

## Chapter 3 – General Provisions

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### SECTION 3.01 PUBLIC HEARING NOTICE REQUIREMENTS

Reference: MZEA125.3103

1. Notice of all public hearings required in this ordinance will be published in a newspaper of general circulation in Tuscola Township not less than 15 days before the hearing.
2. Written notice of the public hearing will be given to:
  - a. Owners of the subject property (D2-18) involved in the hearing request.
  - b. Owners of real property within 300 feet of the subject property.
  - c. Occupants of all structures (D2-18) within 300 feet of the subject property.
3. Properties outside of the boundaries of Tuscola Township and within three hundred feet of the subject property will be given written notice of the public hearing.
4. Notice need not be given to more than 1 occupant of a structure, unless the structure contains more than 1 dwelling (D2-7) or other space owned or leased by different persons (D2-13). One owner or occupant of each unit or other space shall be given notice. When 1 structure contains more than 4 dwelling units and distinct spatial units owned or leased by different persons, notice shall be given to the owner or manager of the structure who will be requested to post the notice at the primary entrance to the structure.
5. Written notice of a public hearing is considered given when personally delivered or when deposited within normal business hours for delivery with the United States Postal Service or other public or private delivery service not less than 15 days before the public hearing date. When the name of the occupant or lessee is not known, the term “occupant” may be used for the intended recipient of the notice.
6. A notice under this section shall do all of the following:
  - a. Describe the nature of the hearing request.
  - b. Indicate the property that is the subject of the hearing including all street (D2-18) addresses within the property. If there are no street (D2-18) addresses, other means of identification may be used.
  - c. State when and where the hearing will be held.
  - d. Indicate when and where written comments will be received concerning the hearing.

### SECTION 3.02 ESSENTIAL PUBLIC SERVICES

Reference: MZEA PA 110 of 2006 as amended

Essential Public Services (D2-7) defined in this ordinance shall be permitted as authorized and regulated by law and other ordinances are exempted from the application of this ordinance.

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### **SECTION 3.03 VOTING PLACE**

Any property used as a voting place authorized by a local or state governmental body is exempted from the provisions of this ordinance on election days.

### **SECTION 3.04 HEIGHT LIMIT**

- A. Except as described below, the height limitations of this ordinance shall not apply to farm buildings, chimneys, church spires, flagpoles, public monuments or wireless transmission towers.
- B. Height limits regulated by the Michigan Department of Transportation Aeronautics Division and the Federal Aviation Administration shall be observed for all structures in Tuscola Township that are affected by the Zehnder Field airport approach plan, which is located to the west in Frankenmuth Township.

### **SECTION 3.05 YARDS ABUTTING ALLEY**

Wherever a public alley (*D2-1*) abuts the rear (*D2-11*) or side (*D2-11*) of a lot (*D2-10*) for its full width or depth, the side (*D2-22*) and/or rear (*D2-22*) yard setbacks required under this ordinance may be measured to the centerline of such alley. This provision shall not permit the placement of a structure (*D2-18*) within an alley right-of-way (*D2-14*), nor shall such placement be allowed by issuance of a variance (*D2-19*).

### **SECTION 3.06 UNLAWFUL BUILDINGS**

A building (*D2-2*) or part thereof used, erected (*D2-7*), altered or occupied contrary to law or the provisions of this ordinance is an unlawful structure and a nuisance per se and the nonconformity will be required to be corrected by any legal means. Continued use of unlawful buildings is subject to the requirements detailed in Chapter 5 of this document.

### **SECTION 3.07 UNLAWFUL USES OF LAND**

Any use of land that is contrary to law or the provisions of this ordinance and is not a legal non-conforming use (*D2-13*) as defined in Chapter 5 of this ordinance is unlawful and a nuisance per se and the nonconformity shall be corrected as permitted by the Michigan Zoning Enabling Act, as amended.

