

TITLE XV: LAND USAGE

Chapter

- 150. BUILDINGS**
- 151. DIVISION OF LOTS**
- 152. FLOODPLAIN MANAGEMENT**
- 153. ZONING**
- 154. JUNK ACCUMULATION**

CHAPTER 150: BUILDINGS

Section

State Building Code

150.01 Agency designated

Dangerous Buildings

150.15 Title

150.16 Definitions

150.17 Prohibition of dangerous buildings

150.18 Notice of dangerous building; hearing

150.19 Dangerous Building Hearing Officer; duties; hearing; order

150.20 Enforcement hearing before the Township Board or Dangerous Building Board of Appeals

150.21 Implementation and enforcement of remedies

150.22 Sanction for nonconformance with order

150.23 Dangerous Building Board of Appeals

150.24 Appeal of Township Board/Board of Appeals decision

Address, Street and Road Numbering

150.35 Preamble

150.36 Name

150.37 Purpose

150.38 Definitions

150.39 Regulation

150.40 Violation

150.41 Construction

150.99 Penalty

*STATE BUILDING CODE***150.01 AGENCY DESIGNATED.**

Pursuant to the provisions of the Michigan Building, Electrical, Plumbing and Mechanical Code, in accordance with Public Act 230 of 1972, 9, being M.C.L.A. 125.1509, as amended, the Building Official of the township is hereby designated as the enforcing agency to discharge the responsibility of the township under Public Act 230 of 1972, being M.C.L.A. 125.1501 through 125.1531, as amended. The township assumes responsibility for the administration and enforcement of said Act throughout its corporate limits. (Ord. 26, passed 10-5-1999)

*DANGEROUS BUILDINGS***150.15 TITLE.**

This subchapter shall be known and cited as the Big Rapids Charter Township Dangerous Buildings Subchapter. (Ord. 30, passed 3-16-2009)

150.16 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DANGEROUS BUILDING. Any building or structure, residential or otherwise that has one or more of the following defects or is in one or more of the following conditions:

- (1) A door, aisle, passageway, stairway or other means of exit does not conform to the Township Fire Code or Township Building Code;
- (2) A portion of the building or structure is damaged by fire, wind, flood or other cause so that the structural strength or stability of the building or structure is appreciably less than it was before the catastrophe and does not meet the minimum requirements of the Housing Law of Michigan, Public Act 167 of 1917, being M.C.L.A. 125.401 et seq., as amended, or the Township Building Code for a new building or structure, purpose or location;
- (3) A part of the building or structure is likely to fall, become detached or dislodged, or collapse, and injure persons or damage property;

(4) A portion of the building or structure has settled to such an extent that walls or other structural portions of the building or structure have materially less resistance to wind than is required in the case of new construction by the Housing Law of Michigan, Public Act 167 of 1917, as amended, (M.C.L.A. 125.401 et seq.), or the Township Building Code;

(5) The building or structure, or a part of the building or structure, because of dilapidation, deterioration, decay, faulty construction or the removal or movement of some portion of the ground necessary for the support, or for other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fall or give way;

(6) The building or structure, or a part of the building or structure, is manifestly unsafe for the purpose for which it is used;

(7) The building or structure is damaged by fire, wind or flood, or is dilapidated or deteriorated and becomes an attractive nuisance to children who might play in the building or structure to their danger, or becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful or immoral act;

(8) A building or structure used or intended to be used for dwelling purposes, including the adjoining grounds, because of dilapidation, decay, damage, faulty construction or arrangement, or otherwise, is unsanitary or unfit for human habitation, is in a condition that the health officer of the township or county determines is likely to cause sickness or disease, or is likely to injure the health, safety or general welfare of people living in the dwelling;

(9) A building or structure is vacant, dilapidated and open at door or window, leaving the interior of the building exposed to the elements or accessible to entrance by trespassers; and

(10) A building or structure that is unoccupied and is not listed as being available for sale, lease or rent with a real estate broker licensed under Article 25 of the Occupational Code, Public Act 299 of 1980, (M.C.L.A. 339.2501 et seq.), or is not publicly offered for sale by the owner. This division (10) does not apply to either of the following:

(a) A building or structure as to which the owner or agent does both of the following:

1. Notifies the local authority that the building or structure will remain unoccupied. The notice shall be given by the owner or agent not more than 30 days after the building or structure becomes unoccupied; and

2. Maintains the exterior of the building or structure and adjoining grounds in accordance with this subchapter and the Housing Law of Michigan, Public Act 167 of 1917, as amended, (M.C.L.A. 125.401 et seq.), or the Township Building Code.

(b) A secondary dwelling of the owner that is regularly unoccupied for a period of time each year, if the owner notifies the local authority that the dwelling will remain unoccupied for periods of time throughout the year. An owner who has given the notice prescribed by this division (10)(b) shall notify the local authority not more than 30 days after the dwelling no longer qualifies for this exception. As used in this division (10)(b),

SECONDARY DWELLING means a dwelling such as a vacation home, hunting cabin or summer home that is occupied by the owner or a member of the owner's family during part of year.

ENFORCING AGENCY. This township, through the Township Building Official and/or such other official(s) or agency as may be designated by the Township Board to enforce this subchapter.

TOWNSHIP BUILDING CODE. The Building Code administered and enforced in the township pursuant to the Stille-DeRossett-Hale Single State Construction Code Act, Public Act 230 of 1972, as amended, (M.C.L.A. 125.1501 et seq.).

(Ord. 30, passed 3-16-2009)

150.17 PROHIBITION OF DANGEROUS BUILDINGS.

It shall be unlawful for any owner or agent thereof to keep or maintain any building or part thereof which is a dangerous building as defined in this subchapter.

(Ord. 30, passed 3-16-2009) Penalty, see 150.99

150.18 NOTICE OF DANGEROUS BUILDING; HEARING.

(A) *Notice requirement.* Notwithstanding any other provision of this subchapter, if a building or structure is found to be a dangerous building, the enforcing agency shall issue a notice that the building or structure is a dangerous building.

(B) *Parties entitled to notice.* The notice shall be served on each owner of or party in interest in the building or structure in whose name the property appears on the last local tax assessment records of the township.

(C) *Contents of notice.* The notice shall specify the time and place of a hearing on whether the building or structure is a dangerous building and state that the person to whom the notice is directed shall have the opportunity at the hearing to show cause why the Hearing Officer should not order the building or structure to be demolished, otherwise made safe or properly maintained.

(D) *Service of notice.* The notice shall be in writing and shall be served upon the person to whom the notice is directed either personally or by certified mail, return receipt requested, addressed to the owner or party in interest at the address shown on the tax records. If a notice is served upon a person

by certified mail, a copy of the notice shall also be posted upon a conspicuous part of the building or structure. The notice shall be served upon the owner or party in interest at least ten days before the date of the hearing included in the notice.

(Ord. 30, passed 3-16-2009)

150.19 DANGEROUS BUILDING HEARING OFFICER; DUTIES; HEARING; ORDER.

(A) *Appointment of Hearing Officer.* The Hearing Officer shall be appointed by the Township Supervisor to serve at his or her pleasure. The Hearing Officer shall be a person who has expertise in housing matters, including, but not limited to, an engineer, architect, building contractor, building inspector or member of a community housing organization. An employee of the enforcing agency shall not be appointed as a Hearing Officer.

(B) *Filing dangerous building notice with Hearing Officer.* The enforcing agency shall file a copy of the notice of the dangerous condition of any building with the Hearing Officer.

(C) *Hearing testimony and decision.* At a hearing prescribed by this subchapter, the Hearing Officer shall take testimony of the enforcing agency, the owner of the property and any interested party. Not more than five days after completion of the hearing, the Hearing Officer shall render a decision either closing the proceedings or ordering the building or structure demolished, otherwise made safe, or properly maintained.

(D) *Compliance with Hearing Officer Order.* If the Hearing Officer determines that the building or structure should be demolished, otherwise made safe or properly maintained, the Hearing Officer shall so order, fixing a time in the order for the owner, agent or lessee to comply with the order. If the building is a dangerous building under 150.16 in division (10) of the definition for dangerous building, the order may require the owner or agent to maintain the exterior of the building and adjoining grounds owned by the owner of the building including, but not limited to, the maintenance of lawns, trees and shrubs.

(E) *Noncompliance with Hearing Officer order/request to enforce order.* If the owner, agent or lessee fails to appear or neglects or refuses to comply with the order issued under division (D) above, the Hearing Officer shall file a report of the findings and a copy of the order with the Township Board not more than five days after noncompliance by the owner and request that necessary action be taken to enforce the order. If the Township Board has established a Dangerous Building Board of Appeals pursuant to 150.23, the Hearing Officer shall file the report of the findings and a copy of the order with the Board of Appeals and request that necessary action be taken to enforce the order. A copy of the findings and order of the Hearing Officer shall be served on the owner, agent or lessee in the manner prescribed in 150.18(D).

(Ord. 30, passed 3-16-2009)

150.20 ENFORCEMENT HEARING BEFORE THE TOWNSHIP BOARD OR DANGEROUS BUILDING BOARD OF APPEALS.

The Township Board, or the Dangerous Building Board of Appeals, as applicable, shall fix a date not less than 30 days after the hearing prescribed in 150.19(C) for a hearing on the findings and order of the Hearing Officer and shall give notice to the owner, agent or lessee in the manner prescribed in 150.18(D) of the time and place of the hearing. At the hearing, the owner, agent or lessee shall be given the opportunity to show because why the order should not be enforced. The Township Board or the Board of Appeals shall either approve, disapprove or modify the order. If the Township Board or the Board of Appeals approves or modifies the order, the Township Board shall take all necessary action to enforce the order. If the order is approved or modified, the owner, agent or lessee shall comply with the order within 60 days after the date of the hearing under this section. In the case of an order of demolition, if the Township Board or the Board of Appeals determines that the building or structure has been substantially destroyed by fire, wind, flood or other natural disaster and the cost of repair of the building or structure will be greater than the state equalized value of the building or structure, the owner, agent or lessee shall comply with the order of demolition within 21 days after the date of the hearing under this section.

(Ord. 30, passed 3-16-2009) Penalty, see 150.99

150.21 IMPLEMENTATION AND ENFORCEMENT OF REMEDIES.

(A) *Implementation of order by township.* In the event of the failure or refusal of the owner or party in interest to comply with the decision of the Township Board, or the Board of Appeals, as applicable, the Township Board may, in its discretion, contract for the demolition, making safe or maintaining the exterior of the building or structure or grounds adjoining the building or structure.

(B) *Reimbursement of costs.* The costs of the demolition, of making the building safe, or of maintaining the exterior of the building or structure or grounds adjoining the building or structure, incurred by the township to bring the property into conformance with this subchapter shall be reimbursed to the township by the owner or party in interest in whose name the property appears.

(C) *Notice of costs.* The owner or party in interest in whose name the property appears upon the last local tax assessment records shall be notified by the Township Assessor of the amount of the costs of the demolition, of making the building safe, or of maintaining the exterior of the building or structure or grounds adjoining the building or structure, by first class mail at the address shown on the township records.

(D) *Lien for unpaid costs.* If the owner or party in interest fails to pay the costs within 30 days after mailing by the Assessor of the notice of the amount of the cost, in the case of a single-family dwelling or a two-family dwelling, the township shall have a lien for the costs incurred by the township to bring the property into conformance with this subchapter. The lien shall not take effect until notice of the lien has been filed or recorded as provided by law. A lien provided for in this division (D) does not have

priority over previously filed or recorded liens and encumbrances. The lien for the costs shall be collected and treated in the same manner as provided for property tax liens under the General Property Tax Act, Public Act 206 of 1893, as amended, (M.C.L.A. 211.1 et seq.).

(E) *Court judgment for unpaid costs.* In addition to other remedies under this subchapter, the township may bring an action against the owner of the building or structure for the full cost of the demolition, of making the building safe, or of maintaining the exterior of the building or structure or grounds adjoining the building or structure. In the case of a single-family dwelling or a two-family dwelling, the township shall have a lien on the property for the amount of a judgment obtained pursuant to this division (E). The lien provided for in this division (E) shall not take effect until notice of the lien is filed and recorded as provided for by law. The lien does not have priority over prior filed or recorded liens and encumbrances.

(F) *Enforcement of judgment.* A judgment in an action brought pursuant to division (E) above may be enforced against assets of the owner other than the building or structure.

(G) *Lien for judgment amount.* In the case of a single-family dwelling or a two-family dwelling the township shall have a lien for the amount of a judgment obtained pursuant to division (E) above against the owner's interest in all real property located in this state that is owned in whole or in part by the owner of the building or structure against which the judgment is obtained. A lien provided for in this division (G) does not take effect until notice of the lien is filed or recorded as provided by law, and the lien does not have priority over prior filed or recorded liens and encumbrances.

(Ord. 30, passed 3-16-2009)

150.22 SANCTION FOR NONCONFORMANCE WITH ORDER.

Any person or other entity who fails or refuses to comply with an order approved or modified by the Township Board, or Board of Appeals, as applicable, under 150.20 within the time prescribed by that section is responsible for a municipal civil infraction.

(Ord. 30, passed 3-16-2009) Penalty, see 150.99

150.23 DANGEROUS BUILDING BOARD OF APPEALS.

(A) *Establishment and duties.* The Township Board may establish a Dangerous Building Board of Appeals to hear all of the cases and carry out all of the duties of the Township Board described in 150.20. If the Township Board establishes a Board of Appeals, the establishment and operation of the Board of Appeals shall be controlled by the following provisions of this section.

(B) *Membership.* The Board of Appeals shall be appointed by the Township Board and shall consist of the following members:

- (1) A building contractor;

(2) A registered architect or engineer;

(3) Two members of the general public; and

(4) An individual registered as a building official, plan reviewer or inspector under the Building Officials and Inspectors Registration Act, Public Act 54 of 1986, (M.C.L.A. 338.2301 et seq.). The individual may not be an employee of the enforcing agency.

(C) *Terms.* Board of Appeals members shall be appointed for three years, except that of the members first appointed, two members shall serve for one year, two members shall serve for two years, and one member shall serve for three years. A vacancy created other than by expiration of a term shall be filled for the balance of the unexpired term in the same manner as the original appointment. A member may be reappointed for additional terms.

(D) *Officers.* The Board of Appeals annually shall select a Chairperson, Vice Chairperson and other officers that the Board of Appeals considers necessary.

(E) *Quorum and final action votes.* A majority of the Board of Appeals members appointed and serving constitutes a quorum. Final action of the Board of Appeals shall be only by affirmative vote of a majority of the Board members appointed and serving.

(F) *Compensation and expenses.* The Township Board shall fix the amount of any per diem compensation provided to the members of the Board of Appeals. Expenses of the Board of Appeals incurred in the performance of official duties may be reimbursed as provided by law for employees of the Township Board.

(G) *Open Meetings Act applicable.* A meeting of the Board of Appeals shall be held pursuant to the Open Meetings Act, Public Act 267 of 1976, as amended, (M.C.L.A. 15.261 et seq.). Public notice of the time, date and place of the meeting shall be given in the manner required by the Open Meetings Act.

(H) *Freedom of Information Act applicable.* A writing prepared, owned, used, in the possession of or retained by the Board of Appeals in the performance of an official function shall be made available to the public pursuant to the Freedom of Information Act, Public Act 442 of 1976, as amended, (M.C.L.A. 15.231 et seq.).

(Ord. 30, passed 3-16-2009)

150.24 APPEAL OF TOWNSHIP BOARD/BOARD OF APPEALS DECISION.

An owner aggrieved by any final decision or order of the Township Board, or the Board of Appeals, as applicable, under 150.20 may appeal the decision or order to the circuit court by filing a petition for an order of superintending control within 20 days from the date of the decision.

(Ord. 30, passed 3-16-2009)

ADDRESS, STREET AND ROAD NUMBERING

150.35 PREAMBLE.

It is hereby determined by the Township Board that the health, safety and welfare of the inhabitants of the township would be better served by the establishment of a township wide street and road numbering system. Such uniform street and road numbering will enable the police agencies, ambulance service and public utilities to more rapidly identify and locate properties within the township. It is further determined that the establishment of regulations and standards be provided within the framework of governing law. (Ord. 27, passed 10-5-1999)

150.36 NAME.

This subchapter shall be known and cited as Big Rapids Charter Township Address, Street and Road Numbering Subchapter. (Ord. 27, passed 10-5-1999)

150.37 PURPOSE.

The purpose of this subchapter is to establish a township wide, with the exception of city street and road numbering system in a uniform logical manner; to provide for a central point to issue and control numbering and to provide rules and guidelines to facilitate enforcement thereof. (Ord. 27, passed 10-5-1999)

150.38 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

EAST AND WEST BASE LINE. A line drawn east and west across the south boundary of the township (12 Mile Road).

INTERESTED PARTY. The emergency services, owner, occupant, Building Department public utilities or any other governmental agency.

NORTH AND SOUTH BASE LINE. A line drawn north and south across the east boundary of the township (180th Avenue).

Big Rapids Charter Township - Land Usage

ODD OR EVEN NUMBER. The system of having even numbers assigned on the right side and odd numbers on the left side of all streets and roads as a person faces away from the base lines.

PREMISES. Any lot or parcel of land owned by any person, firm or corporation, public or private, improved with buildings or vacant, whether occupied or not.

STREET NUMBER or ROAD NUMBER. Any series of numbers assigned by the Township Building Department in conformance with the township numbering grid system for the purpose of identification of a particular premises location in relation to the grid system.

STREET OR ROAD NAME. Any official name as recognized by government authority and no such named street or road shall be changed without approval of the Township Board and the County Road Commission.

TOWNSHIP NUMBERING SYSTEM.

(1) Refers to a general east and west, and a north and south numbering system with the provision of allowing 1,000 numbers per mile for each mile of distance from the base lines. Numbering of east - west streets or roads shall begin at 18000 at the north - south base line (180th Avenue) and the numbering of north - south streets or roads shall begin at 12000 at the east - west base line (12 Mile Road).

(2) Those areas of the township that were detached from the City of Big Rapids, and that use the city addressing scheme, will be numbered in accordance with the addressing policies that the city had in effect at the time of detachment.

(Ord. 27, passed 10-5-1999)

150.39 REGULATION.

(A) All premises and mailboxes shall bear a distinctive street number in accordance with and as designated upon the street numbering maps on file in the office of the Township Building Department which maps, by reference, together with any revisions thereof shall become an operative part of this subchapter.

(B) Any owner of any premises shall place upon the street front of such premises and on the street mailbox of such premises, in such position to be plainly visible, such designated number.

(C) Number on mailboxes shall be displayed in such manner as to be plainly visible from road traffic lanes in either direction of approach. The numbers shall be of a contrasting reflectorized color, to their background and shall be not less than one inch in height; numbers in block or script displayed on building fronts shall be of a contrasting reflectorized color to their background and shall be not less than three inches in height. Where there is no mail delivery, the assigned number shall be displayed

either on the street front of the premises or on a roadside sign or both in such manner as to be plainly visible from road traffic lanes in either direction of approach.

(D) Where the mailbox is located on a street other than the premises as numbered, the mailbox shall show both the number assigned and the street name of the premises in contrasting reflectorized color, to their background and shall be not less than one inch in height. Grouping of mailboxes shall be permitted but the grouping shall be in sequential order according to the assigned number.

(E) Numbers shall be assigned and recorded by the Township Building Department at the request of any interested party in accordance with these regulations.
(Ord. 27, passed 10-5-1999) Penalty, see 150.99

150.40 VIOLATION.

Failure to display numbers within 30 days after assignment and recordation, or in the case of new construction, within 30 days after a letter or certificate of occupancy has been issued, shall be considered a violation of this subchapter.
(Ord. 27, passed 10-5-1999) Penalty, see 150.99

150.41 CONSTRUCTION.

This subchapter shall not supersede any existing city authority for street numbering, but shall be in addition to and not in conflict with all other laws and ordinances respecting street and road numbering.
(Ord. 27, passed 10-5-1999)

150.99 PENALTY.

(A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of 10.99.

(B) Any person or other entity who fails or refuses to comply with an order approved or modified by the Township Board, or Board of Appeals, as applicable, under 150.20 within the time prescribed by that section is responsible for a municipal civil infraction as defined by state law and subject to a civil fine of an amount as set by the Township Board from time to time, plus costs, which may include all direct or indirect expenses to which the township has been put in connection with the violation. A violator of 150.15 through 150.24 shall also be subject to such additional sanctions, remedies and judicial orders as are authorized under state law. Each day a violation of this 150.15 through 150.24 continues to exist constitutes a separate violation.

Big Rapids Charter Township - Land Usage

(C) Any person, firm or corporation violating the provisions of 150.35 through 150.41 shall be subject to a fine of an amount as set by the Township Board from time to time. In addition to the imposition of the foregoing fines, penalties and other legal remedies, the Township Board may cause the proper posting of numbers, and the cost thereof assessed against the owner of such premises.
(Ord. 27, passed 10-5-1999; Ord. 30, passed 3-16-2009)

CHAPTER 151: DIVISION OF LOTS

Section

Land Division

- 151.01 Title
- 151.02 Purpose
- 151.03 Definitions
- 151.04 Prior approval requirements for land divisions
- 151.05 Application for land division approval
- 151.06 Procedure for review of applications for land divisions approval
- 151.07 Standards for approval of land divisions
- 151.08 Consequence of noncompliance with land division approval requirements

Procedures and Standards

- 151.20 Approval required
- 151.21 Division
- 151.22 Approval

- 151.99 Penalty

LAND DIVISION

151.01 TITLE.

This subchapter shall be known and cited as the Big Rapids Charter Township Land Division Subchapter.

(Ord. 9.01, passed 11-4-1997)

151.02 PURPOSE.

The purpose of this subchapter is to carry out the provisions of the State Land Division Act (Public Act 288 of 1967, being M.C.L.A. 560.101 through 560.293, as amended, formerly known as the

Subdivision Control Act), to prevent the creation of parcels of property which do not comply with applicable ordinances and said Act, to minimize potential boundary disputes, to maintain orderly development of the community, and otherwise provide for the health, safety and welfare of the residents and property owners of the municipality by establishing reasonable standards for prior review and approval of land divisions within the township.

