

# **ZONING ORDINANCE**

## **ARCADIA TOWNSHIP**

### **Manistee County, Michigan**

**Ordinance No. 001-2005**

**Effective June 23, 2005**

(as amended through Ordinance No. 182, September 2020)

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**CHAPTER 1**  
**TITLE, PURPOSE AND SCOPE**

An ordinance to establish zoning districts, provisions, and regulations in the unincorporated portions of Arcadia Township, Manistee County, State of Michigan, in accordance with the provisions of Act 184 of the Public Acts of 1943, as amended, Act 110 of the Public Acts of 2006 (The Michigan Zoning Enabling Act), as may be amended, and any other applicable laws.

**SECTION 1.01      SHORT TITLE**

This ordinance shall be known as the “Arcadia Township Zoning Ordinance.”

**SECTION 1.02      PURPOSE**

This Ordinance is based upon the Arcadia Township Master Plan. The purpose of this Ordinance is to promote and safeguard the public health, safety, morals, prosperity, and general welfare of the people. The provisions are also intended, among other things to:

- (a) encourage the use of lands, waters, and other natural resources in the Township in accordance with their character and most suitable uses;
- (b) limit the improper use of land and resources;
- (c) reduce hazards to life and property;
- (d) provide for orderly development within the Township;
- (e) avoid overcrowding of the population;
- (f) provide for adequate light and air;
- (g) lessen congestion on the public roads and streets;
- (h) protect and conserve natural recreational areas, agricultural, residential, and other areas naturally suited to particular uses;
- (i) facilitate the establishment of an adequate system of transportation, sewage disposal, safe water supply, education, recreation, and other public requirements;
- (j) conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land; resources, and properties.

**SECTION 1.03      SCOPE**

- (a) The provisions of this ordinance shall be in addition to all other ordinances and regulations in effect within the Township. This ordinance shall not repeal,

abrogate, annul or in any way impair or interfere with existing provisions of other ordinances or regulations, except as specifically stated herein, nor shall this ordinance repeal or affect private restrictions or restrictive covenants, all of which shall continue to have whatever effect may be imparted to them by law.

- (b) Where this ordinance imposes greater restrictions, limitations or requirements upon the use of lands, buildings and structures than are imposed or required by other laws, ordinance, regulations, private restrictions or restrictive covenants, the provisions of this ordinance shall control.

#### **SECTION 1.04 THE EFFECT OF ZONING**

Except as permitted in this ordinance, no land, building, structure or premises within the Township shall be used or occupied, and no building, structure or part thereof shall be erected, razed, moved, placed, reconstructed, extended, enlarged or altered.

#### **SECTION 1.05 SEVERABILITY**

If any provision of this ordinance shall be found to be invalid by any court of competent jurisdiction, such invalidity shall not affect the other provisions of this ordinance, where such other provisions may be given effect without the provision thus declared invalid.

<p style="text-align: center;"><b>CHAPTER 2</b></p> <p style="text-align: center;"><b>DEFINITIONS</b></p>
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**SECTION 2.01      RULES APPLYING TO TEXT**

The following listed rules of construction apply to the text of this Ordinance:

The particular shall control the general.

The word “shall” is always mandatory and not discretionary. The word “may” is permissive.

Unless the context clearly indicates to the contrary, (1) words used in the present tense shall include the future tense, (2) words used in the singular number shall include the plural number, and (3) words used in the plural number shall include the singular number.

A “building” or “structure” includes any part thereof.

The word “person” includes a firm, association, partnership, joint venture, corporation, trust, or equivalent entity or a combination of any of them as well as a natural person.

The words “used” or “occupied”, as applied to any land or building, shall be construed to include the words “intended”, “arranged”, “designed to be used”, or “occupied.”

Any word or term not defined herein shall be considered to be defined in accordance with its common or standard definition.

Any dispute over any language contained in the Zoning Ordinance may be resolved under Chapter 24 pertaining to zoning authority and procedure before the Township Zoning Board of Appeals.

