

## ARTICLE XVIII

### SUPPLEMENTAL REGULATIONS

#### **SECTION 18.01      PURPOSE**

The intent of this Article is to recognize that there are certain conditions concerning land uses that warrant specific exceptions, regulations or standards in addition to the requirements of the Zoning District in which they are permitted to be located.

#### **SECTION 18.02      EXISTING USES OF LANDS, BUILDINGS AND STRUCTURES**

The provisions of this Ordinance shall not be retroactive. At the discretion of the owners, the lawful use of any dwelling, building or structure, and of any land or premises as existing and lawful at the time of enactment of this Ordinance may be continued even though such use does not conform with the provisions of this Ordinance, or in the case of an amendment, then at the time of the amendment.

#### **SECTION 18.03      SCOPE OF ORDINANCE**

Except as provided by Sections 18.02 all land and premises shall be used, and all buildings and structures shall be located, erected and used in conformity with the provisions of this Ordinance following the effective date herein.

#### **SECTION 18.04      AREA LIMITATIONS**

In conforming to land and yard requirements, no area shall be counted as accessory to more than one (1) dwelling or main building.

#### **SECTION 18.05      DWELLING LOTS OR SITES**

Every dwelling, cottage, cabin, occupied trailer coach or mobile home, erected outside of a mobile home or trailer coach park shall be located on a lot or site, and no more than one (1) such dwelling shall be erected on such lot or site, except as otherwise provided in this Ordinance.

#### **SECTION 18.06      ACCESSORY BUILDING PROVISIONS**

Accessory buildings, except as otherwise permitted in this Ordinance, shall be subject to the following regulations:

- A. Where the accessory building is structurally attached to a main building, it shall be subject to, and must conform to, all regulations of this Ordinance applicable to the main building.
- B. Accessory buildings shall not be erected in any required yard, except a rear yard.

- C. An accessory building not exceeding one (1) story or twenty (20) feet in height may occupy not more than twenty-five (25) percent of a required rear yard, plus forty (40) percent of any non-required rear yard, provided that in no instance shall the accessory building exceed the ground floor area of the main building.
- D. No detached accessory building shall be located closer than ten (10) feet to any main building nor shall it be located closer than fifteen (15) feet to any side or rear lot line. In those instances where the rear lot line is in common with an alley right-of-way the accessory building shall not be closer than five (5) feet to such rear lot line. In no instance shall an accessory building be located within a dedicated easement or right-of-way.
- E. No detached accessory building in the MDR, LDR, HDR, MFR, OSC and NSC districts shall exceed one (1) story of twenty (20) feet in height. Accessory buildings in all other districts may be constructed to equal the permitted maximum height of structures in said districts.
- F. When an accessory building is located on a corner lot, the side lot line which is substantially a continuation of the front lot line of the lot to its rear, said building shall not project beyond the front yard line required on the lot in the rear of such corner lot. When an accessory building is located on a corner lot, the side lot line of which is substantially a continuation of the side lot line of the lot to its rear, said building shall not project beyond the side yard line of the lot in the rear of such corner lot.
- G. An accessory building shall not be placed on any lot or parcel unless there is a principal building on the same lot or parcel. The following situations are exempt from this provision:
  - 1. An accessory building may be constructed on a parcel prior to the construction of a principal building so long as a permit has been obtained for the principal building and so long as construction on the principal building commences within six months of the issuance of the permit for the accessory building.
  - 2. Where a principal building is located on a lot smaller than 10,000 square feet in a platted subdivision, an accessory building may be constructed on a vacant lot within 300 feet of the lot on which the principal building is located so long as the two lots are placed in the same tax bill and an instrument is recorded prohibiting the separate sale of the accessory lot.
  - 3. An accessory building may remain on a parcel where the principal building has been removed so long as it remains in good repair, is used solely for residential storage and is not used for commercial any purpose.
  - 4. An agricultural use building as defined by the state building code is not an accessory building when located in a zoning district where agriculture is a permitted use. Such buildings can be considered a principal use.

**SECTION 18.07 USE OF YARD SPACE**

No yard surrounding a dwelling, building or structure utilized for dwelling purposes, except farm dwellings, shall be used, occupied or obstructed by accessory buildings or structures, either permanently or temporarily; provided however, that a side or rear yard may be used for the parking of not more than five (5) passenger automobiles in active service, and no yard surrounding a dwelling shall be used for the location, parking, disposition, storage, deposit, or dismantle in whole or in part of junked vehicles, machinery, second-hand building materials, or other discarded, disused or rubbish-like materials or structures.

**SECTION 18.08 LOT-BUILDING RELATIONSHIP**

Every building erected, altered, or moved shall be located on a lot as defined herein, and there shall be no more than one (1) principal building and its permitted accessory structures located on each lot.

**SECTION 18.09 ACCESSORY BUILDING AS DWELLING**

No building or structure on the same lot with a principal building shall be used for dwelling purposes, except as specifically permitted in this Ordinance.

**SECTION 18.10 BASEMENT AS DWELLING**

No basement structure shall be used for human occupancy unless a completed story is situated immediately above the basement structure and is used as a dwelling, except underground homes designed and built in accordance with the Construction Code in effect in the Township.

**SECTION 18.11 DAMAGED BUILDINGS AND STRUCTURES**

Any building that has been partially destroyed by fire or is in such a state of disrepair as to be uninhabitable and a hazard to the public health and safety shall either be entirely removed or repaired within twelve (12) months from the date of the occurrence of the damage.

**SECTION 18.12 REQUIRED WATER SUPPLY AND WASTEWATER DISPOSAL FACILITIES**

Shall meet the requirements established by the County Sanitation Code of the Department of Health.

**SECTION 18.13 ACCESS TO A PUBLIC ROAD OR HIGHWAY**

Any lot of record created prior to the effective date of this Ordinance without any frontage on a public road right-of-way shall not be occupied, except where access to a public road right-of-way is provided by a public or private easement or other right-of-way no less than sixty-six (66) feet in width.