(Ord. 9.01, passed 11-4-1997)

151.03 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

APPLICANT. A natural person, firm, association, partnership, corporation or combination of any of them that holds an ownership interest in land whether recorded or not.

DIVIDE or DIVISION. The partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors or assigns, for the purpose of sale or lease of more than one year, or of building development that results in one or more parcels of less than 40 acres or the equivalent, and that satisfies the requirements of 108 and 109 of the State Land Division Act (Public Act 288 of 1967, being M.C.L.A. 560.101 through 560.293, as amended). ***DIVIDE*** and ***DIVISION*** does not include a property transfer between two or more adjacent parcels, if the property taken from one parcel is added to an adjacent parcel; and any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of the State Land Division Act, this subchapter and other applicable ordinances.

EXEMPT SPLIT or EXEMPT DIVISION. The partitioning or splitting of a parcel or tract of land by the proprietor thereof, or by his or her heirs, executors, administrators, legal representatives, successors or assigns that does not result in one or more parcels of less than 40 acres or the equivalent; provided all resulting parcels are accessible for vehicular travel and utilities from existing public roads through existing adequate roads or easements, or through areas owned by the owner of the parcel that can provide such access.

FORTY ACRES OR THE EQUIVALENT. Either 40 acres, a quarter-quarter section containing not less than 30 acres or a government lot containing not less than 30 acres.

GOVERNING BODY. The Big Rapids Charter Township Board.
(Ord. 9.01, passed 11-4-1997)

151.04 PRIOR APPROVAL REQUIREMENTS FOR LAND DIVISIONS.

Land in the township shall not be divided without the prior review and approval of the Township Assessor, or other official designated by the governing body, in accordance with this subchapter and the

State Land Division Act (Public Act 288 of 1967, being M.C.L.A. 560.101 through 560.293, as amended); provided that the following shall be exempted from this requirement:

(A) A parcel proposed for subdivision through a recorded plat pursuant to the State Land Division Act;

(B) A lot in a recorded plat proposed to be divided in accordance with the State Land Division Act; and

(C) An exempt split as defined in this subchapter.
(Ord. 9.01, passed 11-4-1997)

151.05 APPLICATION FOR LAND DIVISION APPROVAL.

An applicant shall file all of the following with the Township Assessor or other official designated by the governing body for review and approval of a proposed land division before making any division either by deed, land contract lease for more than one year, or for building development:

(A) A completed application form on such form as may be approved by the Township Board;

(B) Proof of fee ownership of the land proposed to be divided;

(C) A tentative parcel map drawn to scale including an accurate legal description of each proposed division, and showing the boundary lines, approximate dimensions, and the accessibility of each division from existing or proposed public roads for automobile traffic and public utilities;

(D) Proof that all standards of the State Land Division Act (Public Act 288 of 1967, being M.C.L.A. 560.101 through 560.293, as amended) and this subchapter have been met;

(E) The history and specifications of the land proposed to be divided sufficient to establish that the proposed division complies with 108 of the State Land Division Act (Public Act 288 of 1967, being M.C.L.A. 560.101 through 560.293, as amended);

(F) If a transfer of division rights is proposed in the land transfer, detailed information about the terms and availability of the proposed division rights transfer;

(G) Unless a division creates a parcel which is acknowledged and declared to be not a development site, all divisions shall result in buildable parcels with sufficient area to comply with all required setback provisions, minimum floor areas, off-street parking spaces, approved on-site sewage disposal and water well locations (where public water and sewer service is not available), access to existing public utilities and public roads, and maximum allowed area coverage of buildings and structures on the site. Declared agricultural land and land for forestry use shall not be subject to the foregoing as Adevelopment sites as provided in the State Land Division Act at 102; and

(H) The fee as may from time to time be established by resolution of the governing body of the township for land division reviews pursuant to this subchapter to cover the costs of review of the application and administration of the subchapter and the State Land Division Act (Public Act 288 of 1967, being M.C.L.A. 560.101 through 560.293, as amended).
(Ord. 9.01, passed 11-4-1997) Penalty, see 151.99

151.06 PROCEDURE FOR REVIEW OF APPLICATIONS FOR LAND DIVISIONS APPROVAL.

(A) The Assessor or other designee shall approve, approve with reasonable conditions to assure compliance with applicable ordinances and the protection of public health, safety and general welfare, or disapprove the land division applied for within 30 days after receipt of the application package conforming to this subchapter's requirements, and shall promptly notify the applicant of the decision and the reasons for any denial. If the application package does not conform to this subchapter's requirements and the State Land Division Act (Public Act 288 of 1967, being M.C.L.A. 560.101 through 560.293, as amended), the Assessor or other designee shall return the same to the applicant for completion and refile in accordance with this subchapter and the State Land Division Act.

(B) Any person or entity aggrieved by the decision of the Assessor or designee may, within 30 days of said decision appeal the decision to the governing body of the township or such other body or person designated by the governing body which shall consider and resolve such appeal by a majority vote of said Board or by the designee at its next regular meeting or session affording sufficient time for a 20-day written notice to the applicant (and appellants where other than the applicant) of the time and date of said meeting and appellate hearing.

(C) The Assessor or designee shall maintain an official record of all approved and accomplished land divisions or transfers.
(Ord. 9.01, passed 11-4-1997)

151.07 STANDARDS FOR APPROVAL OF LAND DIVISIONS.

A proposed land division shall be approved if the following criteria are met:

(A) All the parcels to be created by the proposed land division(s) fully comply with the applicable lot (parcel), yard and area requirements or pertinent ordinances, including, but not limited to, minimum lot (parcel) frontage/width, minimum road frontage, minimum lot (parcel) area, and maximum lot (parcel) coverage and minimum setbacks for existing buildings/structures or have received a variance from such requirement(s) from the appropriate Zoning Board of Appeals;

(B) The proposed land division(s) comply with all requirements of the State Land Division Act (Public Act 288 of 1967, being M.C.L.A. 560.101 through 560.293, as amended) and this subchapter;

(C) All parcels created and remaining have existing adequate accessibility, or an area available therefor, to a public road for public utilities and emergency and other vehicles not less than the requirements of all applicable ordinances; and

(D) The ratio of depth to width of any parcel created by the division does not exceed a four to one ratio exclusive of access roads, easements or non-development sites. The depth of a parcel created by a land division shall be measured within the boundaries of each parcel from the abutting road right-of-way to the most remote boundary line point of the parcel from the point of commencement of the measurement. The width of a parcel shall be measured at the abutting road or right-of-way line, or as otherwise provided in any applicable ordinances.

(Ord. 9.01, passed 11-4-1997)

151.08 CONSEQUENCE OF NONCOMPLIANCE WITH LAND DIVISION APPROVAL REQUIREMENTS.

Any parcel created in noncompliance with this subchapter shall not be eligible for any building permits, or zoning approvals, such as conditional land use approval or site plan approval, and shall not be recognized as a separate parcel on the assessment roll. In addition, violation of this subchapter shall subject the violator to the penalties and enforcement actions set forth in 151.99, and as may otherwise be provided by law.

(Ord. 9.01, passed 11-4-1997)

PROCEDURES AND STANDARDS

151.20 APPROVAL REQUIRED.

The division of a lot in a recorded plat in the township is prohibited, unless approved by the Township Assessor, following application to the Township Assessor. The application shall be filed with the Township Assessor and shall contain a drawing showing the dimensions and description of each part of the lot as proposed for dividing. The application shall also state the reasons for the proposed division.

(Ord. 9, passed 5-7-1985)

151.21 DIVISION.

(A) No lot in a recorded plat shall be divided into more than four parts, and the resulting lots shall be at least the minimum area required for building by the zoning ordinance in effect in the township at the time of application, for the district in which the platted lot is located. No building permit shall be issued, or any building construction commenced, unless the division has been approved by the Township

Assessor, and the suitability of the land for building sites has been approved by the County Health Department.

(B) The division of a lot resulting in a smaller area than prescribed by division (A) above may be permitted by the Township Assessor, but only for the purpose of adding to the existing building site or sites. The application shall be in affidavit form and shall so state the intent of the division.

(Ord. 9, passed 5-7-1985) Penalty, see 151.99

151.22 APPROVAL.

Approval of the division of a lot in a recorded plat shall be contingent on an agreement in writing by the applicant that any sales contract, deed or any other document presented for recording at the office of the County Register of Deeds shall be accompanied by a copy of the written approval of the Township Assessor and a copy of the drawing of the lot as approved by the Township Assessor for dividing.

(Ord. 9, passed 5-7-1985)

151.99 PENALTY.

(A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of 10.99.

(B) (1) Any person who violates any of the provisions of 151.01 through 151.08 shall be deemed guilty of a misdemeanor and shall be punished by a fine of an amount as set by the Township Board from time to time or by imprisonment in the county jail for not to exceed 90 days or by both such fine and imprisonment.

(2) Any person who violates any of the provisions of 151.01 through 151.08 shall also be subject to a civil action seeking invalidation of the land division and appropriate injunctive or other relief.

(Ord. 9.01, passed 11-4-1997)

CHAPTER 152: FLOODPLAIN MANAGEMENT

Section

- 152.01 Agency defined
- 152.02 Code appendix enforced
- 152.03 Designation of regulated flood prone hazard areas

152.01 AGENCY DEFINED.

Pursuant to the provisions of the State Construction Code, in accordance with 8b(6) of Public Act 230 of 1972, being M.C.L.A. 125.1501 through 125.1531, as amended, the Building Official of the township is hereby designated as the enforcing agency to discharge the responsibility of the township under Public Act 230 of 1972, being M.C.L.A. 125.1501 through 125.1531, as amended. The township assumes responsibility for the administration and enforcement of said Act throughout the corporate limits of the community adopting this chapter.

(Ord. 34, passed 1-6-2015)

152.02 CODE APPENDIX ENFORCED.

Pursuant to the provisions of the State Construction Code, in accordance with 8b(6) of Public Act 230 of 1972, being M.C.L.A. 125.1501 through 125.1531, as amended, Appendix G of the State Building Code shall be enforced by the enforcing agency within the jurisdiction of the community adopting this chapter.

(Ord. 34, passed 1-6-2015)

152.03 DESIGNATION OF REGULATED FLOOD PRONE HAZARD AREAS.

The Federal Emergency Management Agency (FEMA) Flood Insurance Study (FIS) entitled *Mecosta County, Michigan (All Jurisdictions)* and dated February 4, 2015 and the Flood Insurance Rate Map(s) (FIRMS) panel number(s) of 26107C; 0127C, 0131C, 0133C, 0134C, 0151C, 0153C, 0154C, 0161C, 0162C, 0163C and 0164C dated February 4, 2015 are adopted by reference for the purposes of administration of the State Construction Code, and declared to be a part of 1612.3 of the State Building Code, and to provide the content of the Flood Hazards section of Table R301.2(1) of the State Residential Code.

(Ord. 34, passed 1-6-2015)

CHAPTER 153: ZONING

Section

Preamble

- 153.001 Purpose
- 153.002 Continuance of nonconforming uses and buildings
- 153.003 Essential service clause

Districts

- 153.015 Establishment of districts
- 153.016 A Residential District (uses and dimension regulations)
- 153.017 B Residential District (uses and dimension regulations)
- 153.018 Agricultural District (uses and dimension regulations)
- 153.019 Commercial District (uses and dimension regulations)
- 153.020 Industrial District
- 153.021 Highway Interchange District (HI)

Building Standards and Facilities

- 153.035 Building standards and facilities

Nonconforming Uses

- 153.050 Nonconforming use; generally
- 153.051 Alterations of a nonconforming use building
- 153.052 Building damage of a nonconforming use building
- 153.053 Discontinuance of nonconforming use
- 153.054 Completion of nonconforming buildings and structures
- 153.055 Substitution or expansion of nonconforming uses

Water and Sewage

- 153.070 Water supply and sewage disposal facilities

Shoreland Regulations

153.085 Shoreland regulations

Supplemental Regulations

- 153.100 Restrictions of record
- 153.101 Automobile or travel trailers
- 153.102 Outdoor lighting regulations

Parking

153.115 Vehicular parking space, access and lighting

Special Use Permits

153.130 Uses by special permit

Planned Unit Development

- 153.145 Intent
- 153.146 Modification powers
- 153.147 Application procedure
- 153.148 Review procedure
- 153.149 Open space preservation

Temporary Dwelling Structures

- 153.160 Temporary dwelling structures
- 153.161 Regulations governing the location of junk yards

Advertising Signs

- 153.175 Advertising signs
- 153.176 Uses and conditions
- 153.177 Exemptions
- 153.178 Sign permits

Site Use Design Standards

153.190 Site use standards

Mineral Mining Control

- 153.205 Title
- 153.206 Interpretation, existing operation and restrictions
- 153.207 Definitions
- 153.208 License required
- 153.209 Licensing procedure
- 153.210 Application contents
- 153.211 Fees
- 153.212 Issuance of license
- 153.213 Conditions in license
- 153.214 Fencing and screening
- 153.215 Hours of operation
- 153.216 Road access
- 153.217 Road maintenance
- 153.218 Operation of use
- 153.219 Noise standards
- 153.220 Performance bond
- 153.221 Plan of operations
- 153.222 Transportation vehicle standards
- 153.223 Lighting
- 153.224 Drainage
- 153.225 Setbacks
- 153.226 Reclamation plan
- 153.227 General requirements
- 153.228 Termination and reclamation
- 153.229 Excavation/filling
- 153.230 Bank slopes
- 153.231 Vegetation
- 153.232 Cessation of mining
- 153.233 Remedies

Communication Towers

- 153.245 Communication towers
- 153.246 Qualifying conditions

Sexually Oriented Businesses

- 153.250 Purpose and findings
- 153.251 Uses subject to control
- 153.252 Definitions
- 153.253 Unlawful activities
- 153.254 Scierter required to prove violation or business liability
- 153.259 Penalty

Administration and Enforcement

153.260 Zoning Administrator
153.261 Permits
153.262 Site plan review

Board of Appeals

153.275 Organization
153.276 Meetings; powers and duties of Chairperson; records
153.277 Duties
153.278 Hearings and notices

Definitions

153.290 Definitions

Legal Status

153.305 Validity
153.306 Effective date
153.999 Penalty

PREAMBLE

153.001 PURPOSE.

(A) To promote the public health, safety, morals and general welfare of the township;

(B) To encourage the use of lands in accordance with their characters and capabilities and to limit the improper use of land;

(C) To avoid overcrowding of land;

(D) To lessen congestion on the public roads;

(E) To reduce hazards to life and property; and

(F) To conserve expenditure of funds for public improvements and services to conform to the most advantageous use of land and resources.

(Ord. 2, passed 8-12-1971; Ord. 3, passed 8-8-1974)

153.002 CONTINUANCE OF NONCONFORMING USES AND BUILDINGS.

The lawful use of any building, land or premises existing prior to the enactment of this chapter may be continued on such terms as hereinafter provided, (see 153.050) although such use does not conform to all of the provisions of this chapter or amendment.

(Ord. 2, passed 8-12-1971; Ord. 3, passed 8-8-1974)

153.003 ESSENTIAL SERVICE CLAUSE.

The erection, construction, alteration or maintenance by public utilities or municipal departments or commissions, of overhead or underground gas, electrical, steam or water, distribution or transmission systems, collection, communication, supply or disposal systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, poles, electrical substations, gas regulator stations and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utility or municipal department or commission or for the public health or safety or general welfare, shall be permitted as authorized by law and other ordinances of the county and the township in any use district, it being the intention hereof to exempt such erection, construction, alteration and maintenance from the application of this chapter.

(Ord. 2, passed 8-12-1971; Ord. 3, passed 8-8-1974)

*DISTRICTS***153.015 ESTABLISHMENT OF DISTRICTS.**

(A) The unincorporated portion of the township is hereby divided into the following land use districts:

- (1) A-Residential District;
- (2) B-Residential District;
- (3) Commercial District;
- (4) Industrial District;
- (5) Highway Interchange District; and
- (6) Agricultural District.

(B) Said districts are bounded on a map entitled Land Use Map of Big Rapids Charter Township, Michigan, which map is made part of this chapter.

(C) The districts above designated are described as in Big Rapids Township, Mecosta County, Michigan, as follows:

(1) *A-Residential District.*

- (a) Section 1: The E 1/2 of the NE 1/4 and the E 1/2 of the SE 1/4;
- (b) Section 2: The part of the SE 1/4 outside the city limits of the City of Big Rapids;
- (c) Section 10: The E 1/2 of the NW 1/4; the part of the S 1/2, lying outside of the limits of the City of Big Rapids; the E 1/2 of the NE 1/4 of the NW 1/4 and the SW 1/4 of the NW 1/4;
- (d) Section 12: All of the NE 1/4 and the E 1/2 of the NW 1/4;
- (e) Section 13: The part of the S 1/2 of the S 1/2 of the SW 1/4 lying west of the Old Millpond Road;
- (f) Section 14: The part of the S 1/2 of the S 1/2 of the SE 1/4 lying east of the Muskegon River;
- (g) Section 15: All the section lying outside of the limits of the City of Big Rapids;
- (h) Section 21: The E 1/2 of the SE 1/4;

(i) Section 22: All that part of the NE 1/4 lying outside the city limits of the City of Big Rapids, the entire NW 1/4, the entire SW 1/4 and the W 1/2 of the SE 1/4;

(j) Section 23: All that part of Section 23 lying north and east of the Muskegon River;

(k) Section 24: All of the W 1/2 of the W 1/2 of Section 24 lying north of the Muskegon River, except that part lying east of the centerline of the Old Millpond Road;

(l) Section 25: All of Section 25;

(m) Section 26: NW 1/4 of the SE 1/4;

(n) Section 27: That portion of the NE 1/4 platted as Gilbert Manor and the N 1/2 of the NW 1/4;

(o) Section 33: E 1/2 of NW 1/4 and the W 1/2 of the NE 1/4; and

(p) Section 36: All that part of Section 36 lying east of the Muskegon River.

(2) *B-Residential District.*

(a) Section 13: That part lying south of Fifteen Mile Road; that part of the E 1/2 of the SE 1/4 of the SE 1/4 lying north of Fifteen Mile Road; SE 1/4 of the NW 1/4 of the NW 1/4; and the W 1/2 of the NE 1/4 of the NW 1/4 of the NW 1/4;

(b) Section 24: All of the E 1/2 lying east of the Muskegon River; that part of the NE 1/4 of the NW 1/4 lying south of Fifteen Mile Road and east of the White Pine Trail State Park; and

(c) Section 36: All of Section 36 lying west of Muskegon River, except the NW 1/4.

(3) *Commercial District.*

(a) Section 3: That part of the NW 1/4 lying north of Northland Drive; the S 1/2 of the SW 1/4 of SE 1/4; and the S 1/2 of the N 1/2 of the SW 1/4 of the SE 1/4 including all the lots of the Brown's Addition not in the city and portions of the Chew's Farm Addition; a parcel 200 feet N & S and 503.5 feet E & W in the far NE corner of the NW 1/4 of the NW 1/4; and a parcel 238.5 feet of the E & W and 365.5 feet N & S in the far SE corner of the NW 1/4;

(b) Section 12: All of the S 1/2 of the SW 1/4;

(c) Section 13: The NE 1/4 of the NW 1/4; and the E 1/2 of the NE 1/4 of the NW 1/4 of the NW 1/4;

(d) Section 22: The E 1/2 of the SE 1/4;

Big Rapids Charter Township - Land Usage

(e) Section 23: The W 1/2 of the SW 1/4 lying south of the city limits of the City of Big Rapids, the N 1/2 of the NE 1/4 of the SW 1/4 lying south of the Muskegon River, and the SW 1/4 of the NE 1/4 of the SW 1/4;

(f) Section 26: The SW 1/4 and the W 1/2 of the NW 1/4; and

(g) Section 27: A parcel of land commencing at the NE Section Corner of Section 27, thence south along the west right-of-way of Northland Drive 275 feet, thence west parallel with the north section line 300 feet, thence north parallel with the right-of-way of Northland Drive 275 feet, thence east along the north section line 300 feet to the point of beginning.

(4) *Industrial District.*

(a) Section 3: The part of the NW 1/4 lying south and west of Northland Drive, excluding a partial 200 feet N & S and 503.5 feet E & W in the far NE corner of the NW 1/4 of the NW 1/4, and also excluding a partial 238.5 feet E & W and 365.5 feet N & S in the far SE corner of the NW 1/4; the NE 1/4 of the SW 1/4; the N 1/2 of the NW 1/4 of the SW 1/4; the SE 1/4 of the NW 1/4 of the SW 1/4; all the part of the N 1/2 of the N 1/2 of the SE 1/4 lying W of Northland Drive; all the part of the NW 1/4 of the SE 1/4 lying west of Northland Drive; a part of the SW 1/4 beginning 0 degrees, 49 minutes W 50 feet of the SE corner of the SW 1/4 of the NW 1/4 of the SW 1/4, thence 34 degrees, 52 minutes W 395.8 ft., thence 62 degrees, 25 minutes 450 feet, thence N 24 degrees, 23 minutes E to N line of the SW 1/4 of the NW 1/4 of the SW 1/4, thence E to the 1/16 quarter line, thence S to the point of beginning;

(b) Section 4: The N 1/2;

(c) Section 5: The part of the NE 1/4 east of U.S. 131 Expressway; and

(d) Section 12: The part of the SW 1/4 of the NW 1/4 not in the limits of the City of Big Rapids.

(5) *Highway Interchange District.*

(a) Section 16: The SW 1/4; the N 1/2 of the SE 1/4; and the W 1/2 of the W 1/2 of the SW 1/4 of the SE 1/4;

(b) Section 17: The E 1/2 of the SE 1/4;

(c) Section 20: The E 1/2 of the NE 1/4; and

(d) Section 21: The NW 1/4; and the W 1/2 of the W 1/2 of the NW 1/4.