**SECTION 2.02      DEFINITIONS**

**ACCESSORY BUILDING:** A building or portion of a building supplementary and/or subordinate to a main building on the same lot occupied by or devoted exclusively to an accessory use.

**ACCESSORY USE:** A use naturally and normally incidental and subordinate to, and devoted exclusively to the main use of the land or building.

**ACCESSORY WIND ENERGY STRUCTURE:** An accessory structure using wind to generate electrical power intended to primarily serve the needs of the occupants of the premises on which the structure is located, rather than to generate power for a utility grid serving other premises.

**ADULT FOSTER CARE FACILITY:** A governmental or non-governmental establishment having as its principal function the receiving of adults for foster care. It includes facilities and foster care family homes for adults who are aged, emotionally disturbed, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. Such facilities are licensed under Public Act 218 of 1979 as amended.

**ADULT FOSTER CARE CONGREGATE FACILITY:** An adult foster care facility with the approved capacity to receive more than twenty (20) adults who shall be provided foster care.

**ADULT FOSTER CARE FAMILY HOME:** A private residence with the approved capacity to receive not more than six (6) adults who shall be provided foster care for five (5) or more days a week and for two (2) or more consecutive weeks. The adult foster care family home licensee shall be a member of the household and an occupant of the residence.

**ADULT FOSTER CARE LARGE GROUP HOME:** An adult foster care facility with the approved capacity to receive at least thirteen (13) but not more than twenty (20) adults who shall be provided foster care.

**ADULT FOSTER CARE SMALL GROUP HOME:** An adult foster care facility with the approved capacity of not more than twelve (12) adults who shall be provided foster care.

**AGRICULTURE:** The use of land for tilling of the soil, raising of tree or field crops, animal husbandry, or horticulture as a source of income.

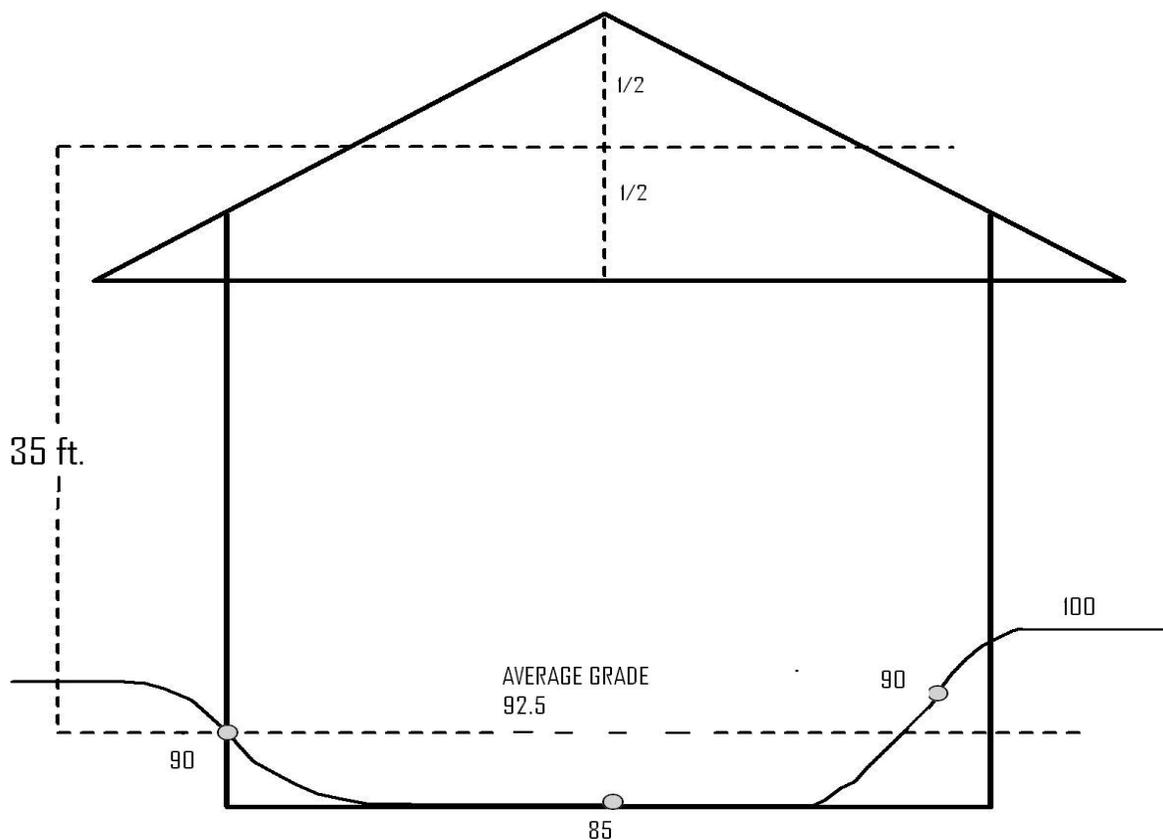
**AGRICULTURAL SERVICE ESTABLISHMENT:** Agricultural service establishments engage in performing agricultural or animal husbandry, or horticultural services on a fee or contractual basis, including but not limited to, centralized bulk collection, refinement, storage, and distribution of farm products to wholesale and retail markets (such as grain cleaning and selling; sorting, grading, and packing of fruits and vegetables for the grower; and agricultural produce milling and processing); the storage and sale of seed, feed, fertilizer, and other products essential to agricultural production; hay baling and threshing; crop dusting; fruit picking; harvesting and tilling; farm equipment sales, service, and repair; veterinary services; and facilities used in the research and testing of farm products and techniques.