#### **SECTION 18.14 FRONTAGE ON PUBLIC OR PRIVATE ROAD OR HIGHWAY**

In any zoning district, every use, building or structure established after the effective date of this Ordinance shall be on a lot or parcel that fronts upon a public or private road right-of-way that meets all of the requirements for road construction as specified by the County Road Commission. Also refer to the Township Ordinance which “Regulates the Construction, Maintenance and Use of Public and Private Roads and Streets within South Haven Township”.  
[1999]

#### **SECTION 18.15 VISIBILITY AT INTERSECTIONS**

No fence, wall, hedge, screen, sign, structure, vegetation or planting shall be higher than three (3) feet above road grade on any corner lot or parcel in any zoning district requiring front and side yards within the triangular area formed by the intersecting road right-of-way lines and a straight line joining the two road lines at points which are thirty (30) feet distant from the point of intersection, measured along the road right-of-way lines.

#### **SECTION 18.16 ROAD CLOSURES**

Whenever any road, alley, or other public way is vacated by official action, the zoning district adjoining each side of such public way shall automatically be extended to the center of such vacation, and all area included therein shall henceforth be subject to all appropriate regulations of that district within which such area is located.

#### **SECTION 18.17 HEIGHT REGULATIONS**

The height requirements established by this Ordinance shall apply uniformly in each zoning district to every building and structure except that the following structures and appurtenances shall be exempt from the height requirements of this Ordinance: spires, belfries, penthouses and domes not used for human occupancy, chimneys, ventilators, skylights, water tanks, bulkheads, utility poles, power lines, radio, television and other communication broadcasting and receiving antennae not directly linked to residential structures, silos, wind-driven electricity generators, parapets and other necessary mechanical appurtenances; provided, their location shall conform where applicable to the requirements of the Federal Communications Commission, other public authorities having jurisdiction and any regulations established by authorized federal state, county and township agencies. Any proposed structure greater than thirty-five (35) feet in height shall be referred to the Airport Board for review and recommendation prior to approval.

#### **SECTION 18.18 FENCES, WALLS AND SCREENS**

Within the limits of a side or front yard space of a lot; no fence, wall (other than necessary retaining wall), or other screening structure shall be higher than six (6) feet. No such fence or wall located within a rear yard shall exceed eight (8) feet in height, except as required in Section 18.15.

**SECTION 18.19 ESSENTIAL SERVICES**

- A. This shall include the erection, construction, alteration or maintenance by public utilities, municipal departments, or other governmental agencies of underground or overhead gas, electrical communication, steam, or water transmission or distribution systems or collection, supply or disposal systems; including electric power stations, relay stations, gas regulator stations, pumping stations, poles, wires, mains, drains, sewers, pipes, conduits, cables, towers, fire alarm boxes, police or other call boxes, traffic signals, hydrants and other similar facilities, equipment and accessories in connection therewith reasonably necessary for furnishing adequate service by such utilities or agencies, or for the public health or safety or general welfare; but not including offices and buildings or yards used for bulk storage, fabrication, or manufacture of materials used by such utilities or municipal departments or other governmental agencies. No such building constructed as a part of an essential service, shall be used for human occupancy.
- B. The surface of land used for pipeline right-of-ways shall be restored and maintained as near as possible to its original conditions prior to the construction of the pipeline.
- C. Essential services may be located in all districts and shall meet the requirements of the District in which they are located for all buildings, structures and areas used for offices, power generators, power transformers, storage, fabrication or manufacture of materials necessary to the provision of essential services.

**SECTION 18.20 PRIVATE POOLS, INCLUDING SWIMMING, JACUZZIES AND HOT TUBS**

Private pools shall be permitted as an accessory use within the rear and side yards only, provided they meet the following requirements:

- A. A pool is defined as any body of water having a depth of eighteen (18) inches or more of water at any one point.
- B. There shall be a distance of not less than twenty (20) feet between the adjoining property line and outside of the pool wall.
- C. There shall be a distance of not less than five (5) feet between the outside pool wall and any building located on the same lot.
- D. No pool shall be located less than fifty (50) feet from any front lot line.
- E. If electrical service drop conductors or other utility wires cross under or over a proposed pool area, the applicant shall make satisfactory arrangements with the utility involved for the relocation of wires before a permit shall be issued for the construction of a pool.

- F. No pool shall be located in an easement.
- G. For the protection of the public, all yards containing pools shall be completely enclosed by a fence not less than four (4) feet in height. The gate shall be of a self-closing and latching type, with the latch on the inside of the gate not readily available for children to open. Gates shall be capable of being securely locked when the pool is not in use for extended periods. Provided, however, that if the entire premises of the residence is enclosed, then this provision may be waived by the Zoning Administrator upon inspection and approval.

## **SECTION 18.21 HOME OCCUPATIONS**

Home occupations shall be permitted in all detached single family residential dwellings and include such customary home occupations as: hairdressing, millinery, dressmaking, bookkeeping and accounting service, real estate and insurance sales; professional office and other similar occupations and other home occupations including incidental retail sales not to exceed 25% of the gross sales of the business, legally operating in detached single family homes at the time of adoption of this Zoning Ordinance.

- A. The non-residential use shall be only incidental to the primary residential use.
- B. The occupation shall utilize no more than twenty-five (25) percent of the ground floor or basement floor area of the principal structure or an accessory building.
- C. Only normal domestic or household equipment and equipment characteristic of small workshops, businesses and professional offices shall be used to accommodate the home occupation.
- D. The home occupation shall involve no employees other than members of the immediate family.
- E. All activities shall be carried on indoors. No outdoor activities or storage shall be permitted.
- F. No alterations, additions, or changes to a principal structure which will change the residential character of the dwelling structure shall be permitted in order to accommodate or facilitate a home occupation.
- G. There shall be no external evidence of such occupations, except a small announcement sign not to exceed two (2) square feet in area in an MDR, LDR, HDR, and MFR District, and ten (10) square feet in area shall be permitted in the RD and AR Districts and is not required to be attached to the principal structure.
- H. The permission for home occupations as provided herein is intended to secure flexibility in the application of the requirements of this Ordinance; but such permission is not

intended to allow the essential residential character of Residential Districts, in terms of use and appearance, to be changed by the occurrence of home occupations.