(6) *Agricultural District.* All land in the unincorporated portion of Big Rapids Township not described in the other districts.

(Ord. 2, passed 8-12-1971; Ord. 2.01, passed 3-6-1973; Ord. 2.02, passed 3-6-1973; Ord. 2.03, passed 9-4-1973; Ord. 3, passed 8-8-1974; revised 9-9-2015)

153.016 A-RESIDENTIAL DISTRICT (USES AND DIMENSION REGULATIONS).

The following uses and dimension regulations shall apply in A-Residential District.

(A) *Permitted uses.*

- (1) One-family dwellings;
- (2) Two-family dwellings;
- (3) Gardening, farming and small household pets but not including the commercial raising of animals;
- (4) Office of a physician, lawyer, dentist, veterinarian or other professional person residing on the premises; and
- (5) Churches or schools subject to the provisions of 153.130.

(B) *Permitted accessory uses.*

- (1) Any other structure or use clearly accessory and incidental to a permitted use but not including an additional dwelling unit;
- (2) Parking for automobiles owned and used by a person(s) residing on the premises, but not including more than two commercial vehicles per lot; and
- (3) The keeping of not more than one person as a tenant in each dwelling unit.

(C) *Minimum lot size.*

- (1) Forty-three thousand five hundred and sixty square feet for any lot, provided that existing separately owned lots and platted lots may be accepted from this restriction, but such lots shall not be used for building purposes unless they contain at least:
 - (a) Fifteen thousand square feet; and
 - (b) Eighteen thousand square feet for two-family dwellings.
- (2) Any lots in subdivisions platted before the adoption of the Big Rapids Township Zoning Ordinance on August 16, 1974, shall be exempt from the 15,000 square feet minimum requirement.

(D) *Minimum street frontage.* One hundred sixty-five feet, provided that existing separately owned lots and platted lots may be excepted from this restriction.

Big Rapids Charter Township - Land Usage*(E) Minimum yard depth for principal structures.*

(1) (a) *Front.* Fifty feet from the front of the house structure to the nearest road or street right-of-way line. The right-of-way line shall be the line 33 feet from the road or street centerline, or further, if so established by easement grant and surveyed.

(b) *Side.* Fifteen feet from the side of the structure to the side lot line. Small accessory buildings: eight feet from the side of the structure to the side lot line. A small accessory building is building 150 square feet or less no higher than 12 feet at the peak.

(c) *Rear.* Fifty feet from the rear of the house structure to the rear lot line. Accessory buildings 15 feet from the rear of the structure to the rear lot line.

(2) Existing separately owned lots and platted lots may be excepted from the above requirements, but in such cases the front of the house structure shall not be less than 60 feet from the centerline of the road or street, the side lot distance shall not be less than eight feet and the rear lot distance shall not be less than 25 feet, providing such modifications do not violate the intent of this chapter.

(F) Floor area requirement.

(1) Single-family dwellings shall contain not less than 960 square feet of floor area, two-thirds of which shall be on the main floor in multi-level dwellings.

(2) Two-family dwellings shall have not less than 800 square feet of floor area for each dwelling unit, two-thirds of which shall be on the main floor in multi-level dwellings.

(3) All areas referred to are exclusive of any attached garage, open porch or other open attached structure.

(G) *Mobile homes.* No mobile homes shall be permitted, placed or erected in A Residential District. Travel trailers and other mobile homes designed for travel and not designed for semi-permanent placement on the land may be temporarily stored on the owner's premises.

(H) *Other uses.* No other use of structures and no other dimensions shall be permitted in A Residential District, except as stated in this section.

(Ord. 3, passed 8-8-1974; Ord. 3.04, passed 11-23-1976; Ord. 3.16, passed 6-1-1982; Ord. 3.28, passed 10-3-2000)

153.017 B-RESIDENTIAL DISTRICT (USES AND DIMENSION REGULATIONS).

The following uses and dimension regulations shall apply in B-Residential District.

(A) *Permitted uses.*

- (1) Single-family dwellings;
- (2) Two-family dwellings;
- (3) Boarding houses or rooming houses subject to the provision of 153.130;
- (4) Multi-family dwellings;
- (5) Gardening, farming and small household pets, but not including the commercial raising of animals;
- (6) Nursing or convalescent homes or homes for the aged or infirm or indigent;
- (7) Office of a physician, lawyer, dentist, veterinarian, surveyor, architect or other professional person resident on the premises;
- (8) Manufacturing and sale of handicraft, or home-craft products, providing that such products are manufactured and sold by a person residing on the premises and not employing more than one employee;
- (9) Churches or schools subject to the provisions of 153.130;
- (10) Year-round mobile home parks licensed annually by the state shall be allowed in B Residential District by special permit from the Zoning Board, subject to the provisions of 153.130; and
- (11) Mobile homes not in mobile home parks, shall be subject to the provisions of 153.035.

(B) *Permitted accessory uses.*

- (1) Any other structure or use clearly accessory and incidental to a permitted use, but not including an additional dwelling unit; and
- (2) Parking for automobiles owned and used by a person(s) residing on the premises, but not including more than two commercial vehicles per family dwelling.

(C) *Minimum lot size.*

- (1) Fifteen thousand square feet for single-family dwellings, existing separately owned lots, and platted lots excepted;
- (2) Eighteen thousand square feet for two-family dwellings;

Big Rapids Charter Township - Land Usage

(3) Seven thousand five hundred square feet per family unit of multi-family dwellings; and

(4) For parcels where both public sanitary sewer and public water services are provided the minimum lot size shall be 7,000 square feet for single-family homes, 9,000 square feet for duplex and 6,500 square feet per apartment.

(D) *Minimum street frontage.*

(1) One hundred feet for single-family dwellings;

(2) One hundred feet for two-family dwellings;

(3) One hundred feet for boarding or rooming houses; and

(4) One hundred forty feet for multi-family dwellings.

(E) *Minimum yard depth for principle structures.*

(1) *Front.* Fifty feet from the front of the house structure to the nearest road or street right-of-way line. The right-of-way line shall be the line 33 feet from the centerline, or further, if so established by grant and surveyed.

(2) *Side.* Eight feet from side of structure to the side lot line.

(3) *Rear.* Twenty-five feet from the rear of structure to rear lot line. Accessory buildings: eight feet from the rear of the structure to the rear lot line.

(F) *Floor area requirements.*

(1) Single-family dwellings shall contain not less than 800 square feet of floor area, two-thirds of which shall be on the main floor in multi-level dwellings.

(2) Two-family dwellings shall contain not less than 750 square feet of floor area, two-thirds of which shall be on the main floor in multi-level dwellings.

(3) Boarding or rooming houses shall contain not less than 750 square feet for the dwelling unit plus 100 square feet for each renting tenant.

(4) (a) Multi-family dwellings shall be constructed to meet the following standards of square footage per dwelling unit, based on the usage of the dwelling unit by the number of bedrooms.

<i>Number of Bedrooms</i>	<i>Required Square Footage</i>
0	550
1	650
2	750
3	850
4	950

(b) Each dwelling unit with more than four bedrooms shall have a minimum of 100 square feet added to its total size for each bedroom over four.

(c) All areas referred to are exclusive of any area of attached garage, open porch or other open attached structure.

(G) *Mobile homes.* Mobile homes not in mobile home parks shall be subject to the provisions of 153.035.
(Ord. 3.33, passed - -; Ord. 3, passed 8-8-1974; Ord. 3.16, passed 6-1-1982; Ord. 3.19, passed 1-3-1995; Ord. 3.29, passed 11-14-2000)

153.018 AGRICULTURAL DISTRICT (USES AND DIMENSION REGULATIONS).

The following uses and regulations shall apply in the Agricultural District.

(A) *Permitted uses.*

- (1) Any use allowed in an AA Residential District;
- (2) Farming, including the raising of livestock, raising trees and harvesting wood;
- (3) Sale of products produced mainly on the premises; and
- (4) Mobile homes subject to the provisions of 153.035.

(B) *Uses by special permit as provided for by 153.130.*

(1) Housing as follows:

- (a) Boarding houses, rooming houses;
- (b) Multi-family dwellings;

(c) Nursing and convalescent homes, as well as an adult foster care facility, foster family home, and foster family group homes pursuant to Public Act 287 of 1972, being M.C.L.A. 331.681 - 331.694, Public Act 11 of 1973, being M.C.L.A. 470.2 or Public Act 218 of 1979, being M.C.L.A. 400.701 - 400.735;

- (d) Child care facilities;
- (e) Bed and breakfast;
- (f) Resorts; or
- (g) Condominiums.

(2) Cemeteries;

(3) Home occupations subject to 153.190(C);

(4) Commercial uses listed in the Commercial District in 153.019(A);

(5) Other commercial uses as follows:

- (a) Architect and surveyors' offices;

Big Rapids Charter Township - Land Usage

- (b) Chiropractic offices;
 - (c) Counseling centers;
 - (d) Furniture restoration businesses;
 - (e) Laboratories for the production of supplies for other professions;
 - (f) Indoor automobile, truck and equipment storage;
 - (g) Mini storage facilities;
 - (h) Greenhouses, nurseries and landscaping businesses;
 - (i) Truck repair facilities;
- (6) Transmission towers;
- (7) Sawmills together with such storage and accessory uses incidental thereto;
- (8) Recreational facilities as follows:
- (a) Golf courses;
 - (b) Campground, camps and day camps;
 - (c) Parks and playgrounds;
 - (d) Indoor shooting ranges;
 - (e) Riding stables; and
 - (f) Farm machinery demonstrations.
- (9) Other agricultural uses as follows:
- (a) Retail butcher shop;
 - (b) Produce stand, farm market (including crops and farm products not produced on the premises);
 - (c) Taxidermy and fur dressing (but not commercial slaughter houses);
 - (d) Veterinarian practice and veterinary hospitals;
 - (e) Living quarters on the farm; and
 - (f) Winery.

- (10) Mineral sand and gravel extraction and processing;
- (11) Outdoor display and advertising media as provided by 153.175 through 153.178; and
- (12) Recreational vehicles subject to the provisions of 153.101.

(C) *Minimum lot size.* One acre, except in platted areas where the State Subdivision Control Act, being M.C.L.A. 560.101 et seq. shall control. Parcels that are accessible to both public sanitary sewer and public water services; the minimum lot size shall be 7,000 square feet for single-family homes, 9,000 square feet for duplex and 6,500 square feet for apartments.

(D) *Minimum frontage.* One hundred sixty-five feet.

(E) *Minimum yard depths for principal structures.*

(1) (a) *Front.* Fifty feet from the front of the house structure to the nearest road or street right-of-way line. The right-of-way line shall be the line 33 feet from the centerline, or further, if so established by grant and surveyed;

(b) *Side.* Fifteen feet from the side of the structure to the side lot line; and

(c) *Rear.* Fifty feet from the rear of the house structure to the rear lot line. Accessory buildings 15 feet from the rear of the structure to the rear lot line.

(2) Existing separately owned lots and platted lots are excepted from the above requirements, but in such cases the front of the house structure shall not be less than 60 feet from the centerline of the road or street, the side lot distance shall not be less than eight feet, and the rear lot distance shall not be less than 25 feet provided such modifications do not violate the intent of this chapter.

(F) *Floor area requirements.*

(1) (a) Single-family dwellings shall contain not less than 800 square feet, two-thirds of which shall be on the main floor in multi-level dwellings.

(b) Two-family dwellings shall contain not less than 750 square feet for each dwelling unit, two-thirds of which shall be on the main floor of multi-level dwellings, plus 100 square feet for each renting tenant.

(c) Rooming houses or boarding houses shall contain not less than 750 square feet of floor area for the dwelling unit plus 100 square feet for each renting tenant.

(2) All area referred to are exclusive of any area of attached garage, open porch or other attached structure.

(Ord. 3.33, passed - -; Ord. 2, passed 8-12-1971; Ord. 3, passed 8-8-1974; Ord. 3.16, passed 6-1-1982; Ord. 3.19, passed 1-3-1995; Ord. 3.29, passed 11-14-2000)

153.019 COMMERCIAL DISTRICT (USES AND DIMENSION REGULATIONS).

The following uses and regulations shall apply in the Commercial District.

(A) *Permitted uses.* Any structure used for the sale of food or goods at retail or for the sale or provisions of services as follows:

- (1) Any use as permitted in B-Residential Districts;
- (2) Antique shop;
- (3) Automobile sales, repair and rental establishment;
- (4) Automobile washing establishment;
- (5) Bakery goods store;
- (6) Bank;
- (7) Bar or tavern;
- (8) Barber shop or beauty parlor;
- (9) Boat sales, repair or storage;
- (10) Bowling lanes;
- (11) Cabin colonies;
- (12) Candy or confectionery store;
- (13) Delicatessen and meat market;
- (14) Dressmaking, millinery or clothing store;
- (15) Drugstore;
- (16) Dry cleaning or laundry establishment;
- (17) Dry goods or notions store;
- (18) Farm products stand;
- (19) Farm machine sales, service and repair establishment;
- (20) Fish bait, tackle or sporting goods store;
- (21) Furniture and carpeting store;

Big Rapids Charter Township - Land Usage

- (22) Funeral home or undertaking establishment;
- (23) Gasoline filling station and garage;
- (24) Gift shop;
- (25) Golf course and similar recreational facilities;
- (26) Grocery, fruit or vegetable store;
- (27) Hardware and paint store;
- (28) Hotel or motel;
- (29) Insurance agency;
- (30) Jewelry or clock and watch store;
- (31) Leather goods or luggage store;
- (32) Lock and gunsmith shop;
- (33) Parking area;
- (34) Photographic supply store and studio;
- (35) Radio and TV sales and service or musical instrument store;
- (36) Real estate agency;
- (37) Restaurant (including drive-in);
- (38) Shoe store or shoe repair shop;
- (39) Theater (excluding drive-in);
- (40) Upholstery shop; and
- (41) Other unlisted commercial non-industrial type establishments consistent with the character of the above by permit from the Zoning Administrator.

(B) *Permitted accessory uses by special permit as provided under 153.130.* Any accessory use, which is clearly incidental to the permitted uses including the manufacture, compounding, processing or treatment of products and clearly incidental to any service offered, and provided there is not therewith the operation of any activity or display of goods in such a manner as to be obnoxious by reason of odors, dust, smoke, light, noise or vibration, as determined by present standards or by the Board of Appeals upon complaint of the Zoning Administrator.

(C) *Minimum lot size.*

- (1) The land area shall be three times the area of the structure to be built thereon; and
- (2) In platted areas lot size to be established by the Board of Appeals.

(D) *Minimum street frontage.* Sixty-five feet.

(E) *Minimum yard depths.*

- (1) Unplatted areas.
 - (a) *Front.* Fifty feet from the right-of-way line;
 - (b) *Side.* Ten feet from side lot line; and
 - (c) *Rear.* Ten feet from rear lot line.
- (2) In platted areas yard depths to be established by the Board of Appeals.

(F) *Dimensions for residential use.* Residential uses in Commercial District shall conform to the dimension regulations for B-Residential Districts as provided in 153.017(C) through (G).

(G) *Adult businesses.*

- (1) *Definition. ADULT BUSINESS* as used in this chapter, shall mean any of the following:
 - (a) Adult book store or adult video store;
 - (b) Adult cabaret;
 - (c) Adult mini motion picture theater;
 - (d) Adult motel;
 - (e) Adult motion picture theater;
 - (f) Adult smoking or paraphernalia store;
 - (g) Billiard/pool hall;
 - (h) Escort agency;
 - (i) Massage parlor;
 - (j) Pawnshop; or
 - (k) Tattoo parlor.

Big Rapids Charter Township - Land Usage

(2) *Establishment of an adult business.* Means and includes any of the following:

- (a) The opening or commencement of any adult business as a new business;
- (b) The conversion of an existing business to any adult business;
- (c) The addition of any adult business to any other existing business; or
- (d) The relocation of any adult business.

(3) *Purpose.* Some uses, including adult businesses, are recognized as having a deleterious effect upon adjacent areas, causing blight, a negative effect upon other businesses, occupants and property values, and a disruption in neighborhood development, especially when these uses are concentrated in a confined area. Therefore, it is considered necessary and in the best interest of the orderly and better development of the community, to prohibit the overcrowding of such uses into a particular location, to buffer residential neighborhoods from these uses, and to prohibit any offensive signs or advertising.

(4) *Standards.*

- (a) Adult businesses shall only locate in Commercial Districts (C-1).
- (b) No two adult businesses shall be permitted within 500 feet of each other.
- (c) No adult business shall be permitted within 500 feet of any (township or neighboring jurisdiction) residentially zoned district, developed school property, government facility, church, or place of worship.
- (d) No adult businesses may have any sign outdoors, or visible from the outdoors, that depicts any Aspecified anatomical areas or Aspecified sexual activities by the use of photographs, silhouettes, drawings or other forms of pictorial representations.
- (e) No product for sale or gift, nor any picture or other representation of any product for sale or gift, shall be displayed at any adult business so that it is visible by a person with normal visual acuity from the nearest adjoining roadway or adjoining property.
(Ord. 2, passed 8-12-1971; Ord. 2.04, passed 1-8-1974; Ord. 3, passed 8-8-1974; Ord. 3.25, passed 9-1-1999)

153.020 INDUSTRIAL DISTRICT.

(A) *Intent.* A district designed for manufacturing, assembling and fabricating businesses, resource extraction, storage and other commercial activities which may require larger sites and isolation from any other kinds of land uses; and to make provisions for commercial uses which are necessary to service the immediate needs of an industrial area.

(B) The following uses and regulations shall apply in the Industrial District.

(1) *Permitted uses.*

- (a) Lumber yards;
- (b) Sand and gravel extraction and processing; and outside storage;
- (c) Concrete and asphalt plants, research, experimental or testing laboratories;
- (d) Gasoline sales, used and new car sales;
- (e) Agricultural operations; and

(f) Any of the following types of uses when carried out within an enclosed building; however, incidental outside storage is permitted:

- 1. Manufacturing, compounding, processing, packaging, assembling and fabrication operations;
- 2. Tool and die operations;
- 3. Warehousing;
- 4. Auto body and paint shops; and
- 5. Auto service stations.

(2) *Special uses.* The following uses may be permitted as a special use permit upon specific approval by the Zoning Board, provided they are found to be in accordance with the provisions of the zoning regulations:

- (a) Storage for all controlled toxic or hazardous materials including gasoline and petroleum storage, chemical storage and disposal, and similar uses;
- (b) Any other use, which emits or creates noise, smoke, odors, dust, dirt, gases, glare, heat or vibration beyond the boundary of the premises;
- (c) An industrial park (a complex or development of a multiple number permitted or designed special uses) which may not comply with all conditions and limitations pertinent thereto, but still complies with the spirit of this chapter, as reviewed by the Zoning Commission;
- (d) Aircraft landing fields and associated uses;

Big Rapids Charter Township - Land Usage

- (e) Eating and drinking establishments and similar commercial uses which primarily serve the district;
- (f) Junkyards;
- (g) Sand, gravel extraction and other mineral extraction and processing; and
- (h) Rendering and slaughtering houses.

(3) *District regulations.*

(a) There shall be no minimum parcel size, however all structures shall be provided with or otherwise guaranteed, access to their rear yard, with a minimum of 30 feet clear and unobstructed accessway or easement. The ratio of length to width may be increased by the Zoning Board of Appeals provided there is a finding that topographic characteristics, unique natural features, or other similar physical limitation exist on the parcel that will physically limit reasonable use of the site. Setbacks from any existing residential parcels shall be: 50 feet for all buildings; 25 feet for driveways, entrances or exits; and ten feet for parking areas. All parcels shall have a minimum lot width of 100 feet with maximum ground coverage of 70% and a five to one length to width ratio. There shall be a 75-foot setback from any dedicated road right-of-way and a 25-foot rear setback for all structures. A 30-foot setback shall be required for all structures from the right-of-way line of any limited access expressway.

(b) Where outdoor storage is permitted, an enclosed barrier or fence of at least eight feet in height may be required; if the Zoning Board following site plan review finds that the exposed material poses a hazard or threat to the public health, safety, general welfare or character of the zoning district. Enclosed materials shall not be stacked or stored so as to exceed a reasonable height as compared to other area district uses.

(c) Residential uses shall not be permitted, except where they are consistent with the existing general character of adjoining land uses.

(d) All activities in this District shall comply with the requirements for screening, lighting, plantings and drainage as reviewed by the Zoning Board.

(4) *Zoning district boundary setbacks (green belt).* When parcels in the Commercial and Industrial Districts abut an A- or B-Residential District, the following setback requirements shall be met with regards to the commercial or industrial uses.

(a) No structure shall be erected or maintained within 50 feet of the affected property line.

(b) Parking areas shall be no closer to the lot line than the minimum yard depth (setback) requirements for said zoning districts.

(c) A non-penetrable plant screen of sufficient length, height and opacity to interfere with the view of the adjoining district boundary line, except where the view is interrupted by change in grade or other natural human-made features. Plant screen shall be located within the first five feet of the affected property line; however, screening shall not inhibit entrances or exits. Where, because of intense shade or soil conditions, the planting screen cannot be expected to thrive, a wooden fence, masonry wall or vegetative controlled earthen berm may be substituted.

(d) Where the zoning districts are separated by a state trunk line of paved county primary road, the screening requirement shall not be required. When the zoning districts are separated by any other road, the Planning Commission shall determine what type of screening shall be used. In making this determination, the Planning Commission shall consider existing screening, compatibility of adjoining uses, the level of traffic and noise to be generated from the proposed use, and other similar characteristics.

(5) *Parking.*

(a) Off-street parking shall be provided for motor vehicles as follows.

