

Chapter 20 Residential Accessory Uses

Section 20.1 Introduction

This Chapter provides a set of standards for certain uses of land and structures that are considered accessory to the residential use of land. The regulations and standards are designed to allow, on one hand, practical latitude for a private property owner, but at the same time maintain adequate provision for the protection of the health, safety, convenience, and general welfare of the community. These standards are in addition to the standard regulations of the zone districts within which the use is proposed and other applicable regulations contained elsewhere in this Ordinance.

Section 20.2 Accessory Buildings

Detached accessory buildings are permitted in all Residential and Agricultural districts and on residentially used lots according to the following regulations.

- A. **Principal Dwelling:** There must be a principal dwelling, or one under substantial construction, on the lot for an accessory building to be permitted.
- B. **Architectural Character:** The architectural character of all accessory buildings shall be compatible with and similar to the principal Building.
- C. **Setback and Height Requirements:**

| Accessory Building Standards | Zoning District | | | | |
|---|---|-----|-----------------------------|-------|-----|
| | A-B | A-R | RL-14 | RL-10 | R-3 |
| Accessory Buildings - less than 200 square feet and in the rear yard | | | | | |
| Front Setback | 60' -Only permitted in front yard if screened by a Type 1 Buffer. | | Not permitted in front yard | | |
| Side Setback | 3' | | 3' | | |
| Rear Setback | 0 | | 0 | | |
| Corner lot - Street side yard | 60' | | 35' | | |
| Corner lot – Rear Setback | 3' | | 3' | | |
| Accessory Buildings – 200 square feet or greater or located in a side yard | | | | | |
| Front Setback | 60' -Only permitted in front yard if screened by a Type 1 Buffer. | | Not permitted in front yard | | |
| Side Setback | 20' | | 8' | | |
| Rear Setback | 3' | | 3' | | |
| Corner lot - Street side yard | 60' | | 35' | | |
| Corner lot – Rear Setback | 20' | | 8' | | |
| Setback from Principal Building | | | | | |
| Separation Distance | 10' | | 10' | | |
| Accessory Building Height | | | | | |
| Maximum Height | 20' | | 16' | | |

- D. **Maximum Floor Area:** The combined floor area of all Accessory Buildings on a lot cannot exceed the following limits, unless authorized by the Planning Commission with a special use permit:
1. A-B and A-R Zoning Districts: 3% of the Lot area or 2400 square feet, whichever is less.
 2. RL-14, RL-10 and R-3 Zoning Districts: 1.5% of the Lot area or 1200 square feet, whichever is less.
 3. Regardless of the above limits, the permitted accessory building floor area shall never be below:
 - a. 200 square feet for any lot.
 - b. 576 square feet for a lot where the principal dwelling does not have an attached garage
 4. In considering a special use permit for an accessory building exceeding the maximum floor area, the Planning Commission shall consider the standards stated in Chapter 19 and the following additional standards:
 - a. The intended use for the Building(s).
 - b. The size, proposed location, type and kind of construction and general architectural character of the Building(s).
 - c. The type and kind of principal and Accessory Buildings and Structures located on properties in the same neighborhood.
 - d. Whether the Building(s) will affect the light and air circulation or views of any adjoining properties.
 - e. The reason why the applicant has requested an Accessory Building(s) in excess of the maximum floor area.
 - f. The extent the Building(s) absorbs required Yards and other open spaces.
- E. A detached accessory building cannot be used for residential dwelling purposes.

Section 20.3 Nuisance Parking

- A. **Residential Zoning Districts:** The following rules apply to all Residential Zoning Districts:
1. **Recreational Vehicles:** No Mobile Home, boat, trailer, or Recreational Vehicle can be parked in the front yard or on the street for more than 48 hours during any one week time period. No more than two Recreational Vehicles may be stored outside in any yard.
 2. **Commercial Vehicles:** No commercial vehicle with a rated capacity exceeding 1.5 tons shall be parked on any property or street unless stored within a completely enclosed Private Garage. This section shall not prevent the temporary parking of such Vehicles for deliveries, pick-ups or service calls.