- I. Retail sales are permitted as a home occupation provided they meet the requirements of the above. Section A-H and the provisions of Article XV, "Special Uses."

**SECTION 18.22      TEMPORARY BUILDINGS AND STRUCTURES**

Temporary buildings and structures, including mobile homes, tool cribs, storage trailers, shipping containers and informational, for sale and similar signs are permitted during the period of construction and sales involving change of ownership or rental occupancy. Such buildings, structures and signs shall be removed upon completion or abandonment of construction, sale or rental activities and prior to occupancy and use of the building or structure for permitted uses. Prior to the issuance of a permit for temporary buildings and structures the applicant must deposit to the credit of the Township a removal performance guarantee, cash or check deposit or a letter of credit from an incorporated financial institution or bonding company licensed to do business in the State of Michigan. The removal performance guarantee shall be based upon a firm bid by a licensed contractor subject to the discretion of the Zoning Administrator or the Township Supervisor. Temporary signs having an area of less than 24 sq.ft. shall be excluded from this provision.

*[text amended 1999 and 2010]*

**SECTION 18.23      SOLID WASTE RECEPTACLE AREAS**

Truck-lifted or transported receptacle areas: all such receptacle areas shall be enclosed by a six (6) foot high wooden or masonry wall to prevent the unsightly deposit or collection of solid waste and prevent children and pets from having access to these areas.

**SECTION 18.24      EXTERIOR LIGHTING**

All sources of lighting for parking areas or for the external illumination of buildings or grounds or for the illumination of signs, shall be directed away from and shall be shielded from adjacent residential districts, and shall also be so arranged as to not affect driver visibility adversely on adjacent public roads and highways. Lighting of parking areas is required when the number of parking spaces is more than five (5).

**SECTION 18.25      DRIVEWAY ENTRANCES AND GATES**

In driveway entrances or gateway structures; including, but not limited to, walls, columns and gates marking driveway entrances to private or public uses may be permitted; and may be located in a required yard, except as provided in Section 18.15 "Visibility at Intersections," provided that such entranceway structures shall comply with all codes and ordinances of the Township and County and shall be approved by the Zoning Administrator.

## **SECTION 18.26 FRONTAGE ACCESS ROADS OR SERVICE DRIVES**

Ingress and egress from frontage access, shared driveways, private roads, or service roads for all uses permitted in all zoning districts fronting on M-43, M-140, Blue Star Highway and Phoenix Road (CR388) shall be required in order to promote efficient use of thoroughfares and to decrease hazardous traffic conditions, the following regulations shall apply to the use of all land fronting upon these major thoroughfares, except for existing uses located upon existing lots and parcels. If there are limited prospects for immediate development of adjacent lots or parcels, the Township Board may upon request from an applicant require the posting of an acceptable financial guarantee from the applicant equal to the amount of the estimated cost of the frontage access road. However, upon the application for development and use of an adjacent lot or parcel having the same or connecting frontage, the applicant will be required to build the frontage access road. *[amended 2017]*

- A. Connecting service roads shall be required between parking areas on adjacent land uses.
- B. Owners of all property shall submit to the Township a properly executed and witnessed license agreement which gives the Township Board the authority to open and close service roads and driveways whenever necessary in order to guarantee to the satisfaction of the Township Board a safe and efficient movement to traffic. The said license shall be recorded in the office of the County Register of Deeds. Acceptance of the said license shall, in no way, obligate the Township to build, repair, maintain or clear the said service roads or parking areas and no public funds may be spent by the Township Board to build, repair, maintain, or close the said service roads and/or parking areas. The intent of this subsection is to allow the Township to enforce its traffic ordinance or promote traffic safety on the said service roads and parking areas, and otherwise facilitate the safe and efficient movement of traffic thereon.
- C. No less than two (2) driveways at least 20 feet in width shall be available to such coordinated parking areas and service road systems; provided that said driveways shall be at least 300 feet apart and have appropriate designated acceleration and deceleration lanes; provided further, this requirement may be waived by the Township Planning Commission where the needs of a particular use do not require it and when traffic hazards will not be increased by such a waiver.
- D. All requirements shall apply only to the full width of the developed portion of a lot or parcel or when developed adjacent to an existing use. The purpose of this subsection is to minimize the length of service roads in relation to the actual developed area of a lot or parcel and the number of parking spaces, and to promote their construction as they are needed.
- E. Parking lots, driveways and service roads shall at least be surfaced with processed road gravel and maintained in a usable dust free condition.
- F. Parking area layout shall follow standards prescribed in this Ordinance.



- G. Service roads and driveways shall be at least paved with processed road gravel and have a width of twenty (20) feet.
- H. At its discretion, the Planning Commission may recommend to the Township Board that, if a lot or parcel is not in need of a Frontage Access Road because it is the only lot or parcel developed or under development in a Zoning District which requires such access roads or the development of the lot or parcel can function in relation to adjoining lots or parcels until such time as two (2) contiguous lots or parcels need to provide such an access road, the owners/developers of such parcels need not construct such access roads, but will be required to reserve in a sufficient setback from all roads an area capable of constructing such an access road at a later date; providing that the owner/developer provides the Township Board with an adequate financial guarantee to cover the total estimated cost of constructing such an access road at a later date, e.g. when the frontage access road in the judgment of the Planning Commission and Township Board the access road is needed.

*[following text added 7-12-00]*

Temporary ingress/egress with direct access to a major road or highway arterial may be approved by the Planning Commission for individual parcels where the adjacent properties have not been developed, provided that:

- (1) The approved plan clearly notes that the access points are temporary and that they are to be removed upon development of an adjacent parcel, and that an access drive across the site's frontage will be built at the time the adjacent parcel is developed.
- (2) The developer submits in writing to the Township a document fully acknowledging the fact that the direct access points are temporary and agrees to their removal in accordance with (1) above.
- (3) The developer provides an adequate financial guarantee to the Township to assure the removal of all temporary access points on the parcel. Occupancy permits shall not be issued by the Township until or unless the above conditions are met.