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### SECTION 3.08 LOT SPLIT REVIEW

Prior to the recording of any division of land or the sale of a parcel (D2-13) divided off a larger parcel, the land division shall be reviewed by the zoning administrator to ensure that the parcel complies with the requirements of this ordinance for lot width (D2-12), lot area, and other dimensional requirements. The zoning administrator shall also ensure that any existing structures conform to required setbacks as a result of the new lot lines.

### SECTION 3.09 PROHIBITED DWELLINGS

The following structures (D2-18) are not permitted as permanent dwellings in the Township:

1. Motor Homes (D2-13)
2. Travel Trailers (D2-19)
3. Campers (D2-4)
4. Tents (D2-18)
5. Cabins (D2-4)
6. Garages
7. Basements

### SECTION 3.10 TEMPORARY DWELLINGS

- A. The zoning administrator may authorize the use of basements, garages, cabins, barns or mobile homes (D2-12) as a temporary dwelling (D2-7) during construction of a residence or during repair of a residence damaged or destroyed by fire, collapse, explosion, Acts of God or acts of a public enemy.
- B. To be eligible for a temporary dwelling permit, the applicant must:
  1. Obtain a building permit for the construction or repair work.
  2. Obtain approval from the Tuscola County Health Department for provision of adequate sewage disposal for the temporary dwelling.
  3. Locate the temporary structure within the setback requirements for a principal structure in its zoning district.
- C. Temporary dwelling permits shall be good for 1 year. A 6 month extension of these permits may be granted by the Zoning Administrator or the Planning Commission if the applicant has demonstrated:
  1. Good faith efforts to complete construction or repair.

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2. Completion of the construction or repair can reasonably be completed within the time extension.

### **SECTION 3.11 MOTOR HOMES/TRAILER HOMES AS TEMPORARY RESIDENCES**

The use of a motor home (D2-13) or trailer home as a temporary residence to a bona fide visitor of a resident of the township is permitted for a maximum of 90 days in any calendar year provided that:

- A. The motor home or trailer home shall not be parked on a public street (D2-18).
- B. There will be a clear space of 10 feet around the motor home or trailer home.
- C. The motor home or trailer home shall have a properly designed and approved self-contained waste disposal facility or shall have access to and unlimited use of the sanitary facilities of the dwelling (D2-7) located on the same zoning lot (D2-10).

### **SECTION 3.12 SINGLE FAMILY DWELLING REGULATIONS**

A single family dwelling and any additions or alterations thereto, erected (D2-7) or placed in the township, other than mobile homes (D2-12) located in a licensed mobile home park (D2-12), shall conform to the following regulations in addition to all other regulations of this ordinance:

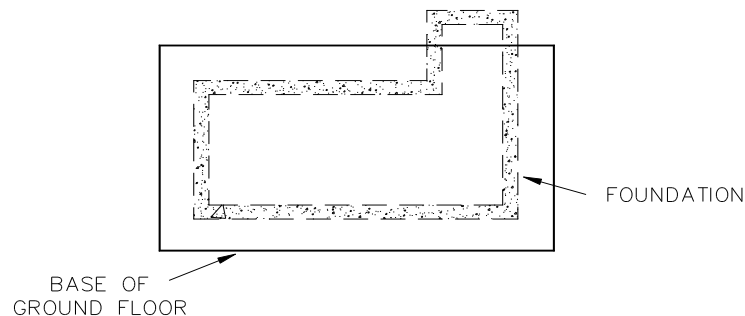
- A. It shall comply with all requirements of this ordinance including, without limitation, the minimum lot area, minimum lot width (D2-12), minimum enclosed and heated square feet, setback requirements, required yards (D2-22), and maximum building height (D2-3) limitation of the zoning district in which it is located.
- B. It shall comply with all applicable building, electrical, plumbing, fire, mechanical, energy, and other similar codes which are or may be adopted by Tuscola County, The State of Michigan as promulgated by the Michigan State Construction Code Commission under the provisions of 1972 PA 230, as amended, and all federal government regulations.
- C. Where a dwelling is required by law to comply with any state standards or regulations for construction different than those imposed by Tuscola County the Michigan State Construction Code as promulgated by the Michigan State Construction Code Commission under the provisions of 1972 PA 230, as amended, the State standard or regulation shall apply. When Federal requirements for construction differ from State of Michigan regulations the Federal standard or regulation will apply.