3. **Inoperable Vehicles:** All inoperable vehicles must be stored within a completely enclosed building.
- B. **Agricultural Zoning Districts:** The following rules apply to the A-R and A-B Zoning Districts:
1. **Recreational Vehicles:** No Mobile Home, boat, trailer, or Recreational Vehicle can be parked in the front yard or on the street for more than 48 hours during any one week time period.
 2. **Commercial Vehicles:** No commercial vehicle with a rated capacity exceeding 1.5 tons shall be parked in the required front or side yard unless stored within a completely enclosed Private Garage. This section shall not prevent the temporary parking of such Vehicles for deliveries, pick-ups or service calls.
 3. **Inoperable Vehicles:** All inoperable vehicles must be stored within a completely enclosed building.

Section 20.4 Fences and Walls

All fences or walls shall meet the following regulations:

A. **Height Regulations**

1. A solid fence or wall cannot be taller than 36 inches when it is within 15 feet of the Front Lot Line or any other Lot line that is adjacent to a Street.
2. A fence in an Agricultural or Residential Zoning District cannot be taller than 6 feet unless the Planning Commission grants a Special Use Permit to allow a taller fence. In granting such authorization, the Planning Commission shall, in addition to standards required by Chapter 19, consider the following standards:
 - a. The effect upon adjacent property, including effect on light and air circulation and on view from the adjacent properties.
 - b. The reason for the request to construct a fence higher than that permitted by this Ordinance
 - c. The size, type and kind of construction, proposed location, and general character of the fence.
 - d. The size of other fences in the surrounding neighborhood.

B **Construction and Materials**

1. Barbed wire fences are permitted only:
 - a. To enclose essential public service structures and wireless communication structures over 35 feet tall.
 - b. In Commercial and Industrial Zoning Districts.Barbed wire strands must be at least 6 feet above the bottom of the fence.

2. No fence shall be constructed in a manner that creates a hazard, nuisance, or unsightly conditions on adjoining properties.
 3. Fences with posts exposed on only one side shall be erected such that the side with the exposed posts faces the fence owner's property.
- C. This section shall not apply to lands utilized as a part of a farming operation.

Section 20.5 Swimming Pools and Ponds

- A. **Swimming Pools:** No pool shall be located in the Front Yard. Pools must meet the following setback requirements:
1. In-ground pool: At least 6 feet from any property line.
 2. Above-ground pool: At least 10 feet from any property line.
- Setbacks are measured from the outside edge of the pool wall.
- B. **Fencing for In-Ground Pools:** All swimming pools shall be enclosed by a fence. The fence must meet all of following requirements:
1. The fence must be at least 4 feet in height.
 2. The fence must be a type that children cannot readily climb.
 3. All gates and doors must be capable of being locked and shall be locked at all times when no person is present on the Lot or parcel of land on which the pool is located.
 4. All gates and doors shall be of a self-closing and latching type, with the latch on the inside of the gate positioned in such a manner that it is not readily available for children to open.

The Building Inspector may waive the requirements for a fence if the entire yard in which the pool is located is enclosed by a fence that meets the requirements specified above.

- C. **Fencing for Above-Ground Pools:** The Building Inspector may waive the fencing requirements described in Subsection B for above ground pools if:
1. The top of the pool is 4 or more feet above grade
 2. The pool does not have a deck with readily climbable supports, and is, itself, constructed in such a manner that it is not readily climbable.
 3. The gate and door arrangements meet the requirements of Subsection B.

If an above ground pool does have readily climbable supports, such pool shall either be fenced as provided in Subsection B or appropriate means shall be taken to make the supports to the deck and/or pool not readily climbable, as determined by the Building Inspector.

