beauty of the lakes and rivers by minimizing man-made adjustments to the established shorelines. Nothing in this Ordinance shall be construed to limit access to lakes, rivers, or waterways by the general public by way of a public park or public access site provided or maintained by any unit of state, county or local government.

Section 22.2 – Regulations

In any zoning district where a parcel of land is contiguous to a river, lake, or pond, either natural or man-made, such parcel of land may be used as access property or as common open space held in common by a subdivision, association or any similar agency; or held in common by virtue of the terms of a plat of record; or provided for common use under deed restrictions of record; or owned by two or more dwelling units located away from the waterfront only if the following conditions are met.

- A. That said parcel of land shall contain at least 100 linear feet of water frontage and a lot depth of at least 150 feet for each dwelling unit or each single-family unit to which such privileges are extended or dedicated. Frontage shall be measured by a straight line which intersects each side lot line at the water's edge.
- B. That in no event shall water frontage of such parcel of land consist of a swamp, marsh, or bog as shown on the most recent U.S. Geological Survey Maps, or the Michigan Department of Natural Resources MIRIS Map, or have otherwise been determined to be wetland by the Michigan DNR: and that in no event shall a swamp, marsh, or bog be altered by the addition of earth or fill material or by the drainage of water for the purpose of increasing the water frontage required by this regulation.
- C. That in no event shall such parcel of land abut a man-made canal or channel, and no canal or channel shall be excavated for the purpose of increasing the water frontage required by this regulation.
- D. That access property, as provided for in and meeting the conditions of this Ordinance, regardless of total area, shall not be used as a residential lot for the purpose of construction a dwelling and/or accessory structure(s), or for any commercial or business use.
- E. Minimum setback for new buildings of 50' from the ordinary high water mark.
- F. Prohibiting cutting and / or filling for building on the floodplain and filling for buildings on the upland within 500' of the water's edge where the groundwater table is within 6' of the surface.

- G. Preserving a natural vegetation strip adjacent to the water's edge on all private and publicly owned land.
- H. Restricting placement of septic system drain fields to a minimum of 150' from the water's edge or as far as possible away from the water's edge.
- I. Minimizing use of pesticides, herbicides, and fertilizers within the riparian zone.
- J. That no water retention or detention facilities shall be constructed within 500 feet of the water's edge.

Section 22.3 – Definition

“Access Property” shall mean a property, parcel, or lot abutting a river, lake or pond either natural or man-made, and used or intended to be used, for providing access to a river, lake or pond by pedestrian or vehicular traffic to and from offshore land regardless of whether said access to the water is gained by easement, common fee ownership, single fee ownership, lease, license, gift, business invitation or any other form or dedication or conveyance.

**(Note: Article 22 amended by Ordinance No. 2015-2, effective 1/10/16,
Ordinance No. 2016-1, effective 10/20/16)**

ARTICLE 23

GROUNDWATER PROTECTION STANDARDS

Section 23.1 – Scope

The provisions shall apply to all businesses and facilities, including private and public facilities, which use, store or generate hazardous substances in aggregate quantities greater than 100 kilograms per month (equal to 25 gallons or 220 pounds) and which require site plan review under the provisions of this ordinance.

Section 23.2 – Groundwater Protection Standards

- A. Land use and the design of related improvements should seek to protect the natural environment, including wetlands, water bodies, water courses, flood plains, groundwater and soils.
- B. The design of storm water management and drainage facilities should seek to retain the natural retention and storage capacity of any wetland, water body, or watercourse, and not increase flooding or the possibility of polluting surface or groundwater, on-site or off-site.
- C. General purpose floor drains shall be connected to an approved public sewer system, an on-site closed holding tank (not a septic system), or as authorized and regulated through a State of Michigan groundwater discharge permit.
- D. Sites at which hazardous substances are stored, used or generated shall be designed to prevent spills and discharges to the surface of the ground, groundwater, lakes, streams, rivers or wetlands.
- E. State and Federal agency requirements for storage, spill prevention, record-keeping, emergency response, transport and disposal of hazardous substances shall be met. No discharges to groundwater, including direct and indirect discharges, shall be allowed without required permits and approvals. If regulations for more than one government agency apply to a proposed land use, the most stringent regulations shall be followed.
- F. Secondary containment for above ground areas where hazardous substances are stored or used shall be provided. Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substance.
- G. Outdoor storage of hazardous substances shall be prohibited except in product tight containers which are protected from weather, leakage, accidental damage and vandalism and where same complies with the standards of this Section with regard to secondary containment.
- H. The design and construction of areas and facilities for loading/unloading of hazardous substances shall be designed to prevent spills and discharges to the surface of the ground, groundwater, lakes, streams, rivers or wetlands.
- I. Bulk storage facilities for pesticides and fertilizers shall be in compliance with requirements for the Michigan Department of Agriculture.