**ALLEY:** A public thoroughfare or way not more than thirty (30) feet wide and which affords only a secondary means of access to abutting property.

**ALTERATIONS:** Any change, addition, or modification in construction or type of use or occupancy; any change in the supporting structural members of a building, such as walls, partitions, columns, beams, girders, or any change which may be referred to herein as "altered" or "reconstructed."

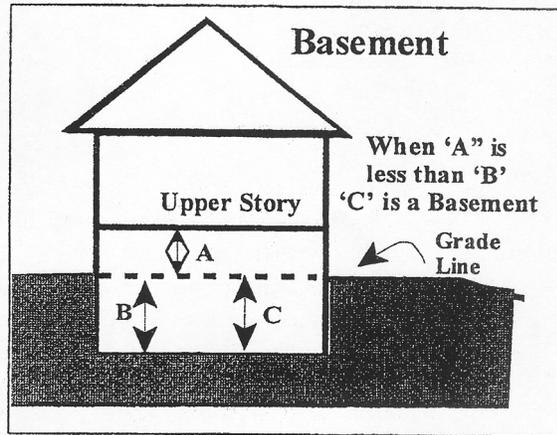
**ALTERNATIVE TOWER STRUCTURE:** Man-made trees, clock towers, steeples, light poles and similar alternative-design mounting structures that camouflage or minimize the presence of antennas or towers.

**ANTENNA:** Any exterior transmitting or receiving device mounted on a tower, building, or other structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies, wireless telecommunications signals, or other communication signals.



**AVERAGE GRADE:** The elevation of the surface of the earth or finished material located immediately adjacent to a structure. Where the grade is not approximately level, the average grade shall be determined by averaging the elevations measured at one point on each side of the building located one-half the distance between the corners of each side of the building.

**BASEMENT:** A story of a building in which, at any point, the vertical distance from the Average Grade to the floor is greater than the vertical distance from the Average Grade to the ceiling. A basement shall not be counted in determining the maximum number of stories.