- D. **Ponds:** Except in the Agricultural zoning districts, no person shall erect, install, locate or construct a pond unless it has first been approved by the Zoning Administrator. Application for a pond must include the following information:
1. The land area where the pond will be located.
 2. A sketch of the pond including the depth, slope, water capacity and the general configuration of the pond.
 3. The distance of the pond to all existing or proposed structures.
 4. Any structural precautionary measures which will be taken to protect those making use of the pond or those who might be endangered thereby. If, in the course of approving a pond, the Zoning Administrator determines that the protection of the general public requires that a pond be enclosed, such enclosure shall be made by a wall or a fence not less than four (4) feet above the grade level and constructed in such a manner as to make the pond inaccessible to small children.

If the Zoning Administrator determines that the creation of a proposed pond or lake will present potential safety, environmental, or other significant impacts within the community involved, the Zoning Administrator shall have the discretion to refer the matter to the Planning Commission and the Planning Commission shall determine whether or not the pond or lake shall be allowed pursuant to the special use review and approval process.

- E. **Slope of Pond:** The slopes of the banks or sides of the pond shall be constructed so that for each one (1) foot rise there shall be a minimum of three (3) feet of run. The minimum slope angle must be maintained and extended into the pond water to a depth of three (3) feet.
- F. No pond shall be constructed, installed or maintained which either causes or contributes to the erosion of any adjacent abutting, or nearby lands.

Section 20.6 Recreational Vehicles

One Recreational Vehicle may be used for a temporary Dwelling if it is in the Rear Yard of a Lot upon which a One Family Dwelling has been erected. Such use shall be permitted for no more than 7 days in any calendar year unless the Zoning Administrator issues a permit for a longer period of time. Each permit shall be issued for a period not to exceed two weeks, which the Zoning Administrator may renew for not more than two successive periods of two weeks or less. In no case shall said temporary use of a Recreational Vehicle be permitted for more than 60 days in any calendar year. The Recreational Vehicle shall be no closer to any side Lot Line than the principal Building is permitted.

Section 20.7 Home Occupations

Home Occupations are permitted in any Agricultural or Residential Zoning District or on any residentially used lot, subject to the following restrictions:

- A. **Residential Character:** The use of the dwelling for a Home Occupation shall not alter the residential character of the premises.
- B. **Prohibited Uses:** A Home Occupation cannot include the following uses:
 - 1. Restaurants
 - 2. Repair of Vehicles
- C. **Effect on Adjacent Properties:** A home occupation shall not result in an adverse or disrupting effect on other properties or on the residential character of the neighborhood by way of noise, odor, vibration, dust, electronic interference, traffic, safety or other attribute or emission.
- D. **Sale of Goods:** No merchandise or articles for sale shall be displayed on the premises.
- E. **Machinery and Equipment:** No mechanical equipment shall be used in the operation of the Home Occupation except equipment that is clearly similar in power and type to mechanical equipment normally used for domestic purposes.
- F. **Operation of home occupation:** The amount of floor area used by the Home Occupation shall not exceed 25% percent of the Dwelling Floor Area. All operations other than parking associated with the Home Occupation must take place within the Dwelling unless the Planning Commission approves a special use permit to allow operations within an accessory building.
- G. **Outside Operations and Storage:** No outside operations or storage associated with the home occupation are permitted.
- H. **Signs:** One non-illuminated stationary sign is permitted to identify a Home Occupation. The maximum permitted sign area is 2 square feet or 4 square feet if the property fronts on a primary arterial street.
- I. **Parking:** Parking for the Home Occupation shall at no time exceed 1 Vehicle, unless the Planning Commission approves a special use permit allowing parking for up to 4 vehicles.
- J. **Number of Employees:** No more than 1 person who is not a member of the family residing on the premises shall be engaged in any operation of the Home Occupation, unless the Planning Commission approves a special use permit allowing a greater number of employees.

Section 20.8 Personal Property Sales

Personal property sales include garage sales, yard sales, basement sales, or any other sales of a similar nature. Personal property sales are allowed within any Residential or Agricultural zones, provided:

- A. It has a duration of less than 3 days.

- B. It does not occur within 120 days of the last personal property sale held on or at the same location or parcel of property.
- C. All articles of property, except for farm machinery and equipment that are offered for sale shall be totally enclosed within a lawful Structure or Building between the hours of 9:30 p.m. and 8:30 a.m.
- D. All articles of property that are offered for sale shall be removed from display when the sale has been completed.
- E. All signs advertising the personal property sale must be removed upon completion of the sale.