(b) Industrial uses:

General industrial activities	.7 of a space per person regularly employed on the largest shift, plus 5 additional spaces
Wholesale, warehousing/storage, showroom areas	1 space per person regularly employed on the largest shift, plus 5 additional spaces

(Ord. 2, passed 8-12-1971; Ord. 3, passed 8-8-1974; Ord. 3.22, passed 3-4-1997; Ord. 3.27, passed 9-12-2000)

153.021 HIGHWAY INTERCHANGE DISTRICT (HI).

(A) *Intent.* To establish and maintain areas, adjacent to limited access highway interchanges, which service the functional purpose of the highway and the needs of the traveling public using the limited access highway; to ensure smooth, safe traffic flow along major access routes and at the interchanges; and to provide for individual sites designs which will be appropriately planned to ensure mutual compatibility between adjacent land uses.

(B) *Permitted uses.*

- (1) Gasoline and automotive service stations;
- (2) Restaurants;
- (3) Hotels and motels;
- (4) Retail stores; and

(5) Gift, souvenir and similar road-user oriented retail uses will be permitted only when associated with and accessory to permitted uses.

(C) *Uses by special permit.* The following uses may be permitted upon specific approval by the Zoning Board, provided they are found to be in accordance with other general and/or specific special use standards of this chapter:

- (1) Truck-stop service centers;
- (2) Transportation oriented industrial uses;
- (3) Other non-listed commercial uses;
- (4) Residential uses;
- (5) Campground and similar open recreational uses;

(6) Dwellings as permitted in 153.017, churches, nursing homes, schools, municipal facilities, and other similar institutional or semi-institutional uses; and

(7) Any planned complex, including two or more permitted uses or uses by special permit, to be located on one parcel.

(D) *District regulations.* All uses shall be subject to Class B site plan review by the Planning Commission, and shall meet any specific site/design standards as outlined in this chapter in addition to the general district requirements listed below:

- (1) The following minimum lot size and road frontage standards apply:

(a) When the use of parcel fronts on the main access road (meaning a major arterial public road, which intersects the limited access highway) two-acre lot size and 300 feet road frontage; or

Big Rapids Charter Township - Land Usage

(b) When the use or parcel fronts on a service access road (meaning a public or approved private service road or other local road which may parallel or intersect the main access road, but does not intersect the highway) one-acre lot size, and 150 feet road frontage.

(2) The following minimum setback and ground coverage requirements shall be maintained for all structures:

Freeway	50 feet
Front	
Main access road	75 feet
Service drive or other local road	50 feet
Ground coverage (maximum)	50% (may be extended to 80% where public sewer and drainage facilities exist)
Side: None	Except a 50 feet minimum setback shall be maintained between any adjoining noncommercial uses; all structures shall be provided with or otherwise guaranteed, access to their rear yards with a minimum of 20 feet clear and unobstructed accessway or easement (a minimum turning radius of 50 feet shall be maintained for this accessway)
Parking lots	25 feet maintained as a landscaped open area between any public right-of-way and the parking lot
Rear	50 feet

(3) One principal use per lot, unless otherwise authorized by the Planning Commission.

(4) Curb cut, driveway and similar access controls (called access points) along the main access road, or other roads, as indicated, shall be maintained as follows:

(a) Nearest access point to any road intersection:

1. County primary roads or main access road: 150 feet; and
2. County local roads: 100 feet.

(b) Maximum number of access points permitted per parcel: two.

(c) Minimum distance between any two access points:

1. On the same side of the road:
 - a. Main access roads: 300 feet; and
 - b. Services access roads: 75 feet.
2. On the opposite side of the road - either directly across or 200 feet apart.

(d) Driveway widths:

1. Minimum: 18 feet; and
2. Maximum: 50 feet.

(e) Minimum distance between those roadways which provide access between the main access road and service access road: 1,000 feet.

(5) All service access roads shall be physically separated by a permanent barrier, landscaped open area, or similar buffer from all parking or non-vehicular areas.
(Ord. 3.15, passed 6-3-1980; Ord. 3.26, passed 2-1-2000)

BUILDING STANDARDS AND FACILITIES

153.035 BUILDING STANDARDS AND FACILITIES.

Every residential building hereafter erected or moved upon the premises must conform to the following conditions.

(A) It complies with the minimum square footage requirements of this chapter for the zone in which it is located.

(B) It has a minimum width across any front, side or rear elevation of 24 feet over 70% of its length in A-Residential District, and 14 feet in B-Residential District, and 14 feet in Agricultural District, which widths shall prevail for the full length of the buildings excluding attached garages, porches and lean-tos. All buildings must comply in all respects with (the State Construction Code as promulgated by the State Construction Code Commission under the provisions of Public Act 230 of 1972, being M.C.L.A. 125.1501 through 125.1531) including minimum heights for habitable rooms.

(C) It is firmly attached to a permanent foundation constructed on the site in accordance with (the State Construction Code as promulgated by the Michigan State Construction Code Commission under the provisions of Public Act 230 of 1972, being M.C.L.A. 125.1501 through 125.1531) and shall have a wall of the same perimeter dimensions of the dwelling and construction of such materials and type as required in the applicable building code for single-family dwellings. In the event that the dwelling is a mobile home, as defined herein, such dwelling shall be installed pursuant to the manufacturer's setup instructions and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the State Mobile Home Commission and shall have perimeter wall as required above.

(D) In the event that a dwelling is a mobile home as defined herein, each mobile home shall be installed with the wheels removed. Additionally, no dwelling shall have any exposed towing mechanism, undercarriage or chassis.

(E) The dwelling is connected to a public sewer and water supply or to such private facilities approved by the local health department.

(F) The dwelling contains a storage capability area in a basement located under the dwelling, in an attic area, in closet areas, or in separate structure of standard construction similar to or of better quality than

the principal dwelling, which storage area shall be equal to 10% of the square footage of the dwelling or 100 square feet, whichever shall be more.

(G) The dwelling is aesthetically compatible in design and appearance with other residences in the vicinity, with either a roof overhang of not less than six inches on all sides, or alternatively with window sills or roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling; has not less than two exterior doors with the second one being in either the rear or side of the dwelling; and contains steps connected to said exterior door areas or to porches connected to said door areas where a difference in elevation requires the same. The compatibility of design and appearance shall be determined in the first instance by the Township Zoning Administrator upon review of the plans submitted for a particular dwelling subject to appeal by an aggrieved applicant to the Zoning Board of Appeals within a period of 15 days from the receipt of notice of said Zoning Administrator's decision. Any determination of compatibility shall be based upon the standards set forth in this section as well as the character, design and appearance of one or more residential dwellings located outside of mobile home parks within 2,000 feet of the subject dwelling where such area is developed with dwellings to the extent of not less than 20% of the lots situated within said area; or, where said area is not so developed, by the character, design and appearance of one or more residential dwellings located outside of mobile home parks throughout the township. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from the common or standard design home.

(H) The dwelling contains no additions or rooms or other areas which are not constructed with similar quality workmanship as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.

(I) The dwelling complies with all pertinent building and fire codes. In case of a mobile home, all construction and all plumbing, electrical apparatus and insulation within and connected to said mobile home shall be of a type and quality conforming to the Mobile Home Construction and Safety Standards as promulgated by the United States Department of Housing and Urban Development, being 24 C.F.R. Part 3280, and as from time to time such standards may be amended. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.

(J) The foregoing standards shall not apply to the mobile home located in a licensed mobile park except to the extent required by state or federal law or otherwise specifically required in the ordinance of the township pertaining to such parks.

(K) All construction required herein shall be commenced only after a building permit has been obtained in accordance with (the State Construction Code as promulgated by the State Construction Code Commission under the provisions of Public Act 230 of 1972, being M.C.L.A. 125.1501 through 125.1531), provisions and requirements.

(Ord. 3.16, passed 6-1-1982; Ord. 3.19, passed 1-3-1995)

NONCONFORMING USES**153.050 NONCONFORMING USE; GENERALLY.**

The lawful use of any building or land at the time of the enactment of this chapter may be continued although such use does not conform to the provisions of this chapter.

(Ord. 2, passed 8-12-1971; Ord. 3, passed 8-8-1974)

153.051 ALTERATIONS OF A NONCONFORMING USE BUILDING.

A nonconforming building may not be reconstructed or structurally altered during its life to an extent in aggregate cost 50% of the value as determined by a qualified appraiser unless said building is changed to a conforming use.

(Ord. 2, passed 8-12-1971; Ord. 3, passed 8-8-1974)

153.052 BUILDING DAMAGE OF A NONCONFORMING USE BUILDING.

(A) Any nonconforming building damaged by fire or other causes to the extent of more than 50% of the value shall be repaired or rebuilt within six months of the date such damages occurs.

(B) Any expansion or significant structural alteration made in repairing or rebuilding such nonconforming building must be approved by the Board of Appeals as not adversely affecting the adjoining conforming land use.

(C) No nonconforming building damaged by fire or other causes shall be repaired or rebuilt except as provided in this subchapter unless in conformity with the provisions of this chapter.

(Ord. 2, passed 8-12-1971; Ord. 3, passed 8-8-1974)

153.053 DISCONTINUANCE OF NONCONFORMING USE.

Whenever a nonconforming use has been discontinued for a period of one year, such use shall not thereby be re-established and any future use shall be in conformity with the provisions of the chapter.

(Ord. 2, passed 8-12-1971; Ord. 3, passed 8-8-1974)

153.054 COMPLETION OF NONCONFORMING BUILDINGS AND STRUCTURES.

Nothing in this chapter shall require any change in the construction or intended use of any existing building, nor shall it require a change in plat, the layout of the platting of which shall have been diligently prosecuted within 30 days after the passage of this chapter and the acceptance of which shall have been complete within 12 months after said date.

(Ord. 2, passed 8-12-1971; Ord. 3, passed 8-8-1974)

153.055 SUBSTITUTION OR EXPANSION OF NONCONFORMING USES.

(A) No nonconforming use may be substituted, changed or altered, except when such substitution, change or alteration makes the nonconforming use more compatible to the uses permitted in the district in which it is located according to the criteria set forth in 153.130, as determined by the Township Zoning Board of Appeals.

Big Rapids Charter Township - Land Usage

(B) Any extension or expansion of a nonconforming use in regard to size of operation, copy of activity, area involved in use, hours of operation and the like must be approved by the Township Zoning Board of Appeals subject to standards set forth in 153.130.

(Ord. 3.16, passed 6-1-1982)

WATER AND SEWAGE

153.070 WATER SUPPLY AND SEWAGE DISPOSAL FACILITIES.

Every building, structure or trailer coach hereafter erected or moved upon the premises must conform to the existing County Health Department rules and regulations for water and sewage disposal. (Ord. 2, passed 8-12-1971; Ord. 3, passed 8-8-1974)

SHORELAND REGULATIONS

153.085 SHORELAND REGULATIONS.

(A) All lots abutting any body of water as defined shall maintain a minimum setback of 50 feet as measured from the edge of the ordinary high-water mark (meaning the line between the uplands and bottom lands which is apparent by the configuration of the slopes, surface, soil and vegetation; or a level established by law).

(B) This minimum setback requirement may be reduced one foot for every foot of vertical elevation of a stream or river bank, until a minimum setback of 30 feet is reached, as measured from the edge of the stream or river bank.

(1) That part of a setback which lies within 30 feet of the water's edge shall be maintained in its natural condition. Natural conditions may be modified if the Zoning Administrator finds that such modification will not increase run-off, and will provide the shoreline with adequate protection without altering the inherent characteristics of the water body. Trees and shrubs in a space not more than 30% but not to exceed 50 feet wide may be trimmed or pruned for a view of the fronting waters and for access thereto. A lot shall be regarded in its natural condition when there is at least one tree or shrub having a height of at least 15 feet for each 100 square feet of area thereof in wooded areas or sufficient natural cover in open areas.

(2) All permitted uses shall be subject to setback requirements except pump houses and recreational docks within the cleared area, erosion control devices, and associated facilities when located and designed so as not to unreasonably interfere with, degrade or decrease the enjoyment of the existing uses and water resources.

(3) Regulations imposed in areas identified as erosion control districts or flood hazard districts, this chapter shall govern if such restrictions or regulations impose higher standards or requirements.

(4) Where these provisions apply to a nonconforming lot-of-record, the minimum setback may be reduced by the Zoning Administrator to 25 feet provided the said lot cannot normally accommodate any structure within the imposed original setback requirements. (Ord. 3.14, passed 4-1-1980)

SUPPLEMENTAL REGULATIONS**153.100 RESTRICTIONS OF RECORD.**

Every use of property shall conform to existing restrictions of record.
(Ord. 3, passed 8-8-1974)

153.101 AUTOMOBILE OR TRAVEL TRAILERS.

No person shall use or permit the use of any automobile trailer or travel trailer as a residence on any site, lot field or tract of land not specifically licensed as a trailer park for more than 21 days except as hereinafter provided:

(A) On permit issued by the Zoning Administrator;

(B) The location of the travel trailer shall conform to all lot and yard regulations governing dwellings in the district in which it is to be located; and

(C) Subject to the provisions of 153.070. (Also see 153.160(F)).
(Ord. 2, passed 8-12-1971; Ord. 3, passed 8-8-1974) Penalty, see 153.999

153.102 OUTDOOR LIGHTING REGULATIONS.

(A) In all districts, lighting fixtures used to illuminate off-street parking, yards, and for security purposes shall be directed downward, shielded, or so arranged as to:

(1) Direct light only to the ground area of the property where the fixtures are located; and

(2) Not illuminate any adjoining properties, streets or highways.

(B) All lighting used to illuminate commercial, industrial or multi-family housing buildings, shall be arranged to direct light only to said building and away from any adjoining properties, streets or highways.

(C) The external illumination of signs shall be directed downward, and internally illuminated signs shall be of a low enough intensity, so as to not interfere with the vision of persons on adjacent properties, streets or highways.

(D) All illumination of signs and any other outdoor feature shall not be of a flashing, moving or intermittent type except for time and temperature displays, and low intensity LED type, change of copy signs.

(E) All off-road parking, except that required for a single- or two-family residential dwelling, shall be provided with adequate artificial lighting between the time extending one hour after sunset to one hour before sunrise when the use of such space for each vehicle is open to the public.
(Ord. 3.23, passed 5-4-1999) Penalty, see 153.999

PARKING

153.115 VEHICULAR PARKING SPACE, ACCESS AND LIGHTING.

(A) For each dwelling, commercial, industrial, manufacturing or other similar business or service establishment hereafter erected or altered and located on a public highway, road or street in the unincorporated portions of the township and including buildings or structures used principally as a place of public assembly, there shall be provided and maintained suitable space off the public right-of-way which is, in general, adequate for the parking or loading of vehicles in proportions shown in Table 1 below, and such space shall be provided with safe exit to and safe entrance from the public highway or thoroughfare, but not to exceed one such exit and one such entrance. Said exit and entrance may be combined or provided separately. Approval for the location of such exit and entrance shall be obtained from the State Highway Department for all trunk-line highways and from the County Road Commission for all other roads and highways in the township, which approval shall also include the design and construction thereof in the interest of safety, adequate drainage and other public requirements. Parking space and maneuvering aisle dimensions shall be as stated below in Table 2. All parking space required in this section, except that required for a dwelling, shall be provided with adequate artificial lighting between the time extending from one-hour after sunset to one-half hour before sunrise when the use of such space for each vehicle is open to the public.

<i>Table 1: Parking Space Required</i>	
Dwellings	1 parking space for each vehicle used by the occupants of the premises
Hospitals and institutions of similar nature	1 parking space for every 4 beds and 1 space for each doctor
Motels and similar establishments offering lodging	1 parking space for every 1 guest room
Offices and professional buildings	1 parking space for every 200 square feet of floor area; provided that doctor's offices and clinics shall be provided with 3 spaces for each doctor
Personal service shops (such as barber and beauty shops)	1 parking space for every 200 square feet of floor area
Restaurants and other public food serving establishments	1 space for every 3 seats
Retail stores and shops	1 parking space for every 200 square feet of floor area
Taverns	1 parking space for every 66 square feet of floor area; in addition to the above requirements, parking space in the proportion of 1 space for every 2 persons employed shall be provided
Theaters, churches, auditoriums, public and private halls, amusement and recreation establishments and all places of public assembly	1 parking space for each 4 seats of legal capacity

Big Rapids Charter Township - Land Usage

(B) Where no specific requirement is designated in the case of any business, parking space as herein specified shall be provided for employees, including a reasonable number of parking spaces for the accommodation of patrons.

<i>Table 2: Parking Space and Maneuvering Aisle Dimensions</i>				
<i>Parking Angle (Degrees)</i>	<i>One-Way Maneuvering Aisle Width</i>	<i>Two-Way Maneuvering Aisle Width</i>	<i>Parking Stall Width</i>	<i>Parking Stall Length</i>
0 parallel	12 feet	22 feet	8.5 feet	22 feet
up to 53	13 feet	22 feet	9.0 feet	18 feet
54 to 74	16 feet	22 feet	9.0 feet	18 feet
75 to 90	24 feet	24 feet	9.0 feet	18 feet

(Ord. 2, passed 8-12-1971; Ord. 3, passed 8-8-1974; Ord. 3.16, passed 6-1-1982; Ord. 3.26, passed 2-1-2000)

*SPECIAL USE PERMITS***153.130 USES BY SPECIAL PERMIT.**

(A) Uses requiring special permits are those uses of land which are not essentially incompatible with the uses permitted in a zoning district, but possess characteristics or locational qualities which require individual review and restriction in order to avoid incompatibility with the character of the surrounding area, public services and facilities, and adjacent uses of land. Proposed uses will be evaluated according to their compatibility with the nature, extent and density of the surrounding area.

(B) Special permit uses may be permitted only in those zoning districts where they are designated by this chapter, and only when specifically approved by the Township Planning Commission in accordance with the provisions of this chapter.

(C) Prior to approval of a special use permit, the Planning Commission shall ensure that the standards specified in this section, as well as standards established elsewhere in this chapter shall be satisfied. All uses by special permit shall comply with each of the following standards and requirements as listed in this division (C).

(1) The nature, location and size of the special use shall not change the essential character of the surroundings area, nor disrupt the orderly and proper development of the district as a whole. The use shall not be in conflict with, or discourage the adjacent or neighboring use of lands or buildings.

(2) The special use shall not diminish the value of the land, buildings or structures in the neighborhood.

(3) The special use shall not increase traffic hazards or cause congestion on the public highways or streets of the area. Adequate access to the parcel shall be furnished.

(4) The water supply and sewage disposal system shall be adequate for the proposed special use by conforming to State and County Health Department requirements, and the special use shall not overburden any existing services or facilities.

(5) Uses by special permit shall not be significantly more objectionable to nearby properties by reason of traffic, noise, vibrations, dust, fumes, odor, smoke, glare, lights or disposal of waste than the operation of any principal permitted use, nor shall the special use increase hazards from fire or other dangers to either the property or adjacent property.

(6) The Planning Commission may require that the premises be permanently screened from adjoining or contiguous properties by a wall, fence, plant screen and/or other approved enclosure when deemed necessary to buffer the surrounding uses from objectionable noise, light and the like created by the special use.

(7) The special use shall be consistent with the intent and purpose of this chapter and with the intent of the land use plan for the township. The special use shall be compatible with the natural environment and shall not inimical to the public health, safety and general welfare.

Big Rapids Charter Township - Land Usage

(D) Application for a special use permit shall be made to the Township Planning Commission.

(E) The Planning Commission shall hold a public hearing on each request for a special use permit following proper notice of said public hearing in the same manner as provided for 153.278.

(F) (1) Where the Planning Commission determines that a special use is consistent with the standards outlined in this section and all other ordinances and regulations of the township, it shall issue a special use permit modified as the Zoning Board may require and containing any conditions or restrictions which the Zoning Board may consider necessary to carry out the purpose of this chapter.

(2) Where the conditions set forth under the permit anticipate a future compliance, the failure of which would impart jeopardy, injury or aggravation to adjoining permitted land uses, the Planning Commission shall have the authority to require such guarantees (in form of performance bonds or escrow funds) as may be deemed necessary to remove, alleviate or remedy the conflicting use.

(3) A denial of the special use permit shall be in writing, setting forth the reason for denial.

(4) The applicant may appeal a denial to the Planning Commission.

(Ord. 2, passed 8-12-1971; Ord. 3, passed 8-8-1974; Ord. 3.08, passed 3-7-1978; Ord. 3.13, passed 8-7-1979)

PLANNED UNIT DEVELOPMENT

153.145 INTENT.

To permit through the special use permit procedure, planned unit development, which includes flexibility in the use and design of structures and land in situations where modifications of specific provisions of the township zoning regulations will not be contrary to its intent and purpose or significantly inconsistent with the planning on which it is based, and which will not be harmful to the neighborhood in which they occur.

(Ord. 3.09, passed 6-6-1978; Ord. 3.31, passed 12-3-2002)

153.146 MODIFICATION POWERS.

In acting upon the PUD application, the Planning Commission may alter setback requirements, height, lot and building size limits, off-street parking regulations, landscaping rules, and the intensity of the permitted density limits of the district where the lot is located, providing such uses are desirable or convenient for the users of the PUD as developed, or for the immediate neighborhood, and provided that such uses are planned so as to assure that they will not material alter the existing character of the neighborhood, as provided in 153.130. Further, no PUD shall create demands on other existing public services in excess of current capacity, not provide for uses that will be detrimental to the health, safety or welfare of persons or property through excessive production of traffic, noise, smoke, odor, fumes or glare. However, uses not otherwise permitted in the district where the lot is located shall not be permitted to occupy more than 15% of the lot area nor more than 15% of the total floor area of all structures erected thereon.

(Ord. 3.09, passed 6-6-1978; Ord. 3.31, passed 12-3-2002)

153.147 APPLICATION PROCEDURE.

(A) The provisions of this section shall be applied to the existing zoning district, as defined on the zoning map where the PUD is to be located.

(B) Applications may be made for any lot exceeding two acres in size, the application procedure is as follows.

(1) *Preliminary conference.* Prior to preparing formal application, the applicant shall meet with the Zoning Administrator to discuss the proposed development.