- J. Out-of-service water wells shall be sealed and abandoned in accordance with applicable requirements of the Michigan Department of Public Health.
- K. Underground storage tank installation, operation, maintenance, closure and removal shall be in accordance with the requirements of the State Fire Marshal Division and the Michigan Department of Environmental Quality.

ARTICLE 24
(R E S E R V E D)

ARTICLE 25

LOT, YARD AND AREA REQUIREMENTS BY ZONING DISTRICT

PRINCIPAL STRUCTURE	A	C & I	R-1	R-2	R-3¹
Minimum Lot Width (ft): ²					
Single-Family	200		100	100	-
Two-Family	-		100	100	-
Multiple-Family	-		100	100	-
Minimum Lot Area Per Dwelling Unit (sq ft):					
Single-Family	43,560		15,000	15,000	-
Two-Family	-		10,895	8,000	-
Multiple-Family	-		4,356	6,000	-
Maximum Building Height (ft):	35	75	35	35	-
Minimum Floor Area Per Dwelling Unit (sq ft): ³					
Single-Family	1000		1000	720	-
Two-Family	-		720	720	-
Multiple-Family	-		600	600	-
Minimum Front Yard Setback (ft)	50	65	35	50 ⁴	-
Minimum Side Yard Setback (ft)	25	35	10	10	-
Minimum Rear Yard Setback (ft)	25	25	20	50 ⁵	-
ACCESSORY BUILDINGS					
Minimum Front Yard Setback (ft)	50	50	50	40 ⁴	-
Minimum Side Yard Setback (ft)	10	35	5	5	-
Minimum Rear Yard Setback (ft)	5	25	5	40 ⁵	-
Maximum Building Height (ft)	75	75	20	20	-

¹ State code and regulations apply.

² The minimum lot width shall be measured at the front lot line along the public or private street. The width of a lot shall not narrow to a width which is less than 50% of the width of the lot at the front lot line at any point between the front lot line and the rear lot line.

³ All dwelling units in the A – Agricultural District, the R-1 Residential District, and the R-2 Residential District must have a minimum core area of 24 feet x 24 feet. Where there is a two-story structure, there shall be at least 720 square feet of area on the ground floor.

⁴ For all lots, measure from the line separating the lot or parcel from the abutting public or private road right-of-way.

⁵ For lake lots, measure from the lake's established high water mark.

(Note: Article 25 amended by Ordinance No. 2015-2, effective 1/10/16)

ARTICLE 26

NONCONFORMING USES

Section 26.1 – Continuance of Nonconforming Uses

Lawful nonconforming uses or structures in existence at the time of passage of this Ordinance may be continued but shall not be extended, added to or altered unless such extension, alterations or additions are in conformity with the provisions of this Ordinance.

Section 26.2 – Repair or Replacement of Nonconforming Uses

If the cost of repair or replacement of a nonconforming use or structure, which has been destroyed by reason of windstorm, fire explosion or any act of God or the public enemy exceeds fifty percent (50%) of the total replacement cost of the use or structure, such use or structure shall not be continued or rebuilt except in conformity with the provisions of this Ordinance.

Section 26.3 – Discontinuance of Nonconforming Use

If the nonconforming use of any land or structure shall terminate for a continuous period of time exceeding one (1) year, such use shall not be reestablished, and any future use of land and structure shall be in conformity with this Ordinance.

Section 26.4 – Change of Nonconforming Use

If a nonconforming use is changed to a permitted or more restrictive use in the district in which it is located, it shall not revert or be changed back to a nonconforming less restrictive use.

Section 26.5 – Exception for Certain Dwellings

Notwithstanding the foregoing, a dwelling located in a zone which does not permit the same may still be altered, expanded, upgraded and /or rebuilt, so long as such change more closely conforms to this Ordinance.

ARTICLE 27

SPECIAL EXCEPTION USES

Section 27.1 – Authority of Township Planning Commission

Pursuant to statute, the Township Planning Commission is hereby designated as the body with the authority to hear and decide all applications for special exception uses, and all matters pertaining thereto, according to the requirements of this Section.