**SECTION 18.27      PARKING OR STORAGE OF MOBILE HOMES, TRUCKS AND TRAVEL TRAILERS ON RESIDENTIAL LOTS AND PARCELS IN MDR, LDR, HDR, AND MFR ZONING DISTRICTS**

Storage of not more than two (2) non-residential type recreational vehicles shall be permitted, provided that such units shall be completely within the side and rear yards or completely enclosed within the side and rear yards or completely enclosed within a structure.

**SECTION 18.28      TEMPORARY TRANSIENT USES**

- A. Minor Temporary Uses: (No permit required)  
Tents, open or enclosed, for temporary outdoor activities directly related to an approved principal use already existing on a property are exempt from review by the Planning Commission. Such uses include but are not limited to:

1-tents at private homes for wedding receptions, birthday parties, graduation parties, funerals and similar social occasions. Tents for social occasions do not require a zoning permit;

2-temporary sales tents for promotional activities of products already being sold or marketed on developed commercial properties. All such tents shall be limited to one (1) time frame of no more than fourteen (14) consecutive days during any 60-day period;

3-On-site Temporary Farm Stands– The sale of farm produce (raw fruits and vegetables) from the farm on which it is grown. All such farm stands are limited only to the growing season (April through November). Sale of farm produce off-site is regulated under B. below.

B. Temporary Uses Requiring Zoning Approval:

Temporary buildings, structures, and uses of the following types are permitted in all districts unless otherwise and may be permitted by the Zoning Administrator under the following conditions:

1. Fire Damage – During renovation of a permanent building damaged by fire or other natural disaster so long as a building permit has been issued for the repair of the principle structure. The temporary building or structure must be removed when repair of fire damage is complete, and in no case shall it be located on the lot or parcel for more than fifteen (15) days after final approval by the building inspector. The Zoning Administrator shall require a deposit equal to the estimated cost of removal of the temporary structure.

2. New Construction – Temporary buildings and structures incidental to construction work, except single-family dwellings are permitted. Such temporary buildings shall be removed within fifteen (15) days after construction is complete, but in no case shall the building or structure be allowed more than twelve (12) months, unless expressly authorized after petition to the Zoning Board of Appeals. The Zoning Administrator shall require a deposit equal to the estimated cost of removal of the temporary structure.

3. Off-site Temporary Farm Stand and Christmas Tree Sales in Commercial Districts– The Temporary Farm Stands and display and sale of Christmas trees in the NSC, CSC, HSC or **MFR** districts or at a **Special Use in any residential district where there is parking for at least five (5) vehicles**, is permitted by a temporary zoning permit, provided it is incidental and accessory to the principal use and there is adequate off-street parking for such use in compliance with Article XX, Section 20.04, No. 24 Roadside Stand. The temporary zoning permit for the display and sale on an open lot shall be valid for a period not to exceed **six (6) months**.

a. All unsold trees must be removed from the property by December 31 of each calendar year. No temporary land use permit is necessary for Christmas tree sales where a nursery is permitted by right.

b. The sale of farm produce from an existing developed commercial parking lot may be permitted on a temporary basis for not more than **six (6) months**. The sale of **prepared** food is subject to site plan review by the Planning Commission (see C. below)

C 4. Auctions (not more than 5 days)– The public sale of real or personal property to

- D the highest bidder shall be permitted for not more than five (5) days and no sales activity shall occur within thirty (30) feet of any street or road right-of-way.

C. Temporary Uses Requiring Site Plan Review by the Planning Commission:

- 1. Temporary transient use of an existing land site, building or structure, or temporary placement of a transient sale tent or vehicle, may be permitted in any district. Such use shall be contingent upon approval of a Site Plan by the Planning Commission. Such approval shall be based upon a finding that the location of such an activity will not adversely affect public health, safety, and general welfare, and shall be compatible with adjacent uses in the district in which it is to be temporarily located. All temporary transient uses, if approved by the Planning Commission, shall have a reasonable time limit placed upon their use based upon the normal periods of time such uses need to exist for an expressed number of days authorized by the Planning Commission. Temporary transient uses may be granted a permit on the basis of compliance with the criteria stated below (subsection C. 2.) and are exempt from the requirements of Section XXII, "Site Plan Review." Upon authorization, the Zoning Administrator shall issue a permit, which will cause compliance with this Ordinance and any specified conditions required by the Planning Commission.

The following uses shall be subject to the additional requirements listed:

- a. Churches & Schools – Temporary building incidental to a church or school, provided that all wiring, plumbing, fire protection and exists are approved by the Fire Chief and Building Inspector, and by relevant state agencies.
- b. Auctions (more than 5 days) – The public sale of real or personal property to the highest bidder shall be permitted for more than five (5) days and no sales activity shall occur within thirty (30) feet of any street or road right-of-way. Notification of the Sheriff's Department is required.
- c. Off-site Temporary Farm Stand and Christmas Tree Sales in Residential Districts– The display and sale of Christmas trees in the LDR, MDR or HDR districts (for exemption for churches see above) is permitted by a temporary zoning permit, provided it is incidental and accessory to the principal use and there is adequate off-street parking for such use in compliance with Article XX, Section 20.04, No. 24 Roadside Stand. The temporary zoning permit for the display and sale on an open lot shall be valid for a period not to exceed six (6) months.
  - For Christmas Tree Sales, all unsold trees must be removed from the property by December 31 of each calendar year. No temporary land use permit is necessary for Christmas tree sales where a nursery is permitted by right.
  - The sale of farm produce from a residential lot may be permitted on a temporary basis for not more than 45 days.