(2) *Preliminary applications.* The applicant shall prepare and submit seven copies of preliminary development plan which shall include a description of the PUD and its intended uses; a detailed site plan, drawn to a scale not smaller than 40 feet to the inch, certified by a licensed architect, a registered land surveyor or professional engineer; location of and restriction on open space within the PUD including all maintenance agreements; a development schedule; a list of covenants or deed restrictions for the development; and the type of financial guarantees to be utilized to assure development of the site in accordance with plan. In addition, the applicant shall furnish such other information as the Zoning Board may reasonably require. The Zoning Board, after a hearing, shall approve or deny said application.

(3) *Final application.*

(a) The applicant shall prepare and submit eight copies of the final development plan which shall include a detailed site plan, drawn to a scale not smaller than 40 feet to the inch, certified by a licensed architect, a registered land surveyor or professional engineer. Final development plan shall also include detailed plans for all buildings and structure certified by an architect; detailed evaluations or perspective drawings of all buildings and improvements, sufficient to show the developers intent; a development schedule; deed restrictions and covenant; any other plans, documentation or specification, which the Zoning Board may require, that may be necessary for final engineering review and approval of drainage, street design and other facilities, by township and county officials; and a sufficient financial guarantee or letter of credit to insure completion of any required public facilities or improvements in conformance with the stated development schedule.

(b) Upon receipt of the final development plan, the Planning Commission shall hold a second hearing and shall determine whether or not the final plans substantially conform to the approved preliminary plan and to the other provisions of this section.

(Ord. 3.09, passed 6-6-1978; Ord. 3.31, passed 12-3-2002)

153.148 REVIEW PROCEDURE.

In making its review of any portion of the PUD application, the Planning Commission shall first determine that the PUD is consistent with the standards outlined in 153.130 and this subchapter, and all other ordinances and regulations of the township. Where the Zoning Boards determines that this application is consistent with this section and with the other requirements hereof, it shall issue a special planned unit permit authorizing development and use in accordance with the final development plan contained in this application, modified as the Planning Commission may require to carry out the intent and purpose of this section and containing any conditions or restrictions which the Zoning Board may consider necessary to carry out the purposes of this chapter and to protect the public health, safety and welfare. A denial of the PUD, at any stage, shall be in writing, setting forth in detail the reasons for denial. The applicant may appeal any denial to the Zoning Board of Appeals.

(Ord. 3.09, passed 6-6-1978; Ord. 3.31, passed 12-3-2002)

153.149 OPEN SPACE PRESERVATION.

(A) Residential uses in land zoned for residential development may be developed, at the option of the applicant, with the same number of dwelling units on a portion of the land specified in this chapter, but not more than 50%, that, was determined by the Board could otherwise be developed, under this chapter if all of the following apply.

(1) The land is zoned at a density equivalent to two or fewer single- or two-family dwelling units per acre, or, if the land is served by a public sewer system, three or fewer single- or two-family dwelling units per acre.

(2) A percentage of the land specified in this chapter, but not less than 50%, will remain perpetually in an undeveloped state by means of a conservation easement, plat dedication, restrictive covenant or other legal means, as approved by the Board, that runs with the land.

(3) The development does not depend on the extension of a public sewer or public water supply system, unless development of the land without the exercise of the option provided by this division (A) would also depend upon such an extension.

(4) The option provided pursuant to this division (A) has not previously been exercised with respect to that land.

(B) This section shall not apply for permitted uses other than single-family dwellings and/or two-family dwellings as set forth together with such permitted accessory uses as permitted in this chapter. (Ord. 3.09, passed 6-6-1978; Ord. 3.31, passed 12-3-2002)

TEMPORARY DWELLING STRUCTURES**153.160 TEMPORARY DWELLING STRUCTURES.**

A garage home, basement home or trailer coach may be utilized as a dwelling by the owner of a premises during the period when a dwelling conforming to the provisions of this chapter, is in the process of erection and completion on the same lot, subject to the following provisions.

(A) Compliance with 153.070 shall precede occupancy of any such temporary dwelling.

(B) The location of the temporary dwelling shall conform to all yard and setback limitations of the zoning district.

(C) The use of the dwelling and premises shall not be inimical to health, safety or the public welfare.

(D) The use of such temporary dwelling structure shall be limited to 12 months, beginning with the date of issuance of the permit therefore. Permit may be renewed yearly for one more year.

(E) Application for the erection, use or movement of such temporary dwelling structure shall be made in writing to the Zoning Administrator.

(F) Trailers, tents and converted buses will be permitted for camping purposes on a 21-day basis. Permits may be renewed by the Zoning Administrator.

(Ord. 2, passed 8-12-1971; Ord. 3, passed 8-8-1974) Penalty, see 153.999

153.161 REGULATIONS GOVERNING THE LOCATION OF JUNK YARDS.

Use of premises for the operation of a junk yard shall be permitted in Industrial District only and shall be subject to the following special requirements and standards of the zoning district wherein located, in order to prevent conflict with, or impairment of, the principal permitted uses of the zoning district.

(A) Written application for a special permit therefore, shall be presented to the Zoning Administrator who shall refer the application to the Board of Appeals.

(B) The Zoning Administrator shall make an investigation as to the suitability of the proposed site.

(C) A suitable site shall provide a front yard of not less than 100 feet in depth; and such front yard shall not be used for parking, storage, burning, wrecking or dismantling of any junk or refuse material.

(D) The Board of Appeals shall require that a yard be completely screened by a solid, uniformly finished wall or fence or an adequately maintained evergreen hedge or other screening material, the height of which screening shall be no less than eight feet and in no case less than that of the enclosed material.

(E) Application shall be accompanied by the written consent of all owners of property, any part of which comes within 1,500 feet of the proposed site; however, such consent shall not be the final determining factor in granting the permit. The Board of Appeals shall hold a public hearing. Approval or rejection of the application shall rest with the Board of Appeals.

(F) Issuance of a permit shall in no way exempt the applicant from additional laws, ordinance or regulations of the state.

(Ord. 2, passed 8-12-1971; Ord. 3, passed 8-8-1974)

ADVERTISING SIGNS**153.175 ADVERTISING SIGNS.**

Advertising signs, billboards, advertising displays, outdoor displays or other advertising media, except as exempted by 153.177, may be permitted by special use permit; provided that they comply with the following conditions, and with standards set forth in 153.130.

(Ord. 2, passed 8-12-1971; Ord. 3, passed 8-8-1974; Ord. 3.18, passed 10-4-1994)

153.176 USES AND CONDITIONS.

(A) Advertising signs, billboards or advertising displays, outdoor displays or other advertising media shall not be permitted within 50 feet of the right-of-way line of any road or MDOT approved access drive, nor within 250 feet of the center of any road intersection.

(B) Such advertising sign or display must comply with the statutes of the state. All such signs shall be properly maintained or removed.

(C) Such advertising sign or display may not be erected within 500 feet of any commercial building, public building or dwelling (except dwelling owned by sign owner) existing at the time said sign or display is erected or moved to such location. It is further provided should a commercial building, public building or dwelling be erected at any time within the 500 feet limitation, the permit shall be revoked and the owner of the sign (or his or her authorized agent) shall be notified of the revocation, and such sign or display shall be removed within 90 days of notification.

(D) Such advertising sign or display may not be erected within 500 feet of any existing sign or display, excepting for small directional signs at permitted distance from intersections.

(Ord. 2, passed 8-12-1971; Ord. 3, passed 8-8-1974; Ord. 3.18, passed 10-4-1994) Penalty, see 153.999

153.177 EXEMPTIONS.

(A) Temporary sale, lease or rent signs, providing:

- (1) Not more than two signs are displayed;
- (2) Such signs are located on the lot or structure for sale, lease or rent;
- (3) Such sign does not contain an area of more than ten square feet; and
- (4) Such sign is removed following the sale, renting or leasing the property within seven days.

(B) Bulletin boards of churches, schools, libraries and public buildings provided:

- (1) Such bulletin board is located on the premises thereof; and
- (2) Such board is not located as to obstruct the view of traffic from sidewalks, driveways, roadways and adjoining property.

Big Rapids Charter Township - Land Usage

(C) Agricultural displays and sales stands providing:

- (1) Such display is located on a farm and limited to the products thereof;
- (2) Such display or stand is temporary and will not be located for more than 30 consecutive days nor more than 60 days in one year;
- (3) Such display or stand is located at least ten feet from the highway right-of-way line; and
- (4) Parking area is available for prospective customers off the highway right-of-way.

(D) Advertising signs and displays of a commercial enterprise, business, industry or professional person providing:

- (1) Such sign is located on the premises of a commercial enterprise;
- (2) Such sign or display is limited to the products or services of the enterprise;
- (3) Such sign does not obstruct the view of traffic from the sidewalks, roadways, driveways or exits and adjoining property; and
- (4) Their operation does not constitute a nuisance to an adjacent residential district or residential neighborhood, by reason of glare, intermittent action or other action.
(Ord. 2, passed 8-12-1971; Ord. 3, passed 8-8-1974; Ord. 3.18, passed 10-4-1994) Penalty, see 153.999

153.178 SIGN PERMITS.

Permits shall be required for any advertising sign, including those signs or displays exempted under 153.177. Such permits, or any renewal thereof, shall be issued by the Zoning Administrator upon a determination that such sign or display complies with the provisions of this chapter.
(Ord. 2, passed 8-12-1971; Ord. 3, passed 8-8-1974; Ord. 3.18, passed 10-4-1994)

SITE USE DESIGN STANDARDS

153.190 SITE USE STANDARDS.

(A) *Airports (licensed).*

(1) Licensed airports shall follow all rules as established by the Federal Aviation Administration and Michigan Department of Aeronautics.

(2) Airport locations should avoid existing residential areas and adjacent land at which large numbers of people are assembled or are expected to assemble; uses which may create electrical interference, expose glaring lights, emit dust, smoke, fumes or vapors which will limit visibility; attract birds; or be adjacent to noise sensitive areas.

(B) *Hazardous or toxic material or explosive storage.* A letter from the County Health Department or Department of Public Health, State Fire Marshal, Department of Natural Resources or similar governing body indicating evidence of compliance with appropriate state law.

(C) *Home occupation.*

(1) No article is offered for sale, or rent, at the residence except as such as may be produced by and sold by the residents of the home. Sale of goods off the premises by means such as in-home demonstrations, mail or the internet may be permitted. Display of items for sale on the property outside of the home is prohibited.

(2) Home occupations shall not be carried on to an extent so as to require parking on or off the premises in excess of that allowed for the residential structure in which it is located.

(3) Home occupations shall not utilize more than 40% of the floor living area of one story of the dwelling, or 100% of an accessory building and 10% of the living area of one story. No mechanical or electrical equipment and/or process or practice that will create a nuisance or health hazard to the adjacent landowners and neighborhood is permitted.

(4) Applicants shall provide a plan to the township indicating the following:

(a) The nature of the operation and any materials required;

(b) Hours of operation for a permitted home occupation shall be subject to Planning Commission review and shall be set in accordance with the provisions of this chapter and based upon the type of use proposed;

(c) Parking provisions;

(d) Storage requirements if any;

(e) A site sketch of the interior of the home (floor plan); and

(f) A site sketch of the property showing buildings and proximity of neighboring structures.

Big Rapids Charter Township - Land Usage

- (5) No provisions of this section shall allow nonconformity of the regulations.
- (6) This permit is not transferable to a different location.
- (7) Expansion or change in the home occupation shall require a new review and permit.

(D) *Junk yards.*

- (1) Minimum lot size shall be two acres.
- (2) Setbacks for all structures fencing and junk materials shall be as follows.

(a) All structures used for offices or enclosed retail sales areas shall be at least 50 feet from all property lines.

(b) All junk material shall be stored in an enclosed/fenced area at least 100 feet from all road rights-of-way and 50 feet from all other property lines.

(3) Junk materials shall be screened from all roadways, and adjoining residential or commercial uses by an eight-foot-high obscuring fence or masonry wall which is landscaped in accordance with setback and screening requirements as determined by the Zoning Commission. All plant screens shall be within five feet of the fence wall.

(4) Dust and dirt from all roads, driveways, parking lots and loading and unloading areas within any junkyard shall be controlled to limit public nuisance.

(E) *Transportation and warehousing for industrial use.*

- (1) (a) Minimum lot size: two acres; and
- (b) Minimum road frontage: 200 feet (300 feet on main access roads).
- (2) Minimum setback and isolation requirements:

- (a) 1. Front: 150 feet;
- 2. Rear: 100 feet; and
- 3. Side: 100 feet.

(b) HI District boundary: 200 feet, plus screening with a six feet earthen berm or plant materials. Plantings shall be located within five feet of the property lines, to limit noise and vibration which is in excess of what is normal in the districts of the site in question.

(c) Minimum landscaped open space buffer from any public road right-of-way shall be isolated from property lines, to limit noise and vibration which is in excess of what is normal in the districts in the site in question.

(3) Maximum ground coverage: 75%.

(4) Gradient standards:

(a) Maximum grade change to the property 3%; and

(b) Maximum grade changes between the terminal site and the highway entrance ramps:

1. Average: 5%; and

2. Maximum: 7%.

(F) *Truck stop (service centers)*.

(1) (a) Minimum lot size: two acres; and

(b) Minimum lot width 200 feet on service roads (300 feet on main access roads).

(2) Minimum setback and isolation requirements:

(a) For all structures:

1. Front: 150 feet; and

2. Rear: 100 feet.

(b) Fuel pumping stations:

1. Right-of-way: 25 feet; and

2. All other property lines: 35 feet.

(c) 1. From any existing residential and/or motel uses located off the lot: 200 feet, plus screening with either a six foot earthen berm or plant materials.

2. Planting shall be within five feet of the property lines: 35 feet.

(d) Trucking service areas shall be separate from passenger service areas.

(3) Three access points may be permitted; minimum distance between access points shall be 200 feet.

(4) All vehicular areas shall be physically separated by a barrier or landscaped area from any non-vehicular areas; one-way traffic patterns shall be encouraged.

(Ord. 3.22, passed 3-4-1997) Penalty, see 153.999

MINERAL MINING CONTROL**153.205 TITLE.**

This subchapter shall be known as the Big Rapids Charter Township Mineral Mining Control Subchapter and may elsewhere be referred to as this subchapter.

(Ord. 25, passed 9-1-1999)

153.206 INTERPRETATION, EXISTING OPERATION AND RESTRICTIONS.

It is not the intention of this subchapter to repeal, annul or in any way repeal any existing law or ordinance unless expressly so stated in the subchapter. Further, it is not the intention of this subchapter to interfere with operations already existing except that this subchapter sets forth minimum standards which shall apply to such operations. To the extent that any restrictions or standards imposed by this subchapter are more stringent and restrictive than existing restrictions or standards, this subchapter shall control.

(Ord. 25, passed 9-1-1999)

153.207 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ADMINISTRATOR. Zoning Administrator.

COMMISSION. The Big Rapids Charter Township Planning Commission.

MINERAL MINING or MINING. The excavation, or removal or processing of peat, gravel, sand, clay or other soils, including overburden, or the storage or transporting of such items on a mining site, or the reclamation of the site after removal or excavation of such items. The following excavation activities are not included within the definition of **MINERAL MINING** or **MINING** and are exempt from the requirements of this subchapter:

(1) Excavation approved by a governmental body of competent jurisdiction in conjunction with the installation or maintenance of publicly owned or operated utilities, drainage facilities, roads or other publicly owned or operated improvements, where the excavation is limited to the site of the public utility or improvement;

(2) Excavation which by its nature is of limited scope and duration and which is undertaken primarily for the immediate use and development of the land excavated, such as for purposes of building construction, septic tanks, swimming pools, graves and the like;

(3) Excavation in conjunction with farming operations conducted in accordance with generally accepted agricultural practices, including agricultural drainage work incidental to farming operations and irrigation or stock watering ponds, if no material is removed from the property; and

(4) Other excavations where the Commission determines, in its sole discretion, that the proposed excavation is unlikely to unreasonably interfere with the enjoyment of life or property and will not expose any person or property to the types of dangers inherent in mineral mining sought to be prevented by this subchapter. The Commission's determination may be based on a review of the purpose, location, extent or duration of the proposed excavation and other factors which may bear on the potential of any excavation activity to adversely affect the public health, safety or general welfare of the community.

SITE. Designated parcel(s) or unit(s) of land.

TOWNSHIP. Big Rapids Charter Township.

TOWNSHIP BOARD. Big Rapids Charter Township Board.
(Ord. 25, passed 9-1-1999; Amended 6-3-2014)

153.208 LICENSE REQUIRED.

From and after the effective date of this subchapter, no person shall operate a new mineral mining site in the township except in accordance with a license issued under this subchapter. A license issued pursuant to this subchapter shall be nontransferable. All existing mineral mining operations as defined by this subchapter shall obtain a license and comply with the requirements herein no later than 90 days after the effective date of this subchapter.

(Ord. 25, passed 9-1-1999)

153.209 LICENSING PROCEDURE.

Compliance with the following application procedure shall occur prior to the commencement or continuation of any mining which exists or is proposed as of or after the effective date of this subchapter.

(A) Application for a mining permit shall be allowed only in those zones where mining is allowed as a special use. All applicants shall use forms provided by the Planning Commission, accompanied by the documents enumerated on that form. Special use permits shall have a term of two years computed from the date the permit is issued. The special use permit may be renewed with a renewal application, up to four times for a total of ten years before another new special use permit is required. To be considered for renewal, a renewal application with required attachments must be submitted to the Administrator 90 days before the special use permit expires. Upon receipt of the ten copies of the fully and properly completed application form with the required documents attached, the Administrator shall retain a copy and shall distribute the remaining copies as follows: one copy to the Township Engineer, one copy to the Township Attorney and seven copies to the Commission.

(B) Upon receipt of an application, the Township Engineer shall review the application and attachments, physically inspect the premises to determine compliance with the prior reclamation plans and operational plans, and report to the Administrator on such compliance. The Township Engineer shall also estimate of the cost of reclamation upon abandonment for bond amount purposes, and make such additional comments regarding general safety, drainage, equipment removal and other engineering considerations pertaining to the special use permit application as appropriate. The report by the Township Engineer to the Administrator shall be rendered no later than 30 days after receipt of a complete application.

(C) The Administrator shall make a final recommendation on the approval or disapproval of the submitted reclamation plan and operational plan within 30 days of receipt of the Township Engineer's report and shall report forthwith their recommendation concerning the reclamation plan and/or operation plan to the Commission. The Commission shall make a final determination within 30 days of receipt of the recommendation of the Administrator. Failure of the Commission to act within such time frames shall not result in an automatic special use permit issuance or renewal, but such failure merely results in an extension of any existing license for an additional period up to the time of final determination by the Commission.
(Ord. 25, passed 9-1-1999)

153.210 APPLICATION CONTENTS.

All special use permit applications, whether new or renewal, shall contain the following elements which shall be compliant with these standards:

- (A) Name of the owner, or owners, of land from which removal is to be made or upon which operation will take place;
 - (B) Name and address of applicant making a request for the license;
 - (C) Name and address of the person, firm or corporation who will be conducting the actual removal;
 - (D) Location, size and legal description of the parcel(s) from which the removal is to be made;
 - (E) Type of materials or resources to be mined, stockpiled or hauled away;
 - (F) Proposed method of removal, plan of operation and general haul route;
 - (G) General description of types of equipment to be used;
 - (H) General description of the plan to manage dirt, debris, dust and noise generated by operations;
 - (I) Planned hours of operations;
 - (J) The estimated number of years to complete operations and number of phases where appropriate;
 - (K) A plan of reclamation; and
 - (L) All applications shall be signed by the proposed operator and property owner.
- (Ord. 25, passed 9-1-1999)

153.211 FEES.

All applications, whether new or renewal, shall be accompanied by a processing fee to be paid by the applicant in an amount as set by the Township Board from time to time, which fee may be modified by the Commission at its discretion, based on unique circumstances or actual costs involved.

(Ord. 25, passed 9-1-1999)

153.212 ISSUANCE OF LICENSE.

Upon finding the applicant has complied with the terms and conditions of this subchapter and with the terms and conditions of prior licenses and prior submitted plans, if any, a license shall be issued.

(Ord. 25, passed 9-1-1999)

153.213 CONDITIONS IN LICENSE.

Upon the issuance or renewal of a special use permit, the Commission may impose as conditions of the special use permit reasonable restrictions or requirements related to the location, design or operation of a mining site, as required to secure the public health, safety and general welfare of the community or to ensure that the mining operations will not create a nuisance or unreasonably interfere with the enjoyment of property.

(Ord. 25, passed 9-1-1999)

153.214 FENCING AND SCREENING.

(A) The Commission, based upon the application, the Township Engineer's report and taking into account the unique topography of the site, and adjoining residential or commercial uses, may require fencing and/or a berm.

(B) Any such required fencing and/or screening shall be as follows.

(1) *Operations of one year or less.* Temporary fencing of a vinyl/plastic snow-fence type may be used, or any other more permanent fencing at the option of the operator.

(2) *Operation of more than one year.* Woven wire fencing or other permanent fencing as approved by the Commission.

(3) *At the end of operations.* The Commission may require a permanent security fence to be installed, if the site as reclaimed poses any significant risk or danger that would be reduced by a fence.

(4) *Active mining excavations.*

(a) Active mining excavations may be visually screened from the view of residentially used parcels to a person standing on the lot line of adjacent parcels.

(b) The following methods are acceptable for screening of mining areas:

1. Construction of a raised earth berm area on the mining site along boundary lines thereof where such lines abut privately owned property which is improved and occupied for residential or commercial purposes. This provision with regard to lands improved and occupied for residential purposes shall also be applicable to any land upon which dwellings are built and occupied currently or subsequent to the date of this subchapter. The berm shall be sufficient in length and height to screen the mining area. During the next planting season following the placement of the berm, and as often as may be necessary to assure the existence of a vegetative ground cover, the applicant shall seed or plant the berm in a manner suitable for the area and soil conditions so as to provide vegetation to check erosion and to provide a visible ground cover substantially similar to the vegetation cover growing nearby. Where the topography of the area acts as a screen, the Commission may waive the berm requirement. The berm shall have slopes not in excess of one-foot vertical to two feet horizontal;

2. Planting of coniferous trees along the boundaries of the property with sufficient rows and depth to permit effective screening of the mining areal;

3. To the extent that the foregoing is not practical, the proposed applicant may submit alternate proposals for screening; and

4. The amount and extent of required screening shall be reasonable and practical for the particular mining site and adjoining land uses as determined by the Commission.