Section 20.9 Sale of Vehicles

A property owner is permitted to display and sell up to two motor vehicles in any calendar year in a Residential or Agricultural District or on a residentially used lot. No such sales or vehicle displays shall occur for more than ninety (90) days during any calendar year on a given lot.

Section 20.10 Holiday Sales

Holiday sales are defined as a one time, temporary sale of Christmas trees, Halloween pumpkins, Mother’s Day flowers, or similar naturally grown, unprocessed, Agricultural Products related specifically to a nationally recognized holiday. They are permitted in any Zoning District if all of the following conditions are met and maintained:

- A. **Product Limitations:** Only those Agricultural Products found to be directly associated with the holiday or observance may be offered for sale.
- B. **Duration:** Any such sale shall only be conducted in association with an annual holiday or observance (such as Christmas or Halloween), found by the Zoning Administrator to be widely accepted and nationally recognized. The use cannot begin any more than 35 days before the officially recognized date of that holiday or observance and must finish on the day of the holiday. The site shall be fully restored to its pre-sale condition by the removal of all remnants of the holiday sale including signage, inventory, temporary structures, trash, debris and any other similar site effects resulting from the holiday sale within 5 days of the date of the holiday.
- C. **Lot Size and Location.** The Lot or parcel of land upon which a holiday sales operation will be conducted must meet the following requirements:
 - 1. It must be a legally occupied premise.
 - 2. It must be a minimum of 1 acre in area.
 - 3. It shall not be located within an approved plat or site condominium project.
 - 4. It shall abut a Primary Arterial Street.
- D. **Hours of Operation.** In any residential zone, no sales or other parts of the operation shall be conducted after 9:30 p.m., nor before 8:00 a.m. Additional lighting in a

residential zone shall be considered a part of the operation and must be turned off after 9:30 p.m. For a commercial premise, sales operations shall only be conducted during the business hours of the existing principal commercial operation.

- E. **Off-Street Parking.** An off-street parking area shall be provided on the same Lot as the proposed sales use. The parking area shall have direct access to and from a Primary Arterial as designated in this Ordinance. Each parking space shall be at least 9 feet wide and 18 feet long. Aisles in the parking area must be at least 10 feet in width for each one-way lane of proposed parking traffic. The minimum number of spaces to be provided in the off-street parking area shall be 1 parking space for each 4 projected customers accessing the site at any one time, and shall be in addition to any parking already required to be on the Lot pursuant to this Ordinance. Loading areas for re-stocking of product shall be provided in a manner that required parking spaces are not used for this purpose during business hours.
- F. **Safety.** Any additional lighting shall be shielded from neighboring parcels and Streets. Parking and stocking areas shall be laid out so as to not require pedestrians to cross any main driveways or a public Street. Parking, loading, product stocking areas, Signs, and other site features shall be located so as to not obstruct vision for traffic on any public Street or for customers entering or leaving the site. Valid copies of all other permits required by Gaines Township, Kent County, or state or federal authorities for conducting business shall be obtained before commencing the operation.
- G. **Signs.** One freestanding Sign is permitted to advertise a holiday sales use. It must meet the following requirements:
 1. It cannot not exceed 32 square feet in area.
 2. It shall not be placed in any public Street Right-of-Way.
 3. It shall not be lighted.
 4. It must be removed immediately after the sale.