- d. Temporary Antique/Craft Market – A temporary facility, usually a stall(s) or booth(s), used to conduct retail trade limited to antiques and hand-made crafts shall be permitted in the HSC, CSC and NSC districts for no more than 180 days per calendar year.
2. Requirements for Approval:
- a. At least 13 days prior to a Planning Commission meeting the applicant shall provide a site plan sketch of sufficient detail to demonstrate that the proposed temporary land use meets all of the following requirements:
    - i. The nature and intensity of the temporary use and the size and placement of any temporary structure shall be planned so that the temporary use or structure will be compatible with existing development.
    - ii. The location of the temporary use or structure shall be such that adverse effects on surrounding properties will be minimal, particularly regarding the traffic generated by the temporary use or structure.
    - iii. Off-street parking areas are of adequate size and properly located for the particular temporary use or structure and the entrance and exit drives are laid out so as to prevent traffic hazards and nuisances.
    - iv. Signs shall conform to the Sign regulations of the Zoning Ordinance.
    - v. Any lighting shall be directed and controlled so as not to create a nuisance to neighboring property owners.
    - vi. Plans for clean up and waste control of the site shall be acceptable.
  - b. Site Plan Sketch: The applicant may utilize air photo maps such as are available through the Van Buren County website [www.vbco.org](http://www.vbco.org). The Sketch Plan shall include:
    - i. All lot lines with approximate dimensions
    - ii. Parking areas and curb cuts with approximate dimensions
    - iii. Existing buildings and proposed temporary structures with approximate dimensions
    - iv. Approximate locations of buildings on adjacent properties within 100 feet
    - v. Locations for lighting and size and location for all signs.
    - vi. Signed agreement for cleanup.
  - c. Health Permits  
For temporary uses involving the preparation of food, the applicant shall present a valid Van Buren County Health permit for the specific use, valid for the time period applied for.
3. Revocation: Upon expiration or revocation of a temporary permit for a temporary land use, the temporary land use shall cease and all temporary structures, dwellings or buildings shall be removed from the parcel of land. A temporary land use permit may be revoked or modified by the Zoning Administrator if any one of the following findings can be made:
- a. That the temporary land use permit was obtained by misrepresentation or fraud.
  - b. That one (1) or more of the conditions of the temporary outdoor land

use permit have not been met; and

- d. That the use is being conducted in violation of any Township ordinance, or any state or federal law or regulation.

*[For fireworks sales SHAES inspection required per general ordinance]*

- 4. Appeal: An appeal of a decision by the Planning Commission or Zoning Administrator relative to denial of a temporary land use permit for a temporary use or renewal thereof may be taken to the Zoning Board of Appeals pursuant to the provisions for appeal set forth in this Ordinance. *[text amended May & December 2010]*

## **SECTION 18.29 FENCES**

- A. The erection, construction, or alteration of any fence or other type of protective barrier shall be approved through permit by the Zoning Administrator as to their conforming to the requirements of the zoning districts wherein they are required because of land use development.
- B. Fences in a RD and AR Districts are exempt from the provisions of this Ordinance, except when required for specific principal or accessory uses and special uses.
- C. Any existing fence not in conformance with this Ordinance shall not be altered or modified, except to make it more conforming.
- D. Fences which are not specifically required otherwise under the regulations for the individual zoning districts, shall conform to the following requirements:
  - 1. No fence shall hereafter be erected along the line dividing lots or parcels of land or located within any required side or rear yard in excess of six (6) feet in height above the grade of the surrounding land, except as provided in Section 18.18.
  - 2. Barbed wire, spikes, nails or any other sharp point or instrument of any kind on top or on the sides of any fence, electric current or charge in said fences is prohibited. Barbed wire cradles may be placed on top of fences enclosing public utility buildings or whenever deemed necessary in the interests of public safety.
  - 3. In an "I" Industrial District, no fence shall exceed twelve (12) feet in height.
  - 4. Fences on all lots in MDR, LDR, HDR, and MFR Residential Districts which extend toward the front of the lot, past the front line of the main building, shall not exceed four (4) feet in height.
  - 5. No fence or structure shall be erected, established or maintained on any corner lot except as provided in Section 18.15.

### **SECTION 18.30      WALLS AND PROTECTIVE SCREENING**

In order to provide adequate protective screening for residential areas adjacent to or near nonresidential areas, the following regulations shall apply:

- A.     Where a OSC, NSC, CSC, HSC, HC and I District abuts directly upon an MDR, LDR, HDR, and MFR residentially zoned district, or residentially used property in any district, a landscaped greenbelt as defined below, shall be provided and maintained along its entire length by the users of the said business, commercial, or industrial zoned property. In addition, the latter mentioned districts shall be screened from such contiguous, residentially zoned district by either a building which houses a permitted use, or else by a solid masonry wall four (4) to six (6) feet in height above grade, between said greenbelt area and the business, commercial or industrial use. Such greenbelt shall be a strip of land not less than twenty (20) feet in width which is planted and maintained with evergreens such as spruce, pines or firs from 5 to 6 feet in height, so as to create a permanent buffer; or a hedge of evergreens not less than four (4) feet in height, so as to create a permanent buffer. These plants shall be planted and shall reach such required height within five (5) years of approval of the site plan or development by the Township. The remainder of the landscaped area which is not planted with the aforementioned stock shall be in well-kept lawn. All landscaping shall be maintained in a healthy growing condition, neat and orderly in appearance. Such walls for shielding off-street parking or storage areas shall not be required when such areas are located more than 200 feet from such abutting residential use or district.
  
- B.     Required walls shall be located on the property line, except as otherwise approved by the Planning Commission. Such walls, may upon approval by the Planning Commission, be located on the opposite side of an alley right-of-way from a nonresidential district which abuts a residential district whenever the affected owners also so agree. When vehicles or open air displays generally exceed a five (5) foot height said wall shall be increased to a height not exceeding ten (10) feet, providing further that all such walls shall be of uniform height around the premises and the design of such wall is first approved by the Zoning Administrator.
  
- C.     Required walls shall have no openings for vehicular traffic or other purposes, except as otherwise approved by the Planning Commission. Masonry walls, however, may be constructed with small dispersed openings which do not collectively exceed twenty (20) percent of the wall surface in area. The arrangements of such openings shall be subject to approval by the Zoning Administrator.
  