(Ord. 25, passed 9-1-1999) Penalty, see 153.999

153.215 HOURS OF OPERATION.

Maximum hours of operation of the mining operation shall be 7:00 a.m. to 7:00 p.m. Monday through Friday, and from 7:00 a.m. to noon on Saturday. No hours of operation shall be permitted on Sundays and legal holidays. In emergency situations, this time period may be modified by the Township Supervisor provided such emergency order shall not be effective for more than 72 hours.
(Ord. 25, passed 9-1-1999) Penalty, see 153.999

153.216 ROAD ACCESS.

All sites licensed under the provisions of this subchapter shall have access to a county road having a minimum right-of-way width of 66 feet and improved to the specifications of the County Road Commission. Entrances and exits shall be gated and securely locked after working hours, weekends and holidays.
(Ord. 25, passed 9-1-1999)

153.217 ROAD MAINTENANCE.

Access roads within the site shall be maintained by the operator so as to minimize the dust arising from the use of said roads. Such maintenance shall be as required by the special use permit. Application of oil shall be prohibited. In order to minimize the deposit of dirt and gravel from trucks onto the public highway, a paved access road not less than 300 feet in length may be required when the mine exits onto a paved county road. When the operation of a licensed area results in the mined material, overburden and/or similar material being deposited or spilled upon the public roadway, it shall be the responsibility of the operator to remove such material immediately.
(Ord. 25, passed 9-1-1999)

153.218 OPERATION OF USE.

All equipment and facilities used in the mining of sand, gravel and stone shall be conducted, maintained and operated in such manner as to eliminate insofar as practicable, noises, vibrations or dust which interfere with the reasonable use and enjoyment of surrounding property.
(Ord. 25, passed 9-1-1999)

153.219 NOISE STANDARDS.

(A) Mining sites shall be operated such that the noise of operation or equipment vibration cannot reasonably be considered disturbing to neighboring uses of land. Objectionable noises due to intermittence, beat, frequency or shrillness shall be muffled so as not to become a nuisance to adjacent uses. Equipment on licensed sites at any time or under any condition shall not be operated so as to result in noise exceeding the following levels for specified adjacent land uses when measured at the common property line nearest the active work area.

<i>Adjacent Use</i>	<i>Maximum Sound Level</i>
Commercial	85 dBA
Industrial and other	90 dBA
Residential	75 dBA

(B) Monitoring shall be accomplished by using weighted decibel measurements (referenced to 20 micro Pascals) with a type of audio output meter approved by the United States Bureau of Standards.

(C) As a condition of any such special use permit, the operator shall be responsible to obtain and pay for a noise level test at the demand of the Administrator. Any such test shall be conducted within 14 days of demand. The time and circumstances of the testing will be determined by the Administrator. The number of operator paid tests shall be limited to one per month.

(Ord. 25, passed 9-1-1999)

153.220 PERFORMANCE BOND.

The applicant shall post a surety performance bond naming the township as the beneficiary thereof in an amount determined by the Township Engineer in his or her review of the application. In no case will the sum of the surety bond in an amount as set by the Township Board from time to time for each acre or fraction thereof of land to be mined as specified in the application. The condition of such bond being that if upon completion of applicant's activities on the parcel(s) described in the application, the land has been reclaimed to the satisfaction of the Administrator, the bond shall be void; otherwise, the township shall have the right to use the bond proceeds to the extent necessary to reclaim the parcel(s). This bond shall be kept in effect by the applicant until the parcel(s) have been restored as required by this subchapter. Until such time the township and its agents and contractors are hereby granted a license to go on the applicant's parcel(s) to fulfill the bond requirements. In fixing the amount of the surety performance bond, the Township Engineer shall take into account the size and scope of the proposed operation, current prevailing cost of reclaiming the premises upon default of the operator, and other such conditions and factors as might be relevant in determining the sum to be reasonable in light of all facts and circumstances surrounding each application. The applicant shall notify the bonding company and provide proof thereof that the township shall be notified in the event of any lapse in the effectiveness of the bond. For each acre restored and reclaimed in accordance herewith, said bond may be reduced pro-rata as determined by the Township Engineer. The amount of the bond will apply to all lands occupied by mining areas, roadways, storage areas, equipment, stockpiles and all elements of the mining operation.

(Ord. 25, passed 9-1-1999)

153.221 PLAN OF OPERATIONS.

(A) As a part of the application, the applicant shall submit a plan of operation and will be expected to comply with such a plan during the period of time the special use permit is issued for. The plan of operation shall include a topographic survey of the existing parcel(s) drawn to a scale of one-inch equals 100 feet and prepared by a registered civil engineer or registered land surveyor with contour intervals not to exceed ten feet based upon U.S.G.S. datum. The drawing shall clearly show the area to be mined, including existing areas and roads within 500 feet of all property lines, setbacks, areas for stockpiling, maintenance areas, berms, fencing, drainage structures, retention or detention basins, location of existing and proposed structures, location of utilities, location of equipment and similar use areas.

(B) The plan of operation shall be accompanied by a projected schedule of mining operation, including the following specific dates:

(1) Commencement and completion of mining operations as provided by the plan of operation;

(2) Commencement and completion of erosion and drainage control measures to be instituted during mining operations; and

(3) Commencement and completion of fencing, roads, utilities or any other structures or improvements to be located on the site as provided by the plan of operation.

(Ord. 25, passed 9-1-1999)

153.222 TRANSPORTATION VEHICLE STANDARDS.

All vehicles used to transport excavated material shall be required to be loaded so that the material may not unintentionally be discharged from the vehicle. Vehicles shall be cleaned of all material not in the load-beds prior to entering the public streets.

(Ord. 25, passed 9-1-1999) Penalty, see 153.999

153.223 LIGHTING.

All lighting used to illuminate the mining area, access roads, stockpile area and similar use areas shall be directed away from all surrounding property. Shielding of lighting may be required by the Commission where such lighting shines directly toward a residential use and/or a county road.

(Ord. 25, passed 9-1-1999) Penalty, see 153.999

153.224 DRAINAGE.

Property drainage shall be provided at all times to prevent the collection and stagnation of water, and surface water shall at all times be directed in such a manner so as not to interfere with the adjoining property owners; provided, however, that the maintenance of the natural flow of surface water shall not be deemed an interference. There shall be no interference with the water table in the area. Any water areas, retention ponds, settling ponds or similar water areas shall be fenced in accordance with 153.214. Erosion control measures shall be instituted to comply with Public Act 451 of 1994, being M.C.L.A. 324.11501 et seq., as amended.

(Ord. 25, passed 9-1-1999)

153.225 SETBACKS.

All mining operations shall comply with the setback requirements for all structural and mining activities as follows, unless specifically increased or reduced by no more than 10% by the Planning Commission based on the circumstances of a particular mining site and adjoining uses.

(A) All structures, excluding office space and vehicle garages, shall be no less than 75 feet from all road rights-of-way and 50 feet from all other property lines.

(B) Open pit extraction may be no less than 150 feet from residential zones, and other areas of residential use, no less than 75 feet from public roadway rights-of-way and no less than 50 feet from all other property lines.

(Ord. 25, passed 9-1-1999)

153.226 RECLAMATION PLAN.

(A) The applicant shall also prepare a plan of reclamation.

(B) The plan of reclamation shall be submitted in three parts:

(1) A recent aerial photograph with a general plan of reclamation as an overlay or as a separate drawing;

(2) A reclamation contour plat, with slopes not to be steeper than one to four; and

(3) A description of reclamation methods and materials proposed for renewal of topsoil and replanting.

(C) The general plan of reclamation shall be presented at the same scale as the aerial photograph and shall provide the following information:

(1) The general area of reclaimed land and area of reclamation underway;

(2) The location and acreage used and proposed for topsoil and overburden storage;

(3) A description of the methods and materials proposed for restoration including planting as a part of the reclamation plan; and

(4) The projected schedule of reclamation operations, including the following specific dates:

(a) Commencement and completion of reclamation operations, including final grading, topsoil replacement and replanting or landscaping as provided by the reclamation plan; and

(b) Commencement and completion of erosion and drainage control measures to be instituted under the reclamation plan.
(Ord. 25, passed 9-1-1999)

153.227 GENERAL REQUIREMENTS.

Mining operational and reclamation plans shall be prepared to clearly depict and describe the sequence of mining operations including existing conditions, mining underway, mining completed, reclamation underway, reclamation completed, mining proposed, reclamation proposed, stock piles, roadways and similar land use elements.
(Ord. 25, passed 9-1-1999)

153.228 TERMINATION AND RECLAMATION.

Upon termination of mining operations, the owner of the premises and the operator of the mining operations shall be responsible at his or her cost to reclaim the site in accordance with reclamation plans submitted.
(Ord. 25, passed 9-1-1999)

153.229 EXCAVATION/FILLING.

(A) All excavation of mining areas shall be made either to a water-producing depth of at least ten feet below the low water mark for at least 80% of the water area, or shall be graded or backfilled with noxious-free, non-flammable, non-radioactive, non-hazardous and noncombustible materials, to assure:

(1) That the excavated area shall not collect and permit to remain therein stagnant water; and

(2) That the surface of any area which is not permanently submerged is graded or backfilled as necessary so as to reduce the peaks and depressions thereof and so as to produce a gently roiling surface that will minimize erosion due to rainfall and which will be in substantial conformity to the adjoining land area.

(B) In the event filling of the mined area is necessary during reclamation, said fill material shall be inert material only, as defined by the Michigan Natural Resources and Environmental Protection Act, Public Act 451 of 1994, being M.C.L.A. 324.11501 et seq., as amended.
(Ord. 25, passed 9-1-1999)

153.230 BANK SLOPES.

The banks of all excavations shall be sloped to the water line in a water-producing excavation, and to the pit floor in a dry operation at a slope of not more than one to four, and said banks shall be reclaimed with vegetation in a manner specified hereunder.

(Ord. 25, passed 9-1-1999)

153.231 VEGETATION.

Vegetation shall be reclaimed by the use of sufficient soil and overburden and by appropriate seeding of grasses or planting of shrubs or trees in all parts of the reclaimed area where such area is not to be submerged under water or within 25 feet of the shoreline.

(Ord. 25, passed 9-1-1999)

153.232 CESSATION OF MINING.

Upon cessation of all mining operations and within a reasonable period of time not exceeding 12 months thereafter, all tanks, buildings, stockpiles and equipment shall be removed unless such building or structures can be lawfully used in the zoning district in which the same are located. Storage and stockpiling of mined products after cessation of mining activities may be permitted by the Commission by annual permit for that purpose only. In no event shall any additional materials be allowed to be added to these stockpiles and such a permit shall not interfere with or excuse reclamation as provided by this subchapter.

(Ord. 25, passed 9-1-1999)

153.233 REMEDIES.

In addition to any other remedy available at law, the township may bring an action for an injunction or other process against a person, or an agency of a person, to restrain or prevent any violation of the provisions of this subchapter.

(Ord. 25, passed 9-1-1999)

COMMUNICATION TOWERS**153.245 COMMUNICATION TOWERS.**

In order to accommodate the communication needs of residents and business while protecting the public health, safety and general welfare of the community, the Township Board finds that these regulations are necessary in order to:

(A) Facilitate the provision of wireless telecommunication services to the residents and businesses of the township;

(B) Minimize adverse visual effects of towers through careful design and siting standards;

(C) Avoid potential damage to adjacent properties from tower failure through structural standards and setback requirements; and

(D) Maximize the use of existing and approved towers and buildings to accommodate new wireless telecommunication antennas in order to reduce the number of towers needed to serve the community. (Ord. 3.24, passed 6-1-1999)

153.246 QUALIFYING CONDITIONS.

(A) The following site and developmental requirements shall apply.

(1) All tower sites requiring a Special Use Permit shall be on at least ten acres in size and shall have a minimum area sufficient to contain the tower and its accessory uses. The site shall have permanent deeded access to a public road.

(2) The use of guy wires is prohibited within residential districts.

(3) The base of the tower and wire cable supports shall be fenced with a minimum five-foot high fence.

(4) All towers over 30 feet in height shall require a special use permit (153.130).

(B) Special performance standards.

(1) The tower must be set back from all property lines a distance equal to its height, unless engineering plans and specifications have been verified by the Township Engineer that the structural integrity of the tower will withstand high winds and icing impacts and the likelihood of a tower failure is minimal. The applicant shall incur all cost associated with township engineering review.

(2) All tower, wire cable supports, equipment and accessory structures associated with the operation of the tower shall not be located any closer than 30 feet to any property line or within the zoning district setback. Nothing shall prevent an applicant from applying to the Board of Appeals for a setback variance.

(3) Accessory structures shall not exceed 600 square feet of gross building area.

(4) No new tower shall be approved unless the applicant can document that the co-utilization of an existing tower or utilization of an existing structure is not available.

Big Rapids Charter Township - Land Usage

(5) All towers shall have all ladder or climbing rungs removed within 20 feet of the ground to prevent unauthorized access.

(6) The tower construction plans shall be prepared by a professional engineer qualified in structural engineering practices.

(7) The applicant shall provide verification that the antenna mounts and structure have been reviewed and approved by a professional engineer and that the installation is in compliance with all applicable codes.

(8) All towers and antennas must meet the standards of the Federal Aviation Administration and Federal Communications Commission.

(9) All steel towers must meet the requirements of the current revision of the Telecommunications Industries Association/Electronic Industries Association (T.I.A./E.I.A.) 222 titled *Structural Standards for Steel Antenna Towers and Antenna Supporting Structures*.

(10) All signals and remote-control conductors of low energy extending substantially horizontally above the ground between a tower or antenna and a structure, or between towers, shall be at least eight feet above the ground at all points, unless buried underground.

(11) Towers shall be located and operated so that they do not interfere with radio, television, audio, video, electronic, microwave or other reception in nearby areas.

(12) Towers shall be located so there is room for vehicles doing maintenance to maneuver on the property owned and/or leased by the applicant.

(13) Minimum spacing between tower locations shall be one mile in order to prevent a concentration of towers in one area, except when permitted by special use permit (153.130).

(14) Towers shall not be artificially lighted unless required by the Federal Aviation Administration.

(15) There shall not be displayed on the tower advertising or identification of any kind intended to be visible from the ground or other structures, except as required for emergency purposes.

(16) The antenna shall be painted to match the exterior treatment of the tower. The chosen paint scheme should be designed to minimize off-site visibility of the antenna.

(17) Structures shall be subject to any state and federal regulations concerning non-ionizing electromagnetic radiation. If more restrictive state or federal standards are adopted in the future, the antenna shall be made to conform to the extent required by such standard or the special use approval will

be subject to revocation by the Township Board. Cost for testing and verification of compliance shall be borne by the operator of the antenna.

(18) There shall be no employees located on the site on a permanent basis to service or maintain the antenna.

(19) Where the property adjoins any residentially zoned property or land use, the tower owner shall provide and maintain appropriate screening harmonious to the area.

(20) The tower shall be removed by the property owner or lessee within six months of being abandoned by all users. A performance bond sufficient to cover the cost of removal of the tower may be required as a condition of the special use permit.

(21) All steel towers and structures must be inspected at least every three years in compliance with the T.I.A./E.I.A. standards and such inspection compliance certified to the township.

(22) (a) All wireless communications service providers shall cooperate with other wireless communications service providers in co-locating additional antennas on antenna support structure and/or existing buildings or other alternative antenna support structures.

(b) A wireless communications service provider shall exercise good faith in co-locating with other service providers and sharing antenna sites, provided that such shared uses does not give rise to substantial technical level impairment of the ability to provide that such shared use does not give rise to a substantial technical level impairment of the ability to provide wireless communications service.

(c) Such good faith shall include sharing of technical information to evaluate the feasibility of co-location. In the event that a dispute arises as to whether a provider has exercised good faith in accommodating other providers, the township may require a third party technical study at the expense of either or both of such providers.

(Ord. 3.24, passed 6-1-1999) Penalty, see 153.999

153.250 PURPOSE AND FINDINGS.

The township hereby makes its stated findings and legislative record related to the adverse secondary effects of sexually oriented businesses, based on the judicial opinions and reports related to such secondary effects, as detailed below.

(A) In the development and execution of this chapter it is recognized that there are some uses which because of their very nature, have serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances or when one or more of them are located in near proximity to a residential zone, thereby having a deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects shall not contribute to the blighting or downgrading of the surrounding neighborhood. These special regulations are itemized in this chapter.

These controls are for the purpose of preventing a concentration of these uses within any one area, or to prevent deterioration or blighting of a nearby residential neighborhood. These controls do not legitimize activities, which are prohibited in other township ordinances.

(B) In regulating sexually oriented businesses, it is the purpose of this chapter to promote the health, safety and general welfare of the citizens of the township, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the township. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene material.

(C) Based on evidence, of the adverse secondary effects of adult uses presented in hearings and in reports made available to the Township Board, and on findings incorporated in the cases of: *Peek-A-Boo Lounge of Bradenton, Inc. v. Manatee County*, 2009 WL 4349319 (M.D. Fla. 2009); *Sensations, Inc. et al. v. City of Grand Rapids*, 526 F.3d 291 (6th Cir, 2008); *Paps AM. v. City of Erie*, 529 U.S. 277 (2000); *Thomas v. Chicago Park District*, 122 S. Ct. 775 (2002); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 427 U.S. 50 (1976); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *California v. LaRue*, 409 U.S. 109 (1972); *DLS, Inc. v. City of Chattanooga*, 107 F. 3d 403 (6th Cir. 1997); *East Brooks Books, Inc. v. City of Memphis*, 48 F. 3d 220 (6th Cir 1995); *Broadway Books v. Roberts*, 642 F. Supp. 486 (E.D. Tenn. 1986); *Bright Lights, Inc. v. City of Newport*, 830 F. Supp. 378 (E.D. Ky. 1993); *Richland Bookmart v. Nichols*, 137 F. 3d 435 (6th Cir. 1998); *Dejavu v. Metro Government*, 1999 U.S. App. LEXIS 535 (6th Cir. 1999); *Bamon Corp. v. City of Dayton*, 7923 F. 2d 470 (6th Cir. 1991); *Threesome Entertainment v. Strittmather*, 4 F. Supp. 2d 710 (N.D. Ohio 1998); *J.L. Spoons, Inc. v. City of Brunswick*, 49 F. Supp. 2d 1032 (N.D. Ohio 1999); *Triplett Grille, Inc. v. City of Akron*, 40 F. 3d 129 (6th Cir. 1994); *Nightclubs, Inc. v. City of Paducah*, 202 F. 3d 884, 894 (6th Cir. 2000); *O'Connor v. City and County of Denver*, 894 F. 2d 1210 (10th Cir. 1990); *Dejavu of Nashville, Inc., et al. v. Metropolitan Government of Nashville and Davidson County*, 2001 U.S. App. LEXIS 26007 (6th Cir. Dec. 6, 2001); *Z. J. Gifts D-2, L.L.C v. City of Aurora*, 136 F. 3d (10th Cir. 1998), *Connection Distrib. Co. v. Reno*, 154 F. 3d

281 (6th Cir. 1998); *Sundance Assocs. v. Reno*, 139 F. 3d 804 (10th Cir. 1998); *American Library Association v. Reno*, 33 F. 3d 78 (D.C. Cir. 1994); *American Target Advertising, Inc. v. Giani*, 199 F 3d 1241(10th Cir. 2000); *Z.J. Gifts D-2, L.L.C v. City of Aurora*, 136 F. 3d 683(10th Cir. 1998); *ILQ Investments, Inc. v. City of Rochester*, 25 F. 3d 1413, 1416, (8th Cir. 1994); *Bigg Wolf Discount Video Movie Sales, Inc. v. Montgomery County*, 2002 U.S. Dist. LEXIS 1896 (D. Md, Feb. 6, 2002); *Currence v. Cincinnati*, 2002 U.S. App. LEXIS 1258 (6th Cir., Jan. 24, 2002); and other cases; and on testimony to Congress in 136 Cong. Rec. S. 8987; 135 Cong. Rec. S. 14519; 135 Cong. Rec. S. 5636; 134 Cong. Rec. E. 3750; and reports of secondary effects occurring in an around sexually oriented businesses, including, but not limited to, Phoenix, Arizona - 1979; Minneapolis, Minnesota - 1980; Houston, Texas - 1997; Amarillo, Texas; Garden Grove, California - 1991; Los Angeles, California - 1977; Whittier, California - 1978; Austin, Texas - 1986; Seattle, Washington - 1989; Oklahoma - 1986; Cleveland, Ohio and Dallas, Texas - 1997; St. Croix County, Wisconsin - 1993; Bellevue, Washington, - 1998; Newport News, Virginia - 1996; New York Times Square study - 1994; Phoenix, Arizona - 1995 through 98; and also on findings from the paper entitled *Stripclubs According to Strippers; Exposing Workplace Sexual Violence*, by Kelly Holsopple, Program Director, Freedom and Justice Center for Prostitution Resources, Minneapolis, Minnesota, and from *Sexually Oriented Businesses: An Insider's View*, by David Sherman, presented to the Michigan House Committee on Ethics and Constitutional Law, Jan. 12, 2000, and the Report of the Attorney Generals Working Group On The Regulation Of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota), the Township Board finds that sexually oriented businesses as a category of establishments are correlated with harmful secondary effects, and that the foregoing reports are reasonably believed to be relevant to the problems that the township is seeking to abate and prevent in the future.