Section 27.2 – Application for Special Exception Use

- A. Requests for approval of special exception uses may be made by submitting an application, in writing, to the Township Clerk. A fee shall accompany the application to help defray cost of processing the application, which fee shall be established from time to time by resolution of the Township Board.
- B. A site plan, plot plan or development plan of the total property involved, showing the location of all abutting streets, the location of all existing and proposed structures, the types of buildings and their uses shall be submitted with each application for approval of a special exception use. Approval of such site plan by the Township Planning Commission shall be required, and the approval, disapproval or conditional approval of such site plan shall be based on the same standards and conditions hereinafter set forth with respect to special exception uses. Any such site plan, if and when approved, shall become part of the record of approval, and subsequent actions relating to the activity authorized shall be consistent with the approved site plan, unless a change conforming to this Ordinance is mutually approved by the owner of the land in question and the Township Planning Commission.
- C. Applications for a special use permit for a communications tower shall include the following additional information:
 1. A scaled site plan clearly indicating the location, type and height of the proposed communications tower, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed communications tower and any other structures, topography, parking and other information deemed necessary by the Zoning Administrator to assess compliance with this ordinance.
 2. Legal description of the parent tract and leased parcel (if applicable).
 3. The setback distance between the proposed communications tower and the nearest residence, platted residentially zoned properties, and un-platted residentially zoned properties.
 4. The separation distance from other communications towers within a 10 mile radius. The applicant shall also identify the type of construction of the existing communications tower(s) and the owner/operator of the existing communications tower(s), if known.
 5. A landscape plan showing specific landscape materials.

6. Method of fencing, finished color and, if applicable the method of camouflage and illumination.
7. A description of compliance with all applicable federal, state and local laws.
8. A notarized statement by the applicant as to whether construction of the communications tower will accommodate co-location of additional antennas for future users.
9. A description of the suitability of the use of existing communications towers, other structures or alternative technology not requiring the use of communications towers or structures to provide the services to be provided through the use of the proposed new communications tower.
10. A description of the feasible location(s) of future communications towers or antennas within Burr Oak Township based upon existing physical, engineering, technological or geographical limitations in the event the proposed communications tower is erected.
11. The estimated cost to remove the communications tower once it is no longer operational or in use.

Section 27.3 – Standards for Special Exception Uses

- A. In considering applications for special exception use permits, the following standards shall guide the Township Planning Commission in its deliberations:

1. Relation to Adjacent Land and Buildings:

The location and size or use, the nature and intensity of operations, the size of site in relation to operations, and the location of the site with respect to existing or future roads and highways providing access thereto shall be in harmony with the orderly development of the district; and the location, nature and height of buildings, walls and fences shall not discourage the appropriate development and use of adjacent land and buildings or impair their value.

2. Character of Operation:

The operation shall not create a nuisance to nearby residents by reason of noise, hazard, vibrations, dust, fumes, odors, smoke, or any other emission or illumination.

3. Consideration Relating to Public Interest:

The operation shall be compatible with the natural environment and the capacities of public services and facilities affected by such operation, and shall be consistent with the health, safety and welfare of the Township.

- B. In considering applications for special exception use permits regarding a communications tower or towers, the following shall be considered in addition to the general standards set forth in part A:

1. Unless the following requirements are met or are waived upon a showing of good because, no special use permit for a communications tower shall be awarded:
 - a. All communications towers shall be located at least two hundred (200') feet from any single family dwelling.
 - b. The communications tower shall be set back from property lines a distance equal to the setback requirements for the applicable zoning district; seventy-five percent (75%) of the height of the communications tower; or the distance from the base of the tower to the outside perimeter of the fall zone; which ever is greater.
 - c. All communications towers shall be quipped with anti-climbing devises and shall be surrounded by a fence not less than six feet in height to prevent unauthorized access.
 - d. The plans for the construction of the communications tower, including the antenna mount, shall be certified by a registered structural engineer. The certification shall certify that the plans are in compliance with all applicable codes. The plans shall show the fall zone within which the communications tower would fall if it collapsed.
 - e. All communications towers must meet the standards of the Federal Aviation Administration and/or the Federal Communications Commission.
 - f. There shall not be display advertising or identification of any kind intended to be visible from the ground or other structures.
 - g. Antennas shall be subject to any State and Federal regulation concerning non-ionizing electromagnetic radiation. If more restrictive State or Federal standards are adopted in the future, the antenna shall be made to conform or the special use permit will be subject to revocation by the Township Board. Cost for testing and verification of compliance shall be borne by the owner and /or operator of the antenna.
 - h. If the owner and /or operator of an existing communications tower fails or refuses to permit co-location, such a communications tower shall be a nonconforming structure and shall not be altered or expanded in anyway.
 - i. If a communications tower ceases to be used for the reception or transmission of signals, all parts of the communications tower shall be removed within six months from the date of the cessation of use. Burr Oak Township may secure the removal of the communications tower if it is standing after the period for removal has expired.
 - j. To secure the removal of a communications tower, the Township will require a bond up to 125% of the removal cost to the operator and/or the land owner.
 - k. Accessory structures shall be limited to uses associated with operation of the communications tower.
2. In considering applications for special exception use permits regarding communications towers the following additional standards shall guide the Township Planning Commission in its deliberations:
 - a. Whenever possible the communications tower should be of monopole construction.
 - b. Metal communications towers should be constructed of, or treated with, corrosive-resistant materials. Wood poles should be impregnated with rot-resistant substance.
 - c. Antennas and metal communications towers should be grounded for protection against a direct strike by lighting and shall comply, as to electrical wiring and connections, with all applicable local statutes, regulations and standards.
 - d. Communications towers should be located so as not to interfere with television and radio reception in residential areas.