- D.     The Planning Commission may require an alternative type of visual screen in lieu of the masonry wall specified in A. above, if it is determined that another type of screen would be more in keeping with the character of the residential area being screened.

### **SECTION 18.31      USE OF MOBILE HOMES AS TEMPORARY DWELLINGS BY VISITORS**

Mobile homes, travel trailers, motor homes and recreation vehicles shall be permitted when parked by visitors in a side or rear yard of a permitting dwelling owner or lessee without charge, upon application by the owner or the issuance of a “Temporary Permit” by the Zoning Administrator. Application shall be made within seven (7) days after the date of arrival. The property owner or lessee shall present a written agreement to furnish the occupants of the mobile home, travel trailer motor home or recreation vehicle with sanitary facilities approved by the Township. A “Temporary Permit” may only be issued to one (1) mobile home, travel trailer, motor home or recreation vehicle at a time in any one location and shall be valid for a maximum period of ninety (90) days. Extensions of time shall not be permitted and the mobile home, travel trailer, motor home or recreation vehicle shall be removed from the property on or before the 90<sup>th</sup> day of the permit period.

### **SECTION 18.32 BUILDING GRADES**

The finished surface of the ground areas outside the walls of any building constructed or altered shall be so designed that surface waters shall flow away from the building walls in such a direction and collection that inconvenience or damage to adjacent properties shall not occur.

### **SECTION 18.33 MOVING BUILDINGS**

Buildings may not be relocated within or moved into the Township unless the building design and construction are compatible with the general architectural character of other structures located in the immediate area of the proposed site. Permits shall be required from the Zoning Administrator for such buildings to be moved.

### **SECTION 18.34 TELEVISION SATELLITE RECEIVING DISHES**

All television satellite receiving dishes are designated accessory uses to the principal uses permitted on each lot or parcel in each respective zoning district, and are governed by the same requirements as any other accessory use permitted in each zoning district. Satellite dishes shall not be located in the front yard of the principal structure.

### **SECTION 18.35 USE OF PERFORMANCE GUARANTEES TO TEMPORARILY DELAY CONSTRUCTION REQUIREMENTS**

If in the judgment of the Planning Commission, during the course of Site Plan Review Procedures, it appears prudent to permit the delay of constructing certain provisions as required in this Zoning Ordinance, the Planning Commission may grant such a delay to a specific future date provided that the applicant/owner submits a satisfactory performance guarantee to the Township Board. The performance guarantee shall remain in effect prior to or coincident with the issuance of the zoning permit and shall remain in effect until the requirements so delayed are fully completed and approved by the Zoning Administrator.

**SECTION 18.36 HOUSEHOLD PETS**

Small domesticated household pets, such as dogs, cats and birds are limited to the maximum number existing in dwelling units in the Township which is generally no more than two (2); however, if more than 2 are desired, as long as all other county, State and Federal laws are complied with, and an additional area of land equal to one-sixth (1/6) acre per animal is provided, additional domesticated household pets will be permitted up to a maximum of four (4), except that there shall be no limit on such pets in the RD and AR Zoning Districts on lots or parcels of five (5) acres or more. Small caged birds and animals, such as parakeets, canaries, gerbils, white mice, guinea pigs, etc., which are kept only as household or family pets shall be excluded from this limitation.

**SECTION 18.37 NON-COMMERCIAL DOMESTIC ANIMALS**

Large domestic animals which are used essentially for pet, contest, riding, educational or other special purpose as individual animal specimens are permitted at the rate of one (1) on a minimum of three (3) acres for the first animal and one (1) acre for each additional animal are permitted in RD, AR, MDR, and LDR Districts.

**SECTION 18.38 MOBILE HOME AS AN ACCESSORY USE FOR THE SICK AND THE INDIGENT**

Mobile homes shall be permitted on lots and parcels upon which a single family dwelling is located for the purpose of housing the sick and indigent relatives of the family occupying the principal single family dwelling located on the same lot or parcel, providing the following conditions are met:

- A. The lot has a principal single family dwelling located upon it.
- B. The lot is a legal lot of record.
- C. The occupants have direct family relationship to those persons occupying the principal dwelling.
- D. The occupants have a need as determined by their acquisition of a physician's certification prescribing the need for such housing during the period of illness or infirmity.
- E. Mobile homes used for this purpose shall be limited to only one (1) per single family residential lot or one (1) per each forty (40) acres of a farm parcel.
- F. Mobile homes used for this purpose shall have immediate and unlimited access to all facilities located in the principal dwelling on the farm or single family residential lot for the maintenance of proper health and sanitation, including potable water and sanitary disposal facilities for solid and liquid wastes.



- G. All accessory mobile homes shall be located within the appropriate setback lines for the yard in which they are located, except that no accessory mobile home shall be located in a front yard of a principal dwelling.
- H. Zoning Permits shall be approved by the Planning Commission and reviewed annually thereafter for continued need and compliance.
- I. Zoning Permits issued for such use shall terminate at such time that any one or combination of the above conditions cease to be met.

**SECTION 18.39 CROSS-SECTIONS AND FLOOR AREA REQUIREMENTS FOR ALL SINGLE FAMILY DWELLING STRUCTURES**

All single family dwelling structures located outside of Mobile Home Parks, shall have at least one (1) cross-section through the dwelling structure which is at least twelve (12) feet wide and shall have at least one (1) portion of the ground floor having a twelve (12) foot by twenty-four (24) foot area in all Districts.

**SECTION 18.40 RATIO OF LOT WIDTH TO LOT LENGTH - Deleted**

**SECTION 18.41 SETBACKS FROM ROADS AND HIGHWAYS**

Setbacks from M-43, M-140, and CR-388 (Phoenix Road) shall be at least fifty (50) feet and setbacks for all other roads shall be at least thirty-five (35) feet, or as specified in the Master Plan for Roads and Highways, whichever is the greater. The right-of-way width of the Blue Star Memorial Highway shall be established for zoning purposes at 120 feet, and all required setbacks in those portions of the Blue Star Memorial Highway which exceed 120 feet in width shall only be required to set back 110 feet from the centerline of the Blue Star Memorial Highway, except that in no case shall any buildings or structures be located in any portion of the Blue Star Memorial Highway right-of-way regardless of its width in excess of the 120 feet prescribed for it by this section.