(D) The township also relies upon findings concerning secondary effects contained in additional reports as well as in cases in accord with those cited above including those upholding regulations of nudity and the time, place and manner of operation of sexually oriented businesses: *Deja Vu of Cincinnati, L.L.C. v. Union Township*, 411 F. 3d 777 (6th Cir. 2005); *Broncos Entertainment, Ltd. v. Charter Township of Van Buren*, 2005 U.S. App. LEXIS 18496 (6th Cir. 2005); *Charter Township of Van Buren v. Garter Belt, Inc.*, 258 Mich. App. 594 (2003) (following *City of Erie v. Paps A.M.*, 529 U.S. 277 (2000), *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991), and *California v. LaRue*, 409 U.S. 109 (1972); *Gammoh v. City of La Habra*, 395 F. 3d 1114 (9th Cir. 2005); *SOB, Inc. v. County of Benton*, 317 F. 3d 856 (8th Cir. 2003); *G. M. Enterprises, Inc. v. Town of St. Joseph*, 350 F. 3d 631 (7th Cir. 2003); *Heideman v. South Salt Lake City*, 348 F. 3d 1182 (10th Cir. 2003); *In re Tennessee Public Indecency Statute*, 1999 U.S. App. LEXIS 535 (6th Cir. 1999); *Currence v. City of Cincinnati*, 2002 U.S. App. LEXIS 1258); *Jott, Inc. v. Clinton Township*, 224 Mich. App. 513 (1997); *Michigan ex rel. Wayne County Prosecutor v. Dizzy Duck*, 449 Mich. 353 (1995); *Kev, Inc. v. Kitsap County*, 793 F. 2d 1053 (9th Cir. 1986); *Hang On, Inc. v. City of Arlington*, 65 F. 3d 1248 (5th Cir. 1995); *Tily B. Inc. v. City of Newport Beach*, 69 Cal. App. 4th (Cal. App. 1997); *Lady J. Lingerie, Inc. v. City of Jacksonville*, 973 F. Supp. 1428 (M.D. Fla. 1997); *City of Elko v. Abed*, 2004 Minn. App. LEXIS 360 (Minn. App. 2004); *Center for Fair Public Policy v. Maricopa County Arizona*, 336 F. 3d 1153 (9th Cir. 2003); *Richland Bookmart, Inc. v. Nichols*, 137 F. 3d 435 (6th Cir. 1998); *Richland Bookmart, Inc. v. Nichols*, 278 F. 3d 570 (6th Cir. 2002); *DiMa Corp. v. Town of Hallie*, 185 F. 3d 823 (7th Cir. 1999); *Lady J. Lingerie, Inc. v. City of Jacksonville*, 176 F. 3d 1358 (11th Cir. 1998); *Natl. Amusements Inc. v. Town of Dedham*, 43 F. 3d 731 (1st Cir. 1995); *Mitchell v. Common Adult Enter. Est. of the State of Delaware*, 10 F. 3d 123 (3d Cir. 1993); *Star Satellite, Inc. v. City of Biloxi*, 779 F. 2d 1074 (5th Cir. 1986); *Heideman v. South Salt Lake City*, 2006 U.S. App. LEXIS 2745 (10th Cir. 2006); *Fantasyland Video, Inc. v. San Diego County*, 373 F. Supp. 2d 1094 (S.D. Cal. 2005); *State ex rel. Nasal v. BJS No. 2, Inc.*, 127 Ohio Misc. 2d 101 (Ohio Ct. Comm. Pleas 2003); *Baby Dolls Topless Saloons, Inc. v. City of Dallas*, 295 F. 3d 471 2002 (5th

Cir. 2002); *Z.J. Gifts D-2, L.L.C v. City of Aurora*, 136 F. 3d 683 (10th Cir. 1998); *World Wide Video of Washington, Inc. v. City of Spokane*, 368 F. 3d 1186 (9th Cir. 2004); *Andys Restaurant & Lounge, Inc. v. City of Gary*, Case No. 2:01-CV-327 (N.D. Ind. 2005); *Summaries of Key Reports Concerning the Negative Secondary Effects of Sexually Oriented Businesses*; Rome, Georgia - 1996; San Diego, California - 2003; Greensboro, North Carolina - 2003; Dallas, Texas - 1997; and numerous media reports, in finding that:

(1) Sexually oriented businesses, as a category of commercial uses, are often associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter and sexual assault and exploitation;

(2) Illegal and unsanitary acts involving nudity, including lewd conduct, masturbation, oral and anal sex, occur at unregulated sexually oriented businesses, including those businesses which provide private or semi-private rooms, booths or cubicles for viewing films, videos or live performances; and

(3) Each of the foregoing negative secondary effects constitutes a harm which the township has a substantial government interest in preventing and/or abating. This substantial government interest in preventing secondary effects, which is the townships rationale for this chapter, exists independent of any comparative analysis between sexually oriented and non-sexually oriented businesses. Additionally, the townships interest in regulating sexually oriented businesses extends to preventing future secondary effects of either current or future sexually oriented businesses that may locate in the township. The township finds that the cases and documentation relied on in this chapter are reasonably believed to be relevant to said secondary effects.

(Ord. 21.01, passed 4-5-2011)

153.251 USES SUBJECT TO CONTROL.

Uses subject to these controls are adult businesses as listed in 153.019 of the township zoning regulations as follows:

(A) Adult book store or adult video store;

(B) Adult cabaret;

(C) Adult mini motion picture theatre;

(D) Adult motion picture theatre;

(E) Escort agency; and

(F) Massage parlor.

(Ord. 21.01, passed 4-5-2011)

153.252 DEFINITIONS.

(A) The terms in this section shall have the meanings ascribed to them in 153.290 of the township zoning regulations, unless otherwise indicated herein.

(B) In addition, the following terms shall have the meanings ascribed to them unless the context clearly indicates or requires a different meaning.

EMPLOYEE. A person who performs any service for any consideration on the premises of an sexually oriented business on a full-time, part-time or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise, and whether or not said person is paid a salary, wage or other compensation by the operator of said sexually oriented business. **EMPLOYEE** does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises or for the delivery of goods to the premises.

NUDITY, NUDE or STATE OF NUDITY. The knowing or intentional live display of a human genital organ or anus with less than a fully opaque covering or a female's breast with less than a fully opaque covering of the nipple and areola.

NUDITY, as used in this chapter, does not include a woman's breast feeding of a baby whether or not the nipple or areola is exposed during or incidental to the feeding.

OPERATE or CAUSE TO OPERATE. To cause to function or to put or keep in a state of doing business.

OPERATOR means any person on the premises of a sexually oriented business who exercises overall operational control of the business or a part of the business, who can open or close the business to the public, or who causes to function or who puts or keeps the business open or in operation. A person may be found to be operating or causing to be operated a sexually oriented business regardless of whether that person is an **OWNER** or **PART OWNER** of the business.

PATRON. A customer of the sexually oriented business or a person from the general public, not an employee of the business, who is on the premises to obtain, receive or view the products, services or performances offered by the business.

REGULARLY. Recurring, attending or functioning at fixed or uniform intervals.

SEMI-NUDITY, SEMI-NUDE or IN A SEMI-NUDE CONDITION. The showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the male or female buttocks. This definition shall include the lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breasts exhibited by a bikini, dress, blouse, shirt, leotard or similar wearing apparel provided the areola is not exposed in whole or in part.

SEXUALLY ORIENTED BUSINESS. Any adult motion picture theater, adult mini motion picture theatre, adult bookstore, adult video store or adult cabaret as defined in 153.290 of the township zoning regulations.

(Ord. 21.01, passed 4-5-2011)

153.253 UNLAWFUL ACTIVITIES.

(A) Nothing contained in this chapter is intended, or shall be construed, to permit or authorize activities which are unlawful under state law or township ordinance. It is unlawful and a violation of this chapter for an operator to knowingly or intentionally violate the provisions of this chapter or to allow, either knowingly or intentionally, an employee or a patron to violate the provisions of this chapter. It shall be a defense to prosecution that the person prosecuted was powerless to prevent the violation.

(B) No person shall knowingly or intentionally, in a sexually oriented business, appear before a patron or patrons in a state of nudity, regardless of whether such public nudity is expressive in nature.

(C) No employee shall knowingly or intentionally, in a sexually oriented business, appear within view of any patron in a semi-nude condition unless the employee, while semi-nude, shall be and remain at least six feet from all patrons and on a fixed stage at least 18 inches from the floor in a room of at least 600 square feet.

(D) A sexually oriented business which exhibits on the premises, through any mechanical or electronic image-producing device, a film, video cassette, digital video disk or other video reproduction characterized by an emphasis on the display of specified sexual activities or specified anatomical areas shall comply with the following requirements. The interior of the premises shall be configured in such a manner that there is an unobstructed view from an operators station of every area of the premises, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose. An operator's station shall not exceed 32 square feet of floor area. If the premises has two or more operators stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the operators stations. The view required in this division (D) must be direct line of sight from the operator's station. It is the duty of the operator to ensure that a least one employee is on duty and situated in an operator's station at all times that any patron is on the portion of the premises monitored by that operator station. It shall be the duty of the operator, and it shall also be the duty of any employees present on the premises, to ensure that the view area specified in this division (D) remains unobstructed by any doors, curtains, walls, merchandise, display racks or other materials or enclosures at all times that any patron is present on the premises.

(E) Sexually oriented businesses that do not have stages or interior configurations which meet at least the minimum requirements of this section shall be given 180 days from the effective date of this chapter to comply with the stage and building requirements of this section. During said 180 days, an employee who appears within view of any patron in a semi-nude condition shall nevertheless remain, while semi-nude, at least six feet from all patrons.

(F) No employee who regularly appears within view of patrons in a semi-nude condition in a sexually oriented business shall knowingly or intentionally touch a patron or the clothing of a patron in a sexually oriented business.

(G) No operator shall allow or permit a sexually oriented business to be or remain open between the hours of 2:00 a.m. and 7:00 a.m. on any day.

(Ord. 21.01, passed 4-5-2011) Penalty, see 111.99

153.254 SCIENTER REQUIRED TO PROVE VIOLATION OR BUSINESS LIABILITY.

This chapter does not impose strict liability. Unless a culpable mental state is otherwise specified herein,

a showing of a knowing or reckless mental state is necessary to establish a violation of a provision of this chapter. Notwithstanding anything to the contrary, for the purposes of this chapter, an act by an employee shall be imputed to the sexually oriented business for purposes of finding a violation of this chapter only if an officer, director or general partner, or a person who managed, supervised or controlled the operation of the business premises, knowingly or recklessly allowed such act to occur on the premises. It shall be a defense to liability that the person to whom liability is imputed was powerless to prevent the act.

(Ord. 21.01, passed 4-5-2011)

153.259 PENALTY.

(A) Any person, business or entity violating or refusing to comply with any provisions of this chapter shall, upon conviction, be deemed guilty of a misdemeanor and shall be punished by imposition of a fine not to exceed \$500 or by imprisonment for a period not to exceed 90 days, or both. Each day that a violation is permitted to exist or occur, and each separate occurrence, shall constitute a separate offense. Further, any premises, building, dwelling or other structure in which a sexually oriented business, as defined in 153.290 of the township zoning regulations, is repeatedly operated or maintained in violation of the provisions of this chapter shall constitute a public nuisance and shall be subject to civil abatement proceedings initiated by the township in a court of competent jurisdiction. Each day that a violation is permitted to exist or occur shall constitute a separate operation or maintenance of the violation.

(B) Notwithstanding division (A) above, the township may employ any remedy available at law or in equity to prevent or remedy a violation of any provision of this section.

(Ord. 21.01, passed 4-5-2011)

ADMINISTRATION AND ENFORCEMENT**153.260 ZONING ADMINISTRATOR.**

The provisions of this chapter shall be administered and enforced by a Township Zoning Administrator, appointed by the Township Board for such term and subject to such conditions and at a rate of compensation as said Board shall determine as reasonable.

(Ord. 2, passed 8-12-1971; Ord. 3, passed 8-8-1974)

153.261 PERMITS.

No building, sign or other structure shall hereafter be erected, altered or relocated until a permit authorizing the same shall have been issued by the Zoning Administrator. Permits shall be issued only when such structure or use conforms to this chapter.

(Ord. 2, passed 8-12-1971; Ord. 3, passed 8-8-1974)

153.262 SITE PLAN REVIEW.

(A) An approved site plan, which includes those documents and drawings specified in this section are necessary to ensure that the proposed land use or activity is in compliance with this chapter.

(B) The site plan shall be required prior to receiving zoning review and other authority to use, erect or enlarge any structure or facility. Further, no use shall be undertaken or carried on and no structure or facility shall be constructed, enlarged or improved except as shown upon an approved site plan.

(1) *Class A site plan requirements.*

(a) A Class A site plan shall be required for all single-family, two-family, mobile home, agricultural building and any customary accessory use; and other similar structures, which are similar in the intensity of use when considering floor area, solid waste loads, water use, traffic congestion, noise, smoke, odor and construction costs.

(b) This site plan shall include a sketch plan with accurate dimensions showing:

1. The lot, with a legal description;
2. Existing or proposed buildings and structures;
3. Existing or proposed public or private roads and rights-of-way, parking areas and walkways;
4. Location of existing or proposed public utility systems and/or private sewage systems and wells or water supply source;
5. Existing natural or human-made features such as wood-lots, streams, lakes and ponds;
6. A description of any changes in grade or drainage systems, except those changes to accommodate basement and driveway grading. When development occurs within 500 feet of a watercourse, all grade changes shall be in conformance with County Drain Commission requirements;
7. A description of adjacent uses; and
8. Any other information necessary to establish compliance with township and county ordinances.

Big Rapids Charter Township - Land Usage*(2) Class B site plan requirement.*

(a) A Class B site plan shall be required for all other uses, structures or facilities, including all industrial and commercial uses, planned unit developments, and all multi-family uses.

(b) This site plan shall be drawn to a scale not smaller than 40 feet to the inch, certified by a licensed architect, a registered land surveyor or professional engineer.

(c) Class B site plan shall show the following:

1. The boundary lines of the area included in the site plan including angles, dimensions and references to a section corner, quarter corner, or point on a recorded plat, an arrow pointing north, and the lot area of the land included in the site plan;

2. Existing and proposed grades and drainage systems and structures with topographic contours at intervals not exceeding five feet;

3. The shape, size, location, height and floor area for the finished ground and basement floor grades;

4. Natural features such as wood-lots, streams and lakes or ponds and human-made features such as existing roads and structures, with indications as to which are to be retained and which are to be removed or altered. Future landscaping designs should also be indicated;

5. Proposed streets, driveways, parking spaces, loading spaces and sidewalks and the total number of parking spaces shall be shown;

6. The size and location of all existing and proposed public and private utilities, including private sewage systems, wells or water sources;

7. A vicinity sketch showing the location of the site in relation to the surrounding street system;

8. A legal description of the lot; the name, address and telephone number of the owner, developer and designer; and

9. Any other information necessary to establish compliance with this and other ordinances or the utility of the site.

(d) Alterations or structural changes to existing Class B structures which do not exceed 25% of total existing ground floor area or 50% of aggregate cost or original structure may be permitted a Class A site plan, but shall comply with Class B site plan review procedures.

(C) Review procedure:

(1) Upon receipt of a Class A site plan, the Zoning Administrator shall review it to determine whether it is in proper form, contains all of the required information, and shows compliance with this and all other governing ordinances. Upon demand of the proprietor of the site plan, the Zoning Administrator shall, within ten days, approve the plan or deny approval in writing; and

(2) Upon receipt of a Class B site plan, the Zoning Administrator shall review the plan for proper form, required information, compliance with this and all other governing ordinances, and shall forward the plan with his or her comments to the Township Planning Commission for final review and approval. The Planning Commission shall take action on each application within 30 days of the filing of the application. (Time extensions for approval must be mutual agreement of proprietor and Planning Commission.) All actions of the Planning Commission shall be in writing. A denial of any site plan shall set forth in detail the reasons, which shall be limited to any defect in form or required information, any violation of any provision of this or any other governing ordinance or authority, or the inadequacy an any utility, facility or structure. The denial shall include any changes which would make the site plan acceptable. The proprietor may appeal any denial to the Zoning Board of Appeals.
(Ord. 3.11, passed 12-5-1978)

BOARD OF APPEALS**153.275 ORGANIZATION.**

A Zoning Board of Appeals is hereby created in accordance with applicable state law. The Board shall consist of five members. The first member of the Board of Appeals shall be the Chairperson of the Township Planning Commission. The second member shall be a member of the Township Board appointed by the Township Board. The remaining three members shall be selected and appointed by the Township Board from among the electors residing in the unincorporated area of the township. None of these three members shall be an elected officer of the township or an employee of the Township Board. The terms of each of these three members shall be for two years, except that of the members first appointed, one shall serve for one year, one for two years and one for three years. A successor shall be appointed not more than one month after the term of the preceding Board member has expired, and each member shall serve until his or her successor is appointed and has qualified. All vacancies for unexpired terms shall be filled in the same manner as is provided for the appointment in the first instance for the remainder of the unexpired term. (Ord. 2, passed 8-12-1971; Ord. 3, passed 8-8-1974)

153.276 MEETINGS; POWERS AND DUTIES OF CHAIRPERSON; RECORDS.

The Board of Appeals shall hold a minimum of one regular meeting annually, at which it shall elect from its members a Chairperson. The member of the Board of Appeals who is a member of the Township Board shall not serve as Chairperson of the Board of Appeals. Other meetings of the Board of Appeals shall be held at the call of the Chairperson at such other times as the Board of Appeals may determine necessary to fulfill its duties. The Chairperson, or in his or her absence, the Acting Chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the Board of Appeals shall maintain a record of its proceedings which shall be immediately filed in the office of the Township Clerk and shall be a public record. (Ord. 3, passed 8-8-1974)

153.277 DUTIES.

The Board of Appeals act upon all questions as they may arise in the administration of the zoning regulations, including the interpretation of the zoning maps and provisions of this chapter. The Board of Appeals may fix rules and regulations to govern its procedures sitting as such a Board of Appeals. It shall hear and decide appeals from and review any order, requirements, decision or determination made by the Zoning Administrator pursuant to the provisions of this chapter. It shall also hear and decide all matters referred to it or upon which it is required to pass under the provisions of this chapter. The concurring vote of the majority of the members of the Board of Appeals shall be necessary to reverse any order, or to decide in favor of the applicant any matter upon which they are required to pass under this chapter or to affect any variation from the provisions of the chapter. (Ord. 2, passed 8-12-1971; Ord. 3, passed 8-8-1974; Ord. 3.13, passed 8-7-1979)

153.278 HEARINGS AND NOTICES.

Applications and appeals to the Board of Appeals shall be filed with the Zoning Administrator who shall transmit the same, together with all the plans, specifications and other papers pertaining to the application or appeal, to the Board of Appeals. The Board of Appeals shall fix a reasonable time for the hearing of an application or appeal and shall give at least ten days' notice of the time and place of such hearing by insertion in a daily newspaper of general circulation in this township. The Board of Appeals also shall give notice delivered personally or by mail at least five days before the time fixed for such a hearing to the applicant or appellant and to the owners of record of property within 300 feet of the premises. The Board of Appeals shall make a decision in the case of any application or appeal, and documented reasons for the decision of the Board of Appeals shall be made part of the decision. The Board of Appeals shall promptly notify the applicant or appellant and the Zoning Administrator of its decision. (Ord. 3, passed 8-8-1974)

DEFINITIONS**153.290 DEFINITIONS.**

For the purpose of this chapter, certain terms are herewith defined. When not inconsistent with the context, words used in the present tense include the future, words in the singular number include the plural number and words in the plural number include the singular number. The word shall is always mandatory and not merely directory. The term person shall mean an individual, partnership, corporation or other association or their agents. Terms not herein defined shall have the meanings customarily assigned to them.

ACCESSORY BUILDING. Any subordinate building, such as a private garage, located on the same lot with the main building, or any portions of the main building if said portion is occupied or devoted exclusively to an accessory use. When an **ACCESSORY BUILDING** is attached to a main building by a wall or roof, such **ACCESSORY BUILDING** shall be considered part of a main building for the purpose of determining the required dimensions of yards.

ACCESSORY USE. Any use customarily incidental to the main use of the premises.

ADULT BOOK STORE or ADULT VIDEO STORE. A commercial establishment which, as one of its principal business purposes (meaning either 10% of the usable floor area or 20% of the stock in trade of the establishment) offers for sale or rental, or for any other form of consideration, any one or more of the following: books, computer diskettes, tapes, other electronic file retrieval media, magazines, periodicals, other printed matter, photographs, films, motion pictures, video cassettes, other video reproduction media, slides or other visual representations which depict or describe specified sexual activities or Aspecified anatomical areas. A commercial establishment may have other principal business purposes which 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 BOOK STORE** or **ADULT VIDEO STORE**. Such other business purposes shall not serve to exempt such commercial establishment from being so categorized as long as one of its principal business purposes is the offering for sale or rental, or for any other form of consideration, materials depicting or describing specified sexual activities or Aspecified anatomical areas. Video cassettes, other video reproduction media or films which are X-rated or of substantially equivalent content as X-rated films shall be considered to depict or describe specified sexual activities or Aspecified anatomical areas notwithstanding any more restrictive definition set forth herein.

ADULT BUSINESS. As used in this chapter, shall mean any of the following:

- (1) Adult book store or adult video store;
- (2) Adult cabaret;
- (3) Adult mini motion picture theater;
- (4) Adult motel;
- (5) Adult motion picture theater;
- (6) Adult smoking or paraphernalia store;
- (7) Billiard/pool hall;
- (8) Escort agency;
- (9) Massage parlor;
- (10) Pawnshop; or
- (11) Tattoo parlor.

ADULT CABARET. A nightclub, bar, restaurant or similar commercial establishment which regularly features any of the following:

- (1) Live performances characterized by the exposure of specified anatomical areas or by specified sexual activities; or
- (2) Films, motion pictures, video cassettes, slides, computer presentations or other moving-image reproductions characterized by the depiction or description of specified sexual activities or specified anatomical areas.