Section 20.11 Residential Child, Adult Day, and Foster Care Facilities

- A. Residential Child, Adult Day, and Foster_Care Facilities are allowed in the “R” and “A” Zoning Districts according to the following table:

| Facility Type | “R” or “A” Zoning Districts |
|------------------------------------|-----------------------------------|
| Adult Foster Care Family Home | Permitted |
| Adult Foster Care Small Group Home | SPU |
| Adult Day Care Home | Permitted |
| Foster Family Home | Permitted |
| Foster Family Group Home | Permitted |
| Family Child Day Care Home | Permitted |
| Group Child Day Care Home | SPU |

| | |
|-----------------------|-----|
| Child Day Care Center | SPU |
|-----------------------|-----|

P: The use is permitted by right in the district
SPU: The use is allowed only if the Planning Commission grants a Special Use Permit for the use after finding that the applicable standards in this chapter and Chapter 19 have been met

B. Special Use Permit Standards:

1. Child Day Care Center

- a. **Appearance:** The building shall have an appearance that is non-intrusive and consistent in color, materials, roofline and architecture with the area in which it is located, as determined by the Planning Commission.
- b. **Location and Access:** The lot must abut a primary arterial street and all access must be from the primary arterial street.
- c. **Lot Requirements:** The minimum lot area and width shall be the same as the zoning district within which the day care center is located, except that in the A-R district the minimum lot area is reduced to 40,000 square feet. The minimum setbacks shall be the same as those for a principal dwelling in the zoning district
- d. **Drives:** An on-site drive shall be provided for drop-offs and loading with a sufficient number of stacking spaces to accommodate the number of children to be cared for at the center. The drive must be arranged to allow maneuvers without creating a hazard to traffic flow on the public street.
- e. **Parking and Landscaping:** The parking requirements in Chapter 15 “Parking and Loading Regulations” and the landscaping requirements for the front yard and parking lots in Chapter 16 “Landscaping Regulations” apply to the use.
- f. **Signs:** Signs shall be no larger than 42 square feet with a maximum height of 6 feet and must be attractively landscaped.
- g. **Buffers:** The Planning Commission may require such buffers and screening as it considers appropriate.
- h. **Outdoor Areas:** Outdoor play areas must be fenced.
- i. **Other Requirements:** The applicant must be able to demonstrate that all applicable state requirements will be met, such as compliance with State Building and Fire Codes and compliance with state licensing requirements.

2. Adult Foster Care Small Group Home

- a. The applicant must be able to demonstrate that all applicable state requirements will be met, such as compliance with State Building and Fire Codes and compliance with state licensing requirements.

- b. The building shall have an appearance that is non-intrusive and consistent in color, materials, roofline and architecture with the area in which it is located, as determined by the Planning Commission.
- c. An on-site drive shall be provided for drop offs/loading. This drive shall be arranged to allow maneuvers without creating a hazard to traffic flow on the public street.

3. Group Child Day Care Home

Group Day Care Homes shall be permitted in A-B, A-R, RL-14, RL-10 and R-3 Zoning Districts when authorized as a Special Use by the Planning Commission. Special Use approval shall be granted if the group day care home meets the following standards:

- 1. Is located no closer than one thousand five hundred (1,500) feet to any of the following:
 - (a) Another licensed group day care home.
 - (b) Another adult foster care small group home or large group home licensed under the Adult Foster Care Facility Licensing Act, Michigan Act No. 218 of the Public Acts of 1979, (MCL 400.701 – 400.737, MSA 16.610(51) – 16.610(87)).
 - (c) A facility offering substance abuse treatment and rehabilitation service to seven (7) or more people licensed under article 6 of the Public Health Code, Act No. 368 of the Public Acts of 1978, (MCL 333.6101 – 333.6523, MSA 14.15(6101) – 14.15(6523)).
 - (d) A community correction center, resident home, halfway house, or other similar facility, which houses an inmate population under the jurisdiction of the department of corrections.
- 2. Has appropriate fencing for the safety of the children in the group day care home as determined by the Planning Commission.
- 3. Maintains the property consistent with the visible characteristics of the neighborhood.
- 4. Does not exceed sixteen (16) hours of operation during a twenty-four period. The Planning Commission may limit but not prohibit the operation of a group day care home between the hours of 10:00 p.m. and 6:00 a.m.
- 5. Meets the requirements governing the signs used by a group day care home to identify itself.
- 6. Meets the requirements of the ordinance requiring a group day care home operator to provide off-street parking accommodations for his or her employees.