**SECTION 18.42 AIRPORT ZONING REQUIREMENTS**

When an “Airport Approach and Take-off Plan” is prepared for the South Haven Airport it shall be made a part of this Zoning Ordinance. It shall govern the heights of all building structures, trees and the land, building and structural uses and activities located upon all lots and parcels affected by the “Airport Approach and Take-off Plan” which would obstruct the air space required for the safe flight of aircraft on landing or taking off at the airport or is otherwise hazardous or creates hazards to such safe landing or taking off of aircraft as determined by the South Haven Airport Authority. See Article XIVA, “Airport Overlay District.”

**SECTION 18.43 LAND DIVISIONS**

All land divisions shall be made in accordance with Ordinance No. 49, South Haven Charter Township Subdivision Ordinance. Land divisions involving more than two (2) resultant lots or parcels and which would create land-locked lots or parcels shall not be permitted unless a sixty-six (66) foot wide road easement is provided to the otherwise land-locked lots or parcels.

**SECTION 18.44 CONSTRUCTION, MAINTENANCE AND USE OF PUBLIC AND PRIVATE ROADS**

All public and private roads in South Haven Township shall be regulated by Ordinance No. 33, and entitled as follows:

“AN ORDINANCE REGULATING PUBLIC AND PRIVATE ROADS AND STREETS, THE USE THEREOF, THE CONSTRUCTION AND MAINTENANCE OF PUBLIC AND PRIVATE ROADS AND STREETS, WITHIN SOUTH HAVEN TOWNSHIP, THE APPROVAL OR ROAD CONSTRUCTION, TO PROVIDE FOR AND REGULATE PERMANENT ACCESS EASEMENTS FOR THE EXCLUSIVE USE OF INDIVIDUAL SINGLE-FAMILY RESIDENCES AND TO PROVIDE FOR THE ADMINISTRATION, ENFORCEMENT, AGREEMENTS FOR USE, SECURITY FOR CONSTRUCTION, AND FEES TO DEFRAY ADMINISTRATIVE AND ENFORCEMENT COSTS INCIDENT THERETO.”

**SECTION 18.45. GUEST HOUSES.**

One single-family guest house may be located on any parcel in the AR, LDR, MDR and HDR districts provided that the parcel shall contain no less than 1.5 times the minimum width and area. Each guest house shall be located at least thirty (30) feet from the principal structure, be built at least to the same construction code standards as the principal structure, and additionally shall meet the following provisions: *[amended 2017]*

- A. A guest house shall be used only by members of the family occupying the principal residential structure located on a lot or parcel, including the following:
  - 1. Blood related members of the family occupying the principal dwelling;
  - 2. Legally adopted members of the family occupying the principal dwelling;
  - 3. Other family members as included in the definition family contained within this ordinance.
- B. Household servants, property caretakers and nursing and other professionals and paraprofessionals retained to assist members of the family occupying the principal dwelling.
- C. High school and college exchange students for the period of time they qualify as exchange students.
- D. Occasional and temporary guests of the family occupying the principal dwelling, whose stays shall not exceed thirty (30) days out of each calendar year unless a Temporary Transient Use permit is granted in accordance with Section 18.28 of this Ordinance. The site plan review provision of Section 18.28 does not apply.

- E. At no time shall a guest house be considered a separate dwelling unit. A guest house shall not be used for income purposes, and no monthly or other time period rental or lease agreement or monetary charge for occupancy shall be permitted, except as provided by definition of family contained in this Ordinance.
- F. The construction of a guest house shall meet all applicable requirements for accessory buildings. Additionally, a guest house shall have a minimum floor area of at least six hundred eighty (680) square feet, but not more than fifty (50) percent of the floor area of the principal dwelling.
- G. Each guest house shall be provided with emergency vehicle access which has been reviewed and approved by the authorized fire code official.

[section 18.45 added 1996]

#### **SECTION 18.46 OPEN SPACE PRESERVATION**

These provisions are adopted to satisfy the requirements of P.A. 177 of 2001 (commonly referred to as the Open Space Preservation Act). The Act requires that qualified townships provide for the clustering of residential units on property provided that fifty percent (50%) or more of the land is preserved in permanent open space in those districts that have a density of three (3) units per acre or less (with public sewer) or two (2) units per acre or less (without public sewer). The clustering must be at the option of the land owner, but the Township retains authority to establish minimum standards applicable to clustered developments.

- A. In those residential zoned districts where the minimum lot size is 21,780 square feet or greater without municipal sewer and water, a land owner may choose to apply for a land division(s), plat or site condominium under the Open Space Preservation option described below. Provided that no more than the same number of dwelling units allowed on the entire land area of the tract, under the existing South Haven Township zoning district regulations, State laws and rules, may be created.
- B. To qualify for an Open Space Preservation land division, plat or site condominium option the land owner must:
  - 1. Sign and record an Open Space Preservation Agreement in the form of a conservation easement, plat dedication, deed, covenant or other legal document that runs with the land and is approved by the South Haven Township Board, whereby the land owner shall agree that at least 50% of the land owner's property shall remain in a perpetual undeveloped state. An "undeveloped state" shall mean; a natural state preserving natural resources, natural features, or scenic wooded conditions, agricultural use, open space; or a similar use or condition. Land in an undeveloped state does not include a golf course but may include a recreational trail, picnic area, children's play area, greenway, or linear park. Land in an undeveloped state may be, but is not required to be, dedicated to the use of the public.