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- D. If the dwelling is a mobile home, the mobile home must be:
1. New and certified by the manufacturer and/or appropriate inspection agency as meeting the Mobile Home Construction and Safety Standards of the U.S. Department of Housing and Urban Development, as amended, or any similar successor or replacement standards which may be promulgated:
  2. Used and certified by the Tuscola County building official to be safe and fit for residential occupancy.
- E. It must be firmly attached to a permanent foundation constructed on the site in accordance with the Michigan State Construction Code as promulgated by the Michigan State Construction Code Commission under the Provisions of 1972 PA 230, as amended, and the base of the ground floor wall shall have the same perimeter dimensions as the dwelling (D2-7) and be constructed of materials required in the applicable building code for single family dwellings. In the event that the dwelling is a mobile home (D2-12), as defined herein, such dwellings 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 Michigan Mobile Home Commission, as adopted or amended, or any similar or successor agency having regulatory responsibility for mobile homes. The mobile home shall have a perimeter wall as required above

NOT ALLOWED



- F. In the event that a dwelling is a mobile home as defined herein, each mobile home shall be installed with the wheels removed. No mobile home shall have any exposed towing mechanism, undercarriage or chassis within 30 days of occupancy.
- G. The dwelling must be connected to a public sewer and water supply or to private facilities approved by the Tuscola County Health Department.
- H. The dwelling shall have an attached or unattached garage or a carport similar to the principal dwelling, or a separate storage structure (D2-18) of standard construction. The separate storage area shall be a minimum of 96 sq. ft. in area.

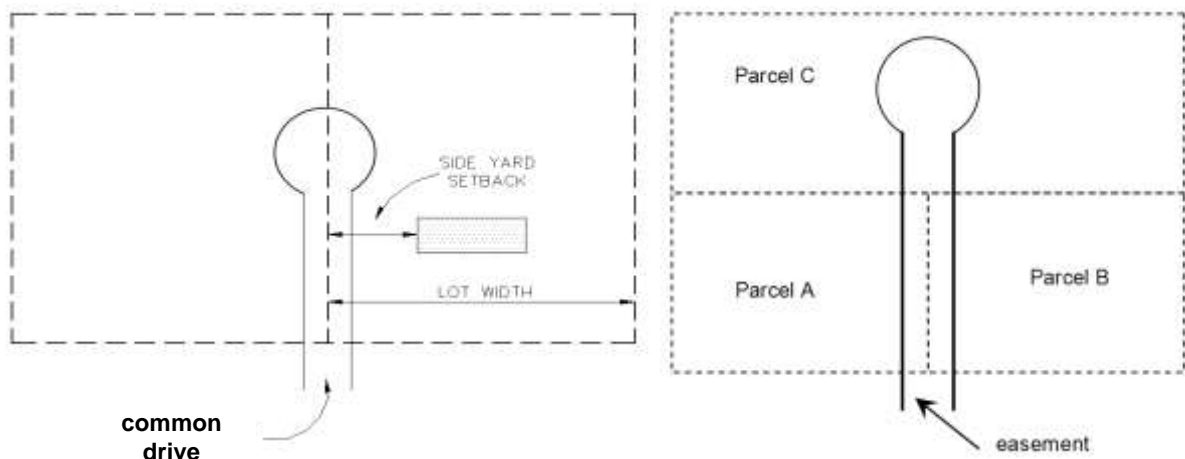
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- I. The dwelling (D2-7) contains no additions or rooms or other areas which are not constructed with similar quality workmanship or better than the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.
- J. The dwelling (D2-7) complies with all appropriate building and fire codes. In the case of a mobile home (D2-12), 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 CFR 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.
- K. The foregoing standards shall not apply to a mobile home located in a licensed Mobile Home Park (D2-12) except to the extent required by state or federal law or otherwise specifically required in the ordinance of the Township pertaining to such parks.
- L. All construction required herein shall be commenced only after a building permit has been obtained in accordance with the applicable Michigan State Construction Code as promulgated by the Michigan State Construction Code Commission under the provisions of 1972 PA 230, as amended.