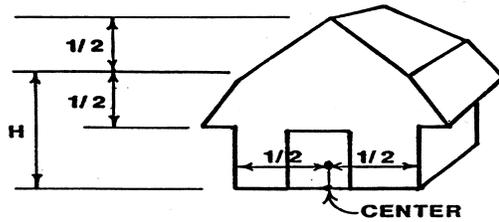
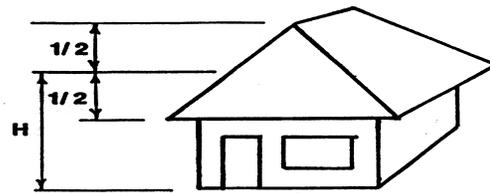
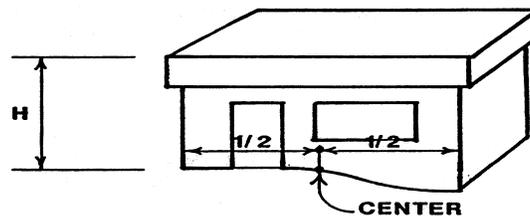
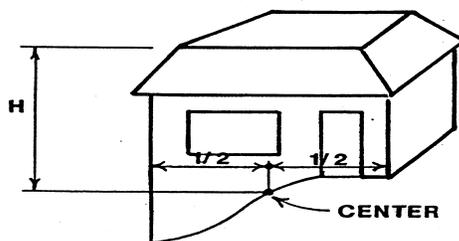
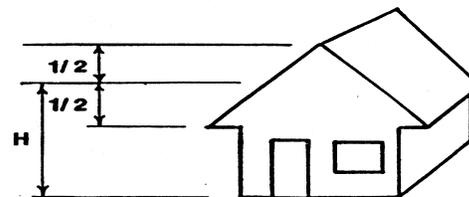
**BIOFUEL:** Any renewable fuel product, whether solid, liquid, or gas, that is derived from recently living organisms or their metabolic by-products and that meets applicable quality standards, including, but not limited to, ethanol and biodiesel; but not including methane or any other fuel product from an anaerobic digester. For purposes of this term “ethanol” means a substance that meets the ASTM international standard in effect on July 19, 2011 as the D-4806 specification for denatured fuel grade ethanol for blending with gasoline.

**BOARD OF APPEALS:** The Arcadia Township Zoning Board of Appeals.

**BUILDABLE AREA:** The buildable area of a lot is the space remaining after the minimum setback and open space requirements of this Ordinance have been complied with.

**BUILDING:** Any enclosed structure having a roof supported by columns, walls, or other support used for the purpose of housing or storing of persons, animals, or property, or carrying out of business activities, or similar uses.

**BUILDING HEIGHT:** In the case of a principal building, the vertical distance measured from the average finished grade to the highest point of flat roofs, to the deck line of mansard roofs, and the average height between eaves and the ridge of gable, hip, and gambrel roofs.

**BUILDING HEIGHTS****GAMBREL ROOF****HIP ROOF****FLAT ROOF****MANSARD ROOF****GABLE ROOF**

**BUILDING INSPECTOR:** That individual accepted by the Township Board as the Building Inspector of Arcadia Township.

**BUILDING LINE:** A line parallel to, and set back from, the front lot line a distance equal to the depth of the front yard required for the district in which the lot is located.

**BUILDING, MAIN:** A building in which is conducted the principal use of the lot on which it is situated.

**BUILDING PERMITS:** A building permit is the written authority as issued by the Building Inspector on behalf of the Township and the State of Michigan permitting the construction, moving, alteration, or use of a building or structure in conformity with the provisions of this Ordinance.

**CAMPGROUND/SUMMER CAMP:** "Campground" and "Summer Camp" shall mean and include the temporary or permanent buildings, tents, or other structures, together with the appurtenances pertaining thereto, established or maintained as living quarters

for children or adults, or both, operated continuously for recreation, education, or vacation purposes, on a commercial basis or for charity or religious purposes. The term “camp” shall not be construed to include buildings, tents, or other structures maintained by the owner or occupant or premises used exclusively to house his farm labor.

**CARPORT:** Any roof structure or shelter or portion of a building (open on two or more sides), whether attached to another building or not, used primarily for the purpose of storing motor vehicles.

**CHILD CARE CENTER:** Any facility in which one or more children are given care and supervision for periods of less than 24 hours per day on a regular basis. Child care centers do not include Family or Group Day Care Homes, or schools. Child care and supervision provided as an accessory use, while parents are engaged or involved in the principal use of the property, such as a nursery operated during church services or public meetings, or by a fitness center or similar operation, shall be considered accessory to such principal use and shall not be considered to be a child care center.