The distance specified in item (a) above shall be measured along a road, street, or place maintained by the State of Michigan or a political subdivision thereof and generally open

to use by the public as a matter of right for the purpose of vehicle traffic, not including an alley.

Section 20.12 Amateur Radio Services

A. This section is intended to:

1. Provide for the reasonable accommodation of Amateur Radio Support Structures in the Township.
2. Constitute minimum practicable regulation to accomplish the Township's legitimate purposes consistent with state and federal laws including Federal Communication Commission regulations pertaining to Amateur Radio Services, as noted in PRB-1 (1985), as amended and reconsidered. Legitimate purposes include, but are not limited to, preserving the public health, safety, and general welfare of the Township and its residents.

B. As used in this section, the following terms shall have the indicated meanings:

Amateur Radio Service: A federally licensed radio-communication service for the purpose of self-training, intercommunication and technical investigations carried out by amateurs, that is, duly authorized persons interested in radio technique solely with a personal aim and without pecuniary interest particularly with respect to providing emergency communications. (As per Code of Federal Regulations, Title 47, Part 97).

Amateur Radio Antenna: Any combination of materials or equipment used exclusively for the purpose of sending and/or receiving electromagnetic waves for Amateur Radio Services.

Amateur Radio Antenna Support Structure: Any structure, such as a mast, pole, tower or any combination thereof, whether ground or roof mounted, freestanding or guyed, used exclusively for supporting Amateur Radio Antenna(e).

Ground Mounted Amateur Radio Antenna Support Structure: Amateur Radio Antenna Support Structures that are not fixed to any building or accessory structure.

Roof Mounted Amateur Radio Antenna Support Structure: Amateur Radio Antenna Support Structures that are fixed to any building or accessory structure.

Overall Height: The total height of the Amateur Radio Antenna Support Structure as measured from mean grade to the highest point of the Antenna Support Structure. For Roof Mounted Antenna Support Structures, the mean grade is measured from the established grade adjoining the exterior walls of the structure upon which the antenna or support structure is affixed. For Ground Mounted Antenna Support Structures, the mean grade is measured at the established grade adjoining such antenna and/or support structure.

C. Amateur Radio Antenna and Amateur Radio Antenna Support Structures are permitted by right, without the need for a zoning permit, in all zoning districts subject to the following regulations:

1. No Amateur Radio Antenna Support Structure shall be taller than 75 feet in height.
 2. No Roof Mounted Amateur Radio Antenna Support Structure shall be fixed to the side of a structure that faces a public street.
 3. Ground Mounted Amateur Radio Antenna and/or Amateur Radio Antenna Support Structures shall not be allowed in the front yard or a side yard facing a street.
 4. Ground Mounted Radio Antenna and Amateur Radio Support Structures shall have a minimum setback equal to one-third (1/3) its height to any property line.
 5. No more than two (2) Amateur Radio Antenna Support Structures shall be permitted on a single lot or parcel of land.
- D. If any of the standards contained in Section 20.9(C) cannot be met or maintained, a zoning permit shall be required. In considering whether or not a zoning permit shall be issued, the Zoning Administrator shall consider the following standards:
1. **Structural Ability and Soundness:** The applicant shall demonstrate structural stability and soundness of the proposed Amateur Radio Support Structure. This can be achieved through either of the following:
 - a. Providing a copy of the manufacturer’s specification on assembly, construction and erection, and a certification that such a specification has been followed.
 - b. A certification by a licensed professional engineer confirming the structural stability and soundness of the proposed Amateur Radio Support Structures.
 2. **Location:** The proposed Amateur Radio Support Structures shall be so located and installed as to be safe and to create minimum impact to the surrounding properties.
 3. **Height:** The applicant shall demonstrate the need for the proposed Amateur Radio Support Structure to exceed 75 feet in height. This can be accomplished by providing information regarding the topography of the subject property or other information that would affect the operation of the Amateur Radio Service.

20.13 Basement Dwellings

The use of any basement as a dwelling is prohibited. Any dwelling without a full floor above grade level shall be considered a basement dwelling.