### SECTION 3.13 COMMON DRIVEWAYS AND ACCESS EASEMENTS

- A. A single 30 foot easement (D2-7) may serve as ingress and egress for not more than two residences lacking sufficient frontage (D2-8) on a public road or for lots with no road frontage as required by this ordinance or by administrative action of the Zoning Administrator.

CALCULATING LOT WIDTH AND SIDE YARDS  
FOR LOTS ON COMMON DRIVEWAYS



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- B. The lot(s) (D2-10) accessed must meet the minimum lot width (D2-12) requirements for the zoning district it is located in at the front (D2-12) building line. The area of the easement (D2-7) may be included in calculating the lot width and side yard (D2-22) setbacks for lots containing the easement, however no structure (D2-18) may be located in the easement.
- C. Prior to issuing a zoning permit for construction of a structure whose source of access is off a common driveway, the applicant/owner shall submit the following to the Zoning Administrator:
1. The names of owner(s) of the land upon which the common driveway or easement is to be constructed, copies of records with the Tuscola County Register of Deeds an easement granting rights of ingress, egress, utilities access, drainage or other uses for the benefit of both residences served by the common drive.
  2. A copy of the written maintenance agreement signed by the owners of each lot or residence to be served by the common driveway or easement shall be recorded with Tuscola County Register of Deeds. Maintenance shall include, but is not limited to, plowing snow and removing ice in the winter so that firefighting and emergency vehicles can access buildings served by a common driveway or easement. The agreement shall allocate the responsibility to maintain the common driveway between or among the owners, and shall be binding upon the successive owners of the lots or residences. It shall be the responsibility of the owners to enforce the terms of the agreement.
  3. A site map showing the location of the common driveway or easement.

### SECTION 3.14 PRIVATE ROADS

- A. No private road (D2-14) shall be constructed within Tuscola Township except in accordance with this Zoning provision.
- B. Review, and approval of a proposed private road shall require a public hearing of the Tuscola Township Planning Commission, including the public notice of section 3.01 of this ordinance.
- C. Application for approval of a private road shall include a site plan (D2-18) sealed by a professional surveyor showing:
1. Existing and proposed lot lines.
  2. The location of existing and proposed structures.
  3. The width and location of the private road easement.
  4. A cross section of the proposed road, showing the types of material that will be used in the construction of the road base and surface.

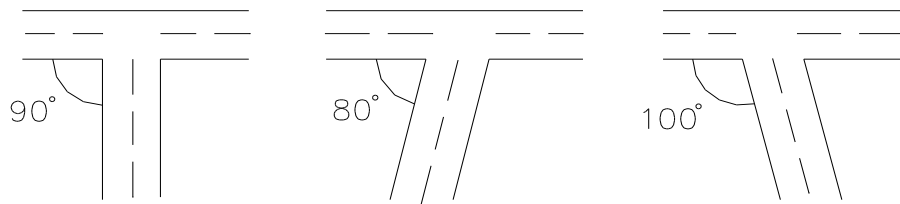
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5. Utility plans including the location and size/capacity of storm water drainage systems, sewer or septic systems, water lines or private wells, and private utilities such as telephone, electrical or cable service.
6. Proposed location of driveways off the private road (D2-14).
7. Any existing or proposed structures (D2-20), trees or other obstructions within the proposed right-of-way (D2-14).
8. All division of land shall be in compliance with the Subdivision Control Act as documented in the Land Division Act, Public Act 288 of 1967 as amended.
9. Other pertinent information as determined by the surveyor or requested by the Zoning Administrator or the planning commission.