**CO-LOCATION:** The use of a single support structure, building and/or site by more than one wireless communication provider; may also apply to a provider placing or installing additional wireless communications equipment of that provider on an existing wireless communications support structure or in an existing equipment compound. “Co-located” has a corresponding meaning.

**COMMERCIAL AGRICULTURE:** The use of land and/or structures for the growing and/or production of farm products for income, including operations where fruits, vegetables, or similar farm products are picked by and sold to the consumer; i.e., “u-pick” operations.

**CONDOMINIUM UNIT:** A portion of a condominium project designed and intended for separate ownership and use, as described in the master deed, regardless of whether it is intended for residential, office, industrial, business, recreational, use as a time-share unit, or any other type of use.

**DECK:** An uncovered platform which extends more than one step (8 & 1/4 inches) above grade.

**DISTRICT OR ZONE:** A portion of the Township within which certain uses of land and/or buildings are permitted and within which certain regulations and requirements apply under the provisions of this Ordinance.

**DRIP LINE:** An imaginary vertical line extending downward from the outermost edges of the eaves on a building to the ground.

**DRIVE-IN RESTAURANT:** A drive-in establishment that furnishes the patron with food in a ready-to-consume state, and where the consumption of food is allowed either in the main building, a motor vehicle parked on the premises, another facility on the premises outside the main building, or off the premises.

**DWELLING OR APARTMENT:** A building or portion thereof, designated or used exclusively as a residence or sleeping place with cooking and bathroom facilities for one or more persons, permanently or temporarily.

**DWELLING, MULTIPLE:** A building or portion thereof, used or designated for use as a residence for three or more families living independently of each other and each doing their own cooking in said building. This term includes apartment buildings and townhouses.

**DWELLING, SINGLE FAMILY:** A building used or designated for use exclusively by one family.

**DWELLING, TWO FAMILY (DUPLEX):** A detached building used or designated for use by two families living independently of each other and each doing their own cooking in said building.

**EASEMENT:** A grant of one or more of the property rights by a property owner to and/or for use by the public, or another person or entity.

**EQUIPMENT COMPOUND:** An area surrounding or adjacent to the base of a wireless communications support structure and within which wireless communications equipment is located.

**ERECTED:** This term includes built, constructed, reconstructed, moved upon, or any physical operations on the premises required for the building. Excavations, fill, drainage, and the like, shall be considered a part of the erection.

**ESSENTIAL  
PUBLIC SERVICE  
STRUCTURES OR  
BUILDINGS**

Buildings or structures owned and operated by public utilities or municipal departments and used for gas, electrical, steam, fuel, water or sewage treatment or disposal, electrical substations, sewage lift stations which are not located entirely underground, and similar structures or buildings necessary to furnish adequate service within the Township, but not including Essential Public Service Equipment, Utility Grid Wind Energy System, or Accessory Wind Energy Structure.

Telecommunication towers and antennas and similar wireless communications facilities developed for private enterprise shall not be considered to be Essential Public Service Structures or Buildings.

**ESSENTIAL  
PUBLIC SERVICE  
EQUIPMENT**

Wires, mains, drains, sewers, pipes, valves, pumps, conduits, cables, fire alarm and police call boxes, traffic signals, fire hydrants, post office boxes, street lights, or similar equipment located either entirely underground, or on poles not greater than 30 feet in height, but not including Essential Public Service Structures or Buildings, Utility Grid Wind Energy System, or Accessory Wind Energy Structure.

Telecommunication towers and antennas and similar wireless communications equipment developed for private enterprise shall not be considered to be Essential Public Service Equipment.

**FAMILY:**

- (a) One or more persons related by blood, marriage, or adoption, including foster children and servants, occupying a single dwelling unit and living as a single, non-profit housekeeping unit.
- (b) A collective number of individuals occupying a single dwelling unit whose relationship is of a permanent non-transient and distinct domestic character and cooking and living together as a single and separate housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, combine, federation, group, coterie, or organization which is not a recognized religious order nor does it include a group of individuals whose association is temporary and/or resort seasonal in nature nor include state licensed residential facilities, as defined by the Township Zoning Act, being Act. No. 184 of PA of 1943, as amended, having more than six individuals.