ADULT MINI MOTION PICTURE THEATER. An establishment with a capacity of less than 50 persons, wherein material distinguished or characterized by an emphasis on matters depicting, describing or related to specified sexual activities or Aspecified anatomical areas, as defined in this section, is available for observation by patrons therein.

ADULT MOTEL. A hotel, motel or similar establishment which:

- (1) Offers accommodations to the public for any form of consideration and provides patrons with closed circuit television transmissions of X-rated motion pictures or motion pictures equivalent to

X-rated motion pictures and has a sign visible from the public right-of-way advertising the availability of these types of photographic reproductions; or

- (2) Offers a sleeping room for rent for a period that is less than eight hours.

ADULT MOTION PICTURE THEATER. A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes or similar photographic reproductions are regularly shown which are X-rated or the equivalent of X-rated.

ADULT SMOKING OR SEXUAL PARAPHERNALIA STORE. An establishment which as one of its principle building purposes (meaning either 10% of the usable floor area or 20% of the stock in trade of the establishment) offers for sale either: paraphernalia designed or usable for sexual stimulation or arousal; or paraphernalia designed for smoking, ingesting or inhaling marijuana, narcotics or other stimulating or hallucinogenic drug-related substances.

AGRICULTURE. The art or science of cultivating the ground including the production of crops and livestock on a farm.

ALTERATION. Any change, addition or modification in use or type of occupancy; any change in the structural members of a building, such as wall, partitions, columns, beams, girders or any change which may be referred to herein as **ALTERED** or **RECONSTRUCTED**.

AUTOMOBILE OR TRAVEL TRAILER. Any house car, house trailer home, trailer coach or similar vehicle used, or so constructed as to permit its uses as a conveyance upon the public streets or highways, and duly licensable as such, including any self-propelled vehicle so designed, constructed or added to by means of accessories in such manner as will permit the occupancy thereof as a dwelling or sleeping place for one or more persons.

BILLIARD/POOL HALL. An establishment having a substantial or significant portion of its space devoted to the game of pool, billiards, bumper pool, ping pong, darts, dice, cards or similar activities.

BILLBOARD. Any structure or portion thereof upon which a sign or advertisement is used as an outdoor display for the purpose of making anything known to the general public, but not including bulletin boards used to display official court, church or public office notices.

BOARDING HOUSE or **ROOMING HOUSE.** A building containing at least one dwelling unit and used for the purpose of providing meals or lodging or both meals and lodging for pay or compensation of any kind, to more than one person other than members of the family occupying the dwelling unit.

BODY OF WATER. For purposes of this chapter a **BODY OF WATER** is any lake, pond, flowage, stream or river exceeding ten acres in water area or having a drainage area of over two square miles as calculated from the United States Geological Quadrangle Map.

BUILDING. A structure erected on-site, a mobile home or mobile structure, a pre-manufactured or pre-cut structure, above or below ground, designed primarily for the shelter, support or enclosure of persons, animals or property of any kind.

BUILDING PERMIT. The written authority issue by the Zoning Administrator or his or her agent permitting the construction, removal, moving, alterations or use of a building in conformity with the provisions of this chapter.

BUILDING, PRINCIPAL. A building in which is conducted the principal use of the premises on which it is situated.

COMMUNICATIONS TOWERS. Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone and wireless communications towers, and alternative tower structures. Tower types include, but are not limited to guyed towers, wooden poles, lattice towers and monopoles.

CONSERVATION EASEMENT. That term as defined in 2140 of the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, being M.C.L.A. 324.2140.

DWELLING. Any building which contains one or more dwelling units used, intended, leased, let or hired out to be occupied for living purposes. In case of mixed occupancy where a building is occupied in part as a dwelling unit, the part so occupied shall be deemed a dwelling unit for the purpose of this chapter and shall comply with the provisions thereof relative to dwellings.

DWELLING, MULTIPLE-FAMILY. A building containing three or more dwelling units designed for residential use, subject to the provisions of 153.035.

DWELLING, SINGLE-FAMILY. A building containing not more than one dwelling unit designed for residential use, subject to the provisions of 153.035.

DWELLING, TWO-FAMILY. A building containing not more than two separate dwelling units designed for residential use, subject to the provisions of 153.035.

DWELLING UNIT. A single unit providing complete independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

ESCORT. A person who, for monetary or other consideration, agrees or offers to act as a companion, guide or date for another person or who agrees to privately model lingerie or to privately perform a striptease for another person.

ESCORT AGENCY. A person or business association who or which furnishes, offers to furnish or advertises to furnish escorts as one of his, her or its primary business purposes for a fee, tip or other consideration.

ESTABLISHMENT OF AN ADULT BUSINESS. Means and includes any of the following:

- (1) The opening or commencement of any adult business as a new business;
- (2) The conversion of an existing business to any adult business;
- (3) The addition of any adult business to any other existing business; or
- (4) The relocation of any adult business.

EXISTING BUILDING. An existing building is a building existing in whole or whose foundations are complete and whose construction is being diligently prosecuted on the date of this chapter.

FAMILY.

(1) (a) An individual or group of two or more persons related by blood, marriage or adoption, together with foster children and servants of principal occupants, with not more than one additional unrelated person, who are domicile together as a single, domestic, housekeeping unit in a dwelling unit; or

(b) A collective number of individuals domiciled together in one dwelling whose relationship is of a permanent and distinct domestic character, with a demonstrable and recognizable bond characteristic of a cohesive unit, and who are in fact cooking and living as a single nonprofit housekeeping unit.

(2) This definition shall not include any society association, lodge, combine, federation, group, coterie or other organization, which is not a recognized religious order, and shall also not include any group of individuals whose domestic relationship is transitory, temporary or resort/seasonal in nature or character.

FLOOR AREA, USABLE. Any floor area within outside walls of a building exclusive of area in cellars, basements, unfinished attics, garages, open porches and accessory buildings.

JUNKYARD. Any establishment or premises where worn-out or discarded material or equipment is brought, kept, sold and/or stored; also any premises upon which two or more unlicensed used motor vehicles which cannot be operated under their own power are kept or stored for a period of 15 days or more.

LOT. Any portion, piece or divisions of land.

LOT OF RECORD. A parcel of land recorded in the office of the Mecosta County Register of Deeds.

LOT AREA. The total horizontal area within the lot lines, as defined, of a lot. For lots fronting or lying adjacent to public or private streets, **LOT AREA** shall be interpreted to mean that area within lot line separating the lot from the private street, and not the centerline of said private street.

LOT LINES. The property lines bounding the lot.

(1) **FRONT LOT LINE.** In the case of a lot abutting upon a public road or street means the line separating such lot from such road or street right-of-way. In the case of any other lot, the owner shall, for the purpose of this chapter, have the privilege of electing any street lot line, the **FRONT LOT LINE**, providing that such choice, in the opinion of the Zoning Administrator or his or her agent will not be injurious to the existing or the desirable future development of adjacent properties. In the case of platted waterfront property, the **FRONT LOT LINE** shall be as designated on the plat.

(2) **REAR LOT LINE.** Ordinarily that lot line which is opposite and most distant from the front lot line of the lot. In the case of an irregular, triangular or gore-shaped lot for the purpose of determining depth or rear yard, a **REAR LOT LINE** shall be considered to be a line ten-feet in length entirely within the lot parallel to and at the maximum distance from the front lot line of the lot. In cases where none of these definitions are applicable, the Zoning Administrator or his or her agent shall designate the **REAR LOT LINE**.

(3) **SIDE LOT LINES.** Any lot line not a front lot line or a rear lot line. A **SIDE LOT LINE** separating a lot from a street is a **SIDE LOT LINE**. A **SIDE LOT LINE** separating a lot from another lot or lots is an **INTERIOR SIDE LOT LINE**.

MASSAGE PARLOR. An establishment where, for any form of consideration, massage, alcohol rub, fomentation, electric or magnetic treatment or similar treatment or manipulation of the human body is administered, unless such treatment or manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist or similar professional person licensed by the state. This definition does not include an athletic club, health club, school, gymnasium, reducing salon, beauty salon or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service.

MOBILE HOME. A single-family dwelling designated for after fabrication transportation on street and highways on its own wheels or on flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, location on jacks or permanent foundations, connection to utilities and the like; provided that this definition is not intended to apply to conventional modular homes.

MODULAR HOME. A prefabricated dwelling constructed in sections for final assembly on a permanent foundation and which is structurally independent of the trailer frame or other systems by which it is transported to the site and from which it is generally removed prior to assembly. Such structures shall meet the standards of the Building Officials Conference of America (BOCA) or its equal.

NONCONFORMING BUILDING OR STRUCTURE. A use which lawfully occupied a building or land at the effective date of this chapter or amendments thereto, and that does not conform to the use regulations of the zoning district in which it is located.

NONCONFORMING USE. A use which lawfully occupied a building or land at the effective date of this chapter or amendments thereto, and that does not conform to the use regulations of the Zoning District in which it is located.

PARCEL. A part or portion of land; in this chapter, it is to be considered synonymous with the term **LOT**.

PAWNSHOP. An establishment where merchandise is left as security for a loan of money and abandoned if repayment of the loan has not been made within a specified period of time.

ROAD or STREET. Any state trunk-line or road under the jurisdiction of the Mecosta County Road Commission.

ROADSIDE STAND. A temporary or permanent building operated for the purpose of selling only produce raised or produced on the same premises by the proprietor of the stand or his or her family; its use shall not make into a commercial district land which would otherwise be an agricultural or residential district, nor shall its use be deemed a commercial activity.

SETBACK. The minimum horizontal distance between the front of the building, excluding steps and unenclosed porches and the front street or right-of-way line.

SETBACK LINES. Lines established adjacent to highways for the purpose of defining limits within which no building or structure or any part thereof shall be erected or permanently maintained. **WITHIN A SETBACK LINE** means between the setback lines and the nearest boundary of the highway right-of-way.

SIGN, OUTDOOR, ADVERTISING. Any card, cloth, paper, metal, painted, glass, wooden, plaster, stone or other sign of any kind or character whatsoever, place for outdoor advertising purposes on the ground or on any tree, wall, bush, rock, post, fence, building, structure or thing whatsoever. The term **PLACED** as used in the definition of **OUTDOOR ADVERTISING SIGN** and **OUTDOOR ADVERTISING STRUCTURE** shall include erecting, constructing, posting, painting, tacking, nailing, gluing, sticking, carving or other fastening, affixing or making visible in any manner whatsoever. See also **BILLBOARD**.

SPECIFIED ANATOMICAL AREAS. The less than completely and opaquely-covered human genitals, pubic region, buttock, female breast below the point immediately above the top of the areola and human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES. Means and includes any of the following:

- (1) The fondling or other erotic touching of the human genitals, public region, buttocks, anus or female breasts;
- (2) Sex acts, actual or simulated, including intercourse or oral copulation, masturbation or sodomy; and
- (3) Excretory functions as part of or in connection with any of the activities set forth in divisions (1) or (2) above.

TATTOO PARLOR. A business engaged in the practice of providing an indelible mark or figure fixed upon the human body by insertion of pigment on or under the skin or by the production of scars.

TEMPORARY BUILDING AND USE. A structure or use permitted by the Zoning Administrator or his or her agent to exist during period of construction of the main use or for special events.

TRAILER, TRAVEL. A travel trailer is a vehicular, portable structure built on a chassis, designed as a temporary dwelling for travel, recreation and vacation.

UNDEVELOPED STATE. A natural state preserving natural resources, natural features or scenic or wooded conditions; agricultural use; open space; or 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*** does not include indoor or outdoor swimming pools, athletic fields, parking lots or sporting arenas. Land in an ***UNDEVELOPED STATE*** may be, but is not required to be, dedicated to the use of the public.

USE. The purpose for which land or premises or a building thereon is designed, arranged or intended, or for which it is occupied or maintained, let or leased.

YARD, FRONT. The area between the street line and line parallel thereto drawn through the nearest point of a building or structure, extending between side lot lines.

YARD, REAR. The area between a rear lot line and a line parallel thereto drawn through the nearest point of a main building or structure, extending between side lot lines.

YARD, SIDE. The area between a side lot line and a line parallel thereto drawn through the nearest point of building or structure, extending from the front yard to the rear yard, or if there is no rear yard, extending from the front yard to another front yard or to another part of the same front yard. (Ord. 2, passed 8-12-1971; Ord. 3, passed 8-8-1974; Ord. 3.01, passed 1-13-1976; Ord. 3.02, passed 5-25-1976; Ord. 3.03, passed 5-25-1976; Ord. 3.16, passed 6-1-1982; Ord. 3.19, passed 1-3-1995; Ord. 3.24, passed 6-1-1999; Ord. 3.25, passed 9-1-1999; Ord. 3.28, passed 10-3-2000; Ord. 3.30, passed 4-3-2001; Ord. 3.31, passed 12-3-2002)

LEGAL STATUS

153.305 VALIDITY.

If any section, clause, provision or portion of this chapter shall be held invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of any other section, clause, provision or portion of this chapter.

(Ord. 3, passed 8-8-1974)

153.306 EFFECTIVE DATE.

This chapter shall take effect August 16, 1974, and shall take precedence over any other ordinance or any parts of prior ordinances inconsistent herewith.

(Ord. 3, passed 8-8-1974)

153.999 PENALTY.

Any person, group of persons, or corporation that violates any of the provisions of this chapter or any requirement attached to the granting of a special exception or variance may be fined upon conviction an amount as set by the Township Board from time to time for each offense. Each day of the existence of the violation shall be deemed as a separate offense.

(Ord. 2, passed 8-12-1971; Ord. 3, passed 8-8-1974; Ord. 25, passed 9-1-1999)

**CHAPTER 154
JUNK ACCUMULATION**

GENERAL PROVISIONS

154.001 - Short Title

This chapter shall be known and may be cited as the Big Rapids Charter Township Junk Accumulation Ordinance and shall be known in the short form as the "Junk Ordinance".

154.002 - Purposes

The purpose of this chapter is to regulate and control the storage and disposal of junk within Big Rapids Township, in order to promote the public health, safety and welfare; to protect land values; provide for safety for residents in the area from dangerous junk; and to protect aesthetics. This chapter is specifically designed to:

- A. Define certain terms used in this chapter.
- B. Regulate the volume and conditions under which a person may store junk on property in Big Rapids Township.
- C. Provide for enforcement and a system of due process for removal of junk from property in Big Rapids Township.
- D. Provide for other miscellaneous provisions.

154.003 - Legal Basis

This chapter is enacted pursuant to Michigan Public Act 246 of 1945, as amended, being Michigan Compiled Law 41.181 *et seq.*

DEFINITIONS

154.015 - Purpose

For purposes of this chapter certain terms are defined. When not inconsistent with the context, the present tense includes the future; words used in the singular number include the plural number. The word "shall" is always mandatory and not merely permissive.

154.016 - Undefined Words

Any word not defined in this chapter shall be interpreted within its common and approved usage.

154.017 - Definitions

FARM means a business enterprise engaged in agricultural production (and otherwise known as farms, ranches, dairies, nurseries, orchards) of crops, livestock and trees and:

- a. Includes forty (40) or more acres of land in one ownership which is primarily devoted to agricultural use, or
- b. Has five (5) or more acres of land in one ownership, but less than forty (40) acres, devoted primarily to agricultural use, or
- c. Has been designated by the Michigan Department of Agriculture as a specialty farm, in one ownership, which has produced a gross annual income from an agricultural use of two thousand dollars (\$2,000.00) or more.

JUNK means:

- a. Old scrap ferrous or nonferrous materials, rubber, cloth, paper, rubbish, refuse, litter;
- b. Materials from demolition, waste and scrap building materials;
- c. And junked, abandoned, scrap, dismantled or wrecked (including parts of, or items held for salvaging parts) automobiles, farm equipment, boats, trailers, mobile homes, appliances and all other machines.

But shall not include:

- a. Items being held for a customer while parts are being sought for its repair,
- b. Items that are classic or antique and in good repair or well maintained, kept and collected for their antique or collectable value, and
- c. Items and junk kept at a licensed Type I, II or III landfill for purposes of disposal of solid waste, incineration, recycling and resource recovery.

JUNKYARD means a business enterprise, or a part of a business enterprise, engaged wholly, or in part, in the purchasing, handling, storage, resale, recycling, conversion or recovery of junk, and is a business which is included in the *North American Industrial Classification System* titles Recyclable Material Wholesalers [42193], Motor Vehicle Parts (Used) Wholesalers [421140] and Materials Recovery Facilities [562920] (formerly the *Standard Industrial Classification Manual*, classification 5093 and some enterprises in classification 5931), whether a part of a licensed landfill operation or not; but shall not include any part of a landfill as defined in the Solid Waste Management Act.

PARCEL means any tract or contiguous tracts of land in the same ownership, a condominium unit on the surface of land and associated limited commons, whether one or more platted lots or parts of lots, as owned by the same person.

PERSON means a firm, association, organization, partnership, trust, company or corporation, as well as an individual.

ROAD means a public or private road, highway, street, or right-of-way, which affords the means of ingress or egress to abutting property and the means of travel past a parcel of land.

SOLID WASTE MANAGEMENT ACT means Article II, Chapter 3, Part 115 of P.A. 451 of 1994, as amended (the Solid Waste Management part of the Natural Resources and Environmental Protection Act, M.C.L. 324.11501 *et seq.*) [Annotation: M.C.L. 324.11501 *et seq.* is formerly P.A. 641 of 1978, as amended (the Solid Waste Management Act, M.C.L. 299.401 *et seq.*)]

JUNK ACCUMULATION

154.030 - On property within Big Rapids Township

It shall be unlawful for a person to store or accumulate junk on land other than that occupied by a licensed, permitted junkyard, except in the following manner:

- A. There shall be no more than two (2) items of junk, -- abandoned, scrap, dismantled, inoperable or wrecked (including parts of) automobiles, farm equipment, trailers, and all other machines that are consolidated on one part of the parcel;
- B. The junk shall not be visible from a road or from adjacent parcels; or the junk shall be inside an enclosed building;
- C. The junk shall not be a nuisance to adjoining property owners.

154.031 - Farms

Section 154.030 of this chapter shall not apply to farms, provided the storage of junk on a farm meets the following standards:

- A. The junk is not visible from a road or from adjacent parcels; or the junk shall be inside an enclosed building;
- B. All junk from the operation of the farm is kept on the premises for future use of the farm;
- C. The depositing of the junk is not a violation of the Solid Waste Management Act or constitutes fill in violation of any other state or local law; and
- D. The junk shall not be a nuisance to adjoining property owners.

154.032 – Uninhabitable Mobile Homes

Abandoned, scrap, dismantled, or uninhabitable mobile homes are not allowed except in junkyards.

JUNKYARDS

154.045 - Junkyards

Junkyards must conform to Zoning Ordinance Section 153.020(B)(2)(f) and site design standard Section 153.190 (D) – Junkyards. Section 154.030 of this chapter shall not apply to junkyards.

ENFORCEMENT, PENALTIES, SAVINGS CLAUSE

154.060 - Enforcement Procedure

- A. Nuisance *Per Se*: Any violation of this ordinance is hereby declared to be a nuisance *per se*.
- B. Authorized Local Official: The Zoning Administrator, Supervisor or Code Enforcement Officials are hereby designated as the authorized local officials to issue municipal civil infraction citations for violations of this Chapter.
- C. Violations; Civil Infractions: Any person, including, but not limited to, an individual, partnership, corporation, limited liability company, or other incorporated or unincorporated, voluntary association, who violates any provision of this Chapter shall be responsible for a municipal civil infraction. Violation

Big Rapids Charter Township - Land Usage

of this Chapter and its penalties shall be judicially enforced through the 77th Judicial District Court. Enforcement for violations of this Chapter shall be as follows:

1. **First Violation Notice:** Unless immediate action is necessary upon the determination by the Authorized Local Official that there is an immediate danger to the public health, safety or welfare, the person violating this Chapter shall be served personally or through first class mail with a notice of violation. That notice shall require that the violation be corrected within thirty (30) days of the notice;
 2. **Citation:** Upon failure to correct the violation or in cases when immediate action is necessary, a person violating this Chapter shall be issued a citation requiring his or her appearance in the 77th Judicial District Court.
 - a. A person who violates this Chapter shall be responsible for a civil infraction and shall be fined not less than \$100.00 per day for each infraction.
 - b. A person who violates this Chapter and has been previously found responsible or admitted responsibility for a violation of this Ordinance in a civil infraction proceeding within one (1) year immediately preceding the issuance of the second citation, shall be fined not less than \$300.00 nor more than \$500.00 plus costs.
 - c. A person who violates this Ordinance and has been found responsible or admitted responsibility for violation of this Ordinance in a civil infraction proceeding on at least two prior occasions within two (2) years immediately preceding the issuance of the third or later citation, shall be fined \$500.00 plus costs.
- D. **Violations; Civil Action:** The legislative body, the Zoning Administrator, the Board of Appeals, the Attorney for the municipality, or any owner or owners of real estate adjoining the parcel of land on which a violation of this Chapter exists for 60 days or more may institute a nuisance, injunction, mandamus, abatement or any other appropriate action or proceeding, to prevent, enjoin, abate or remove any accumulation of junk which has been created or maintained in violation of this Chapter.
- G. **Cumulative Remedies:** The rights and remedies provided in this Chapter are cumulative and in addition to all other remedies provided by law. The issuance of a municipal civil infraction citation and a finding or admission of responsibility for violation of this Ordinance in a civil infraction proceeding shall not bar a civil action seeking equitable relief beyond the jurisdiction of the 77th Judicial District Court, arising from the same violation.

154.061- Saving Clause

The provisions of this Chapter are hereby declared to be severable, and if any clause, sentence, word, section or provision is declared void or unenforceable, for any reason by a court of competent jurisdiction, the remaining portions shall remain in force.

154.062 - Effective Date

This Chapter shall take effect sixty (60) days after adoption by the Big Rapids Township Board of Trustees.

This Chapter was adopted March 7, 2017, Effective date: May 6, 2017.