D. The proposed private road shall meet the following standards:

1. The minimum right-of-way (D2-14) width shall be 66 feet, unless curb and gutter is provided, in which case the minimum right-of-way is 50 feet.
2. The minimum grade for roadways shall be 0.5%. The maximum longitudinal grade shall be 6%. The maximum grade within 100 feet of an intersection shall be 3%.
3. No fence, wall, sign, screen or any planting shall be erected (D2-8) or maintained in such a way as to obstruct vision as listed in section 3.22.
4. The maximum number of residences permitted on a cul-de-sac is 20, but in no instances may a cul-de-sac be over 1,000 feet in length.
5. Any driveways off a private road shall be at least 40 feet from the intersection of the private road right-of-way and a public road right-of-way.
6. Intersections of private roads with public roads shall be at an angle as close to 90° as possible, but in no case shall it be less than 80° or more than 100°.



ROAD INTERSECTION



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7. The width of the roadway shall be a minimum of 18 foot with 3 foot shoulders provided for bicycle and pedestrian traffic.
  8. The minimum radius for circular cul-de-sac roadways is 40 feet. An interior island is permitted in the center of the cul-de-sac, provided that the roadway within the cul-de-sac is no less than 25 feet wide.
  9. Private roads (*D2-14*) shall be paved with bituminous asphalt or concrete meeting Tuscola County Road Commission standards if any of the following occur:
    - a. The road serves more than 10 residential lots (*D2-10*) and dwelling units.
    - b. The road provides access to multiple family developments(s).
  10. Sight distances on horizontal and vertical curves shall be a minimum of 200 feet measured at a point 10 feet from the edge of the traveled road-way at a height of 42" to an object height of 42".
  11. Parcels fronting on private roads shall meet the required front yard (*D2-22*) setback and lot width (*D2-12*) for their district.
  12. The private road shall be constructed with a minimum 10" of 22-A aggregate.
- E. Any road that provides connection to 2 public roads or provides access to industrial or commercial property shall be constructed to Tuscola county road standards, and approved by the Tuscola County Road Commission.
- F. To ensure that the proposed private road meets construction requirements the Planning Commission may require a third party engineer to review the plans and provide an opinion. The applicant will pay the cost of the engineers review. The Planning Commission will provide the applicant with the engineers estimate before the review is scheduled. The review date will be determined after the applicant accepts the changes.
- G. Private Road Maintenance Agreement
1. The applicant and all owners of lots located on a private road shall be responsible for maintaining the private road (*D2-15*) at all times to the standards required by this zoning provision and all other applicable laws. Maintenance shall include, but not be limited to, plowing snow and removing ice in the winter to allow firefighting and emergency vehicles to access all portions of the private road at all times.
  2. The applicant shall provide the Township with a recordable agreement, satisfactory to the Township, covering the maintenance of the private road that provides for the following:
    - a. Makes all current and future owners of buildings and lots (*D2-10*) on the private road parties to the road maintenance agreement.

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- b. Provides for, but is not limited to regular maintenance, repair, snow and ice removal, right-of-way (*D2-14*) trimming of the private road to ensure the road is safe for travel at all times.
  - c. The agreement shall be recorded, run with the land, and bind all lots and properties benefited by the road responsible for the maintenance costs.
  - d. The agreement shall be enforceable by the Township at its option.
  - e. Provides that, if the road is not maintained to Township or county standards or the requirements of this zoning provision, all owners of lots or properties benefited by the private road shall be deemed to have consented to a special assessment district being created by the Township to maintain or upgrade the private road. Alternately, the Township Board (*D2-19*), at its option can improve and maintain the private road so that it meets the requirements of this zoning provision and charge the owners of all lots the reasonable costs thereof, and such costs shall be secured by placing a lien on the benefited lots and properties or by placing the costs thereof on the tax roll.
3. The applicant for a private road approval, all owners of the private road and lots thereon, all those who use the private road, and all persons (*D2-13*) securing a permit to construct a building (*D2-2*) served by the private road all agree that by securing a permit for a building that utilizes the private road and by utilizing the private road, they shall indemnify and will save and hold the township (as well as its officers, agents, and employees) harmless for, from, and against any and all claims, causes of action, and damages for personal injury and/or property damage arising out of the use of the private road or the failure to properly construct, maintain, repair, and/or install the private road and any appurtenances thereto. The above language shall be included into the maintenance agreement.
  4. All Maintenance agreements for private roads shall be submitted to the Tuscola Township for review and approval prior to the maintenance agreement being recorded and prior to any construction on the private road. The maintenance agreement shall contain the following statement:

“The road is private and is not required to be maintained by the Tuscola County Road Commission or any governmental unit.”
- H. Existing Non-conforming Private Roads (*D2-14*): Tuscola Township recognizes that there may be existing private roads, which were lawful prior to the adoption of this zoning provision and do not conform to the standards herein. Such roads are declared by this zoning provision to be legal nonconforming roads. Tuscola Township also recognizes the importance of having these roads upgraded if and when one or more of the following occur:
1. One or more lots (*D2-10*) are added to an existing nonconforming private road.

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2. The division or splitting of a lot occurs on a nonconforming private road.
3. The addition of an extension, addition, or branch to or from an existing nonconforming private road.

When one or more of the above situations occur the owners of lots on the private road are required to upgrade the entire private road to conform to the standards and requirements of this ordinance for new private roads.

### SECTION 3.15 OBSCURING WALLS AND FENCES

- A. Obscuring walls and fences shall be provided at a height of not less than 5½ feet above the ground where commercial or industrial uses, including their required parking areas, are adjacent to side (*D2-22*) or rear (*D2-22*) yards of residential uses or districts, unless this ordinance requires a taller wall or fence.
- B. Walls or fences required by this section shall provide an obscuring visual barrier and shall be constructed of wood, stone or metal, and be of conventional design. The fence shall be maintained in good condition. In those instances where the fence shall have a finished and unfinished side, the finished side shall front the residential property.
- C. As part of site plan (*D2-18*) review, the Planning Commission may waive or modify this requirement where structures (*D2-20*), berms, greenbelts or existing vegetation serve the same purpose, or in those specific cases where it can be shown that no good purpose would be served by the screening requirement.

### SECTION 3.16 FRONTAGE

Every dwelling (*D2-7*) or principal building (*D2-2*) shall be located on a lot or parcel (*D2-13*) which borders upon a public road or an approved private road to a width equal to the minimum lot width (*D2-12*) requirements of their district. An exception to this requirement is permitted for residential or agricultural lots located at the end of private roads (*D2-14*) or drives, in which case the minimum frontage (*D2-8*) shall equal the required easement (*D2-7*) of the private road or drive, and to lots with access provided by common driveways or easement as outlined in Section 3.13.

### SECTION 3.17 ONE PRINCIPAL RESIDENCE

In the Agricultural, Residential/Agricultural, Low Density Residential, Medium Density Residential districts, only one single-family residence (*D2-18*) or duplex (*D2-7*) structure (*D2-18*) is permitted per lot (*D2-10*).

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### **SECTION 3.18 BUILDING COMPLETION/PRIOR ZONING PERMITS**

- A. Any building (*D2-2*) constructed pursuant to an approved zoning permit shall be completed within one year of issuance of the permit. The Zoning Administrator may extend the permit for 6 additional months if work is progressing in compliance with the permit. After eighteen months, the applicant must reapply for a zoning permit to complete the project.
- B. Any construction begun under a valid zoning permit issued prior to adoption of this ordinance may continue provided the work was begun within 120 days of the adoption of this ordinance and work is completed within fifteen months of the adoption this ordinance.

### **SECTION 3.19 RECREATIONAL VEHICLE STORAGE**

When recreational vehicles, owned by someone other than the resident or property owner, are parked on a residential lot (*D2-10*), the vehicles must be stored in an enclosed building. Recreational vehicles owned by resident family members must meet the setback requirements for accessory structures in the district where they are located.