**FAMILY DAY CARE HOME:** A private residence in which less than seven minor children are given care and supervision for periods less than 24 hours per day, operated by a person who permanently resides as a member of the household, which is registered with the State of Michigan.

**FARM:** Unplatted, contiguous, neighboring or associated land operated as a single unit on which farming is carried on, including the production and keeping of all common types of farm animals, and provided that greenhouses, nurseries, orchards, apiaries, poultry farms, truck farms and similar specialized or intensive agricultural enterprises, shall be considered farms; but establishments such as dog kennels, stock yards, livestock auctions, slaughter houses, stone quarries, or gravel pits or sand pits, fertilizer works, or for the reduction of animal matter, or for the disposal of public garbage, sewage, rubbish, or offal, shall not constitute a farm hereunder.

**FARM ANIMALS:** Livestock, including beef and dairy cattle, goats, hogs, horses, poultry, sheep, and other fur-bearing animals.

**FARM BUILDINGS:** Any building, other than a dwelling, erected, moved upon, or maintained on a farm, which is essential and customarily used on farms in the pursuit of agricultural activities.

**FARM LABOR HOUSING:** A tract of land, mobile homes, buildings, and other structures pertaining thereto which is established, occupied, or used as living quarters for migratory workers engaged in agricultural activities, including related food processing.

**FARM PRODUCTS:** Those plants and animals useful to man and includes, but is not limited to, forages and sod crops, grains, and feed crops, dairy and dairy products, poultry and poultry products; livestock, including breeding and grazing; fruits, vegetables, flowers, seeds, grasses, trees, fish, apiaries, equine, and other similar products; or any other product which incorporates the use of food, feed, fiber, fur or flora.

**FENCE:** Any permanent partition or structure erected as a dividing structure, barrier, or enclosure, and not part of a building.

**FLOODPLAIN:** Those areas which would be inundated by flood waters in a flood on one percent yearly probability.

**FLOOR AREA:** The sum of the gross horizontal areas of all floors of the building measured from the outside dimensions of the outside face of the outside wall building, interior faces of the exterior walls or from the centerline of common walls.

**FLOOR AREA - USABLE:** For purposes of computing parking requirements, usable floor area shall be considered as that area to be used for the sale of merchandise or services or used to serve patrons, clients or customers. Usable floor area shall not include elevator shafts, stairwells, floor space used for mechanical and utility equipment, attic space having headroom of less than seven feet, or interior balconies or mezzanines.

**GARAGE – PRIVATE RESIDENTIAL:** A structure that is accessory to a residential building used for the parking and storage of vehicles owned and operated by the residents thereof and that is not a separate commercial enterprise available to the general public.

**GARAGE – PUBLIC:** A building, other than a private garage, used for the care, repair, or equipping of automobiles, or where such vehicles are parked or stored for remuneration, hire, or sale.

**GAS STATION:** A structure or structures and space combined, used solely for either/or both the sale and installation in or upon motor boats or motor vehicles of the usual operating commodities such as gasoline, fuel oil, oil, grease, alcohol, water, batteries, tires, light bulbs, windshield wipers, and other minor accessories or services such as washing, wiping, cleaning, and waxing, or repair of tires, lights, charging of batteries, and tune-ups.

**GRADE:** A reference plane representing the average of finished ground level adjoining the building at all exterior walls.

**GREENBELT:** A natural or planted landscaped area consisting of trees, shrubs, bushes, and grasses designed to provide a visual and spatial buffer between land uses.

**GROUP DAY CARE HOME:** A private residence in which more than six but not more than 12 minor children are given care and supervision for periods of less than 24 hours per day, operated by a person who permanently resides as a member of the household, which is regulated by the State of Michigan .