- e. The height of the communications tower should be the minimum height demonstrated to be necessary by the radio frequency engineer of the applicant.
- f. Any lighting on the communications tower shall be designed so as not to project onto surrounding property.
- g. Existing on-site vegetation should be preserved to the maximum extent practicable.
- h. Whenever possible, antennas should be co-located on existing communication towers.

Section 27.4 – Notice and Hearing Procedure for Special Exception Uses

When a completed application is received, the Planning Commission shall schedule and hold a public hearing on the application. Notice of the hearing shall be given in accordance with the Zoning Act (currently MCL 125.3103). If a request for a special land use is denied, a new application regarding the same request shall not be submitted for one year, except as may be permitted after learning of new and significant facts or conditions which might result in favorable action upon re-submittal.

Section 27.5 – Decisions of Planning Commission of Special Use Exceptions and Revocation

- A. The decision of the Township Planning Commission on an application for a special exception use shall be incorporated in a statement containing conclusions relative to the special land use under consideration, which specifies the basis for the decision, and any conditions imposed.
- B. An applicant who receives a favorable decision shall have up to six months from the date of the decision to start construction or initiate other act for completion as authorized by the decision. However, if construction or other action has not been initiated in the six month time frame, then said decision shall become null and void.
- C. The Township Planning Commission shall have the authority to revoke and special land use approval after it has been shown that the holder of the approval has failed to comply with any of the applicable requirements of this Ordinance or conditions of the special land use approval. Prior to any action, the Township Planning Commission shall conduct a public hearing following the notification procedures for the original approval.

**(Note: Article 27 amended by Ordinance 2003-2, effective 4/12/03,
Ordinance 2007-3, effective 3/21/07.)**

ARTICLE 28

MISCELLANEOUS PROVISIONS

Section 28.1 – Amendment Procedure

- A. Such regulations, restrictions and boundaries established by this Ordinance may, from time to time, be amended, supplemented or repealed as provided by the applicable State statute. Requests for amendment of this Ordinance may be made by any interested person or governmental agency by submitting an application in writing for the proposed amendment to the Township Clerk. The application for amendment or rezoning shall be accompanied by the check, cash or money order of the applicant in an amount as may be from time to time determined by the Township Board to defray in whole or in part the costs of such amendment.
- B. In the case of a text amendment, the applicant shall submit, in writing, the proposed text to be added and/or the existing text to be deleted.
- C. In case of a map amendment, the applicant shall submit a written statement specifying the following:
 1. The name and address of the owner of the land.
 2. The street number, if any, or if none the location with respect to nearby public roads serving the land which is proposed to be reclassified.
 3. A description by metes and bounds, courses and distances of the land, or if the boundaries conform to lot boundaries within a subdivision for which a plat is recorded, then a lot, block and subdivision designation with appropriate plat references.
 4. The area of the land proposed to be reclassified stated in square feet if less than one acre and in acres if one acre or more.
 5. The present classification and the classification proposed for such land.

Section 28.2 – Severability

This Ordinance and the various parts, sections, subsections, sentences, phrases, and clauses thereof are hereby declared to be severable. If any part of this Ordinance is adjudged unconstitutional, invalid or of no force and effect by a court of competent jurisdiction, the same shall not affect the remaining portions of this Ordinance.

Section 28.3 – Repeal of Conflicting Ordinances

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 28.4 – Violation – Penalty

Any person, firm, association, partnership or corporation who shall violate, neglect or refuse to comply with or who resists the enforcement of any of the provisions of this Ordinance or the conditions of the Zoning Board of Appeals adopted pursuant thereto upon conviction

thereof shall be punished by a fine not to exceed five hundred dollars (\$500) and costs of prosecution, or by being imprisoned in the county jail for not more than ninety (90) days, or both such fine and imprisonment at the discretion of the court. Each day that a violation is permitted to exist shall constitute a separate offense. The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.

Section 28.5 – Effective Date

This Ordinance shall be effective thirty (30) days after publication of Notice of Adoption thereof in a newspaper published in the Township.

Township Clerk