### **SECTION 3.20 EXCAVATIONS OR HOLES**

Any excavations or other holes created as part of work authorized under a zoning permit shall be properly protected with barricades and signs designed to warn pedestrians and motorists of the existence of the hole or excavation.

### **SECTION 3.21 SCREENING OF TRASH STORAGE AREAS**

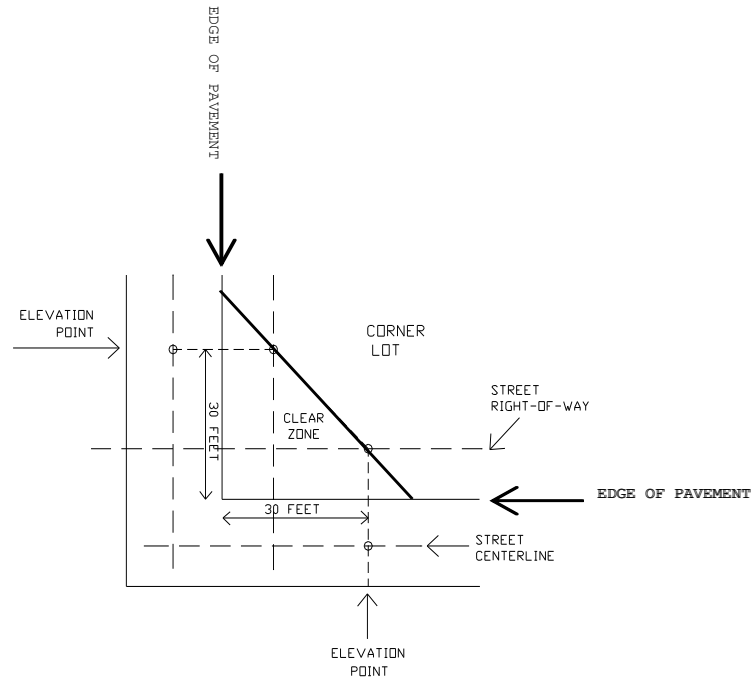
Any outdoor trash storage area such as dumpsters or trashcans must be screened on three sides by obscuring fencing at least six inches above the height of the container. The storage area shall not be located in the front yard (*D2-22*). The storage area shall be constructed and maintained to prevent the blowing of trash from the storage area.

### **SECTION 3.22 CORNER CLEARANCE**

No fence, wall, sign, screen or vegetation shall be erected (*D2-7*) or maintained in such a way as to obstruct vision between the height of 3 feet and 10 feet within the triangular clear vision area of two intersecting streets. The clear vision triangle is formed by the intersection of the edge of the road lines and two points which are located on the edge of those intersecting roads lines 30 feet from the point of

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intersection. The 3 to 10 height limitation shall be measured at the lowest centerline elevation of either street (D2-18) within the area of the clear vision triangle.



FENCES, WALLS AND SCREENS

### SECTION 3.23 ACCESSORY STRUCTURES

- A. Accessory structures in residential areas shall not have sidewalls greater than 14 feet in height.
- B. No accessory structure in residential areas may be located closer than 5 feet from the principal structure (D2-18) or in the front yard (D2-22). However, accessory structures may be located in side yards (D2-22) in front of the principal structures building front, but may not be located within the required front yard (D2-22).

### SECTION 3.24 TERRACES

An open, unenclosed paved terrace or patio may project into a required front yard for a distance not exceeding 10 feet, but this shall not be interpreted to include or permit fixed canopies.

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### **SECTION 3.25 CONSTRUCTION FACILITIES**

Construction trailers and similar temporary structures such as those used as offices and/or for storage by contractors and other construction personnel are permitted. Use of said structures is restricted to construction activities related to the site or development on which they are located. These facilities shall not be used as a temporary dwelling (D2-7). Construction trailers and temporary construction storage buildings must be removed within 90 days following completion of the project.