2. If the property is not served by a municipal sewer system, then before any divisions under one (1) acre in area are approved the land owner must obtain individual septic system permits from the County Health Department for non-mounded septic systems on each proposed lot. A State and County approved common septic system is an acceptable option with the approval of the Township Board, so long as the common septic system is not located in areas included within the required open space.
3. No exercise of the Open Space Preservation option shall be effective until the Township Board has approved the document(s) required by this subsection, and these have been filed and are of record with the County Register of Deeds.
4. All land divisions proposed under the Open Space Preservation option are subject to the Site Plan Review provisions of this ordinance.

C. Minimum Lot Requirements.

Under the Open Space Preservation option, the minimum lot requirements shall be as follows:

1. MINIMUM LOT WIDTH – shall be 80% of the minimum lot width required under the zoning ordinance for the zoning district.  
For lots fronting on roads and highways identified in Section 18.41, if a private road or access drive would have been required under the ordinance than a private road or access drive shall be required for access to each created lot.  
FOR CORNER LOTS, 80% OF THE MINIMUM LOT WIDTH – shall be met on both street frontages.
2. MINIMUM LOT DEPTH – shall be at least 100 feet excluding any right-of-way easement.
3. MINIMUM LOT AREA – shall be at least half the area required for the zoning district.
4. MAXIMUM LOT COVERAGE – shall be 35%.

D. Application

All applications for an Open Space Preservation option land division must be accompanied by a surveyor's drawing showing a layout of building sites which meet the ordinance requirements without applying the Open Space Preservation option. This shall be done in order to demonstrate that the number of sites shown on the application does not exceed the number that could be permitted without applying the Open Space Preservation option.

1. PLATS – Applicant shall inform the Township Clerk in writing at the time of application for tentative approval of the preliminary plat if the land owner chooses to exercise the Open Space Preservation option.
2. SITE CONDOMINIUMS – Applicant shall indicate on the Zoning Application form when submitting the preliminary site plan to the Zoning Administrator if the land owner chooses to exercise the Open Space Preservation option.
3. EXEMPT DIVISIONS UNDER THE STATE LAND DIVISION ACT – Applicant shall indicate on the Land Division Application form when submitting

the application to the Zoning Administrator if the land owner chooses to exercise the Open Space Preservation option.

- E. MANDATORY INCLUSION OF EXISTING REGULATED FLOODPLAINS, SAND DUNES, HIGH RISK EROSION AREAS, WETLANDS, AREAS UNDER OPEN WATERS, AND DRAINAGE RAVINES IN THE PRESERVATION OPEN SPACE.

The inclusion of existing regulated floodplains, wetlands, sand dunes, high risk erosion areas, areas of open water and drainage ravines in developable lots created under this Open Space Preservation section is hereby prohibited except where over 50% of the parent parcel is composed of such areas. When over 50% of the parent parcel contains such environmentally sensitive areas all proposed land divisions shall be reviewed by the Planning Commission which shall ensure that no more than the minimum impact possible is approved. Applications for land divisions which include regulated floodplains, wetlands, open water, sand dunes and high risk erosion areas shall include review(s) by the appropriate divisions(s) of the Michigan Department of Environmental Quality. *[Section 18.46 effective January 1, 2003]*

**SECTION 18.47 CEMETERIES, COLUMBARIUM CREMATORIES AND/OR MAUSOLEUMS**

- A. Cemeteries and mausoleums are permitted in the Township. A Zoning Permit is required for establishment of a cemetery.
- B. No cemetery shall be established unless the water table is demonstrated to consistently exceed six (6) feet below grade. Proof shall consist of a map prepared by a professional hydrologist or hydrogeologist containing that person's professional seal.
- C. The minimum lot or parcel size shall be five (5) acres.
- D. A ten (10) foot wide buffer zone containing screening plant materials is required adjacent to all exterior lot lines adjacent to residential uses.
- E. All facilities for ground burial areas of the site shall be designed and constructed in accordance with the requirements of the Van Buren County Health Department and the State of Michigan.
- F. Crematories are permitted in the I (Industrial) district as an accessory use to a cemetery. Crematories are permitted in the CSC (Community Service Commercial) district as an accessory use to a funeral home. *[Section 18.47 effective January 1, 2009]*

**SECTION 18.48 ON-SITE USE WIND ENERGY SYSTEMS LESS THAN 65 FEET IN HEIGHT.**

An On-Site Use wind energy system is intended to serve an individual property only. On-Site Use Wind Energy Systems (including Anemometer Towers) with no towers or with tower

height(s) less than 100 feet shall be a permitted use in all zoning classifications subject to the following regulations:

- A. A Zoning Permit Application shall be submitted to the Zoning Administrator with a scaled site plan demonstrating compliance with these regulations.
- B. Property Setbacks: The distance between an On-Site Use Wind Energy System and the owner's property lines (and road right-of-way lines) shall be at least 1.1 times the height of the wind energy system structure including the blade in its vertical position. No portion of the structure, including guy wire anchors, shall extend closer than ten feet to the property line.
- C. Construction Codes, Towers, and Interconnection Standards: On-Site Use Wind Energy Systems including towers shall comply with all applicable state construction and electrical codes and building permit requirements. On-Site Use Wind Energy Systems including towers shall comply with Federal Aviation Administration requirements, the Michigan Airport Zoning Act (Public Act 23 of 1950, MCL 259.431 et seq.), the Michigan Tall Structures Act (Public Act 259 of 1959, MCL 259.481 et seq.), and Article XIVA. AOZ Airport Overlay Zone regulations. An interconnected On-Site Use wind energy system shall comply with Michigan Public Service Commission and Federal Energy Regulatory Commission standards. Off-grid systems are exempt from this last requirement.
- D. Safety: An On-Site Use wind energy system shall have automatic braking, governing, or a feathering system to prevent uncontrolled rotation or over speeding. All wind towers shall have lightning protection. If a tower is supported by guy wire anchors, the wires shall be clearly visible at a height of at least six feet above the guy wire anchors. The minimum vertical blade tip clearance from grade shall be 10 feet for a wind energy system employing a horizontal axis rotor.

*[section 18.48 effective May 2009 amended December 2011]*