**HOME OCCUPATION:** An activity carried out for remuneration by a resident conducted as a permitted use in the resident's dwelling unit or accessory building as regulated by Section 4.25 herein.

**HOTEL:** Any building where lodging with or without meals, is furnished to transient or resident guests for compensation, and containing more than four sleeping rooms, and having no cooking facilities in any individual lodging, but wherein a restaurant may or may not be located.

**HOUSING FOR THE ELDERLY & SENIOR CITIZENS:** A facility or multiple family building for persons 55 years or older or for those requiring extended care including nursing homes but not including a hospital, which either provides or offers a level of care to its residents required to be licensed by the State of Michigan or containing individual living resident rooms or dwelling units with or without separate cooking facilities.

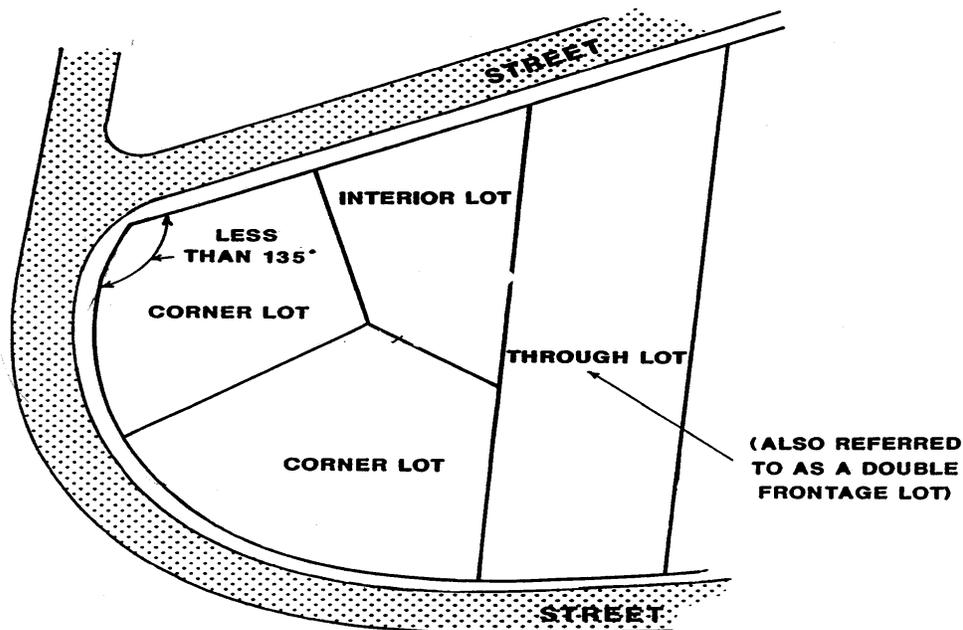
**KENNEL, COMMERCIAL:** Any premises on which more than three dogs, cats, or other household pets six months of age or older, are kept for the purpose of breeding, boarding, or sale.

**LOT:** A parcel of land which is separately described on a deed or other instrument recorded in the office of the Register of Deeds, whether by metes and bounds description, as part of a platted subdivision or condominium unit intended for individual ownership and use.

**LOT AREA:** The total horizontal area within the lot lines or property boundary of a lot which includes the area within public and private road rights of way if such area is included within the legal description of the lot.

**LOT CORNER:** A lot located at the intersection of two or more streets or private roads where the corner interior angle formed by the intersection of the centerlines of the street is one hundred thirty-five degrees (135°) or less or a lot abutting upon a curved street or streets if tangents to the curve at the two points where the lot lines meet the centerline one curve form an interior angle of hundred thirty five (135°) or less.

## LOT TYPES



**LOT COVERAGE:** The part or percent of the lot occupied by buildings or structures, including accessory buildings or structures.

**LOT DEPTH:** The distance between the front lot line and the rear lot line measured along the median between the side lot lines.

**LOT, DOUBLE FRONTAGE:** Any lot, excluding a corner lot which fronts on two streets which do not intersect.

**LOT, INTERIOR:** A lot which has frontage on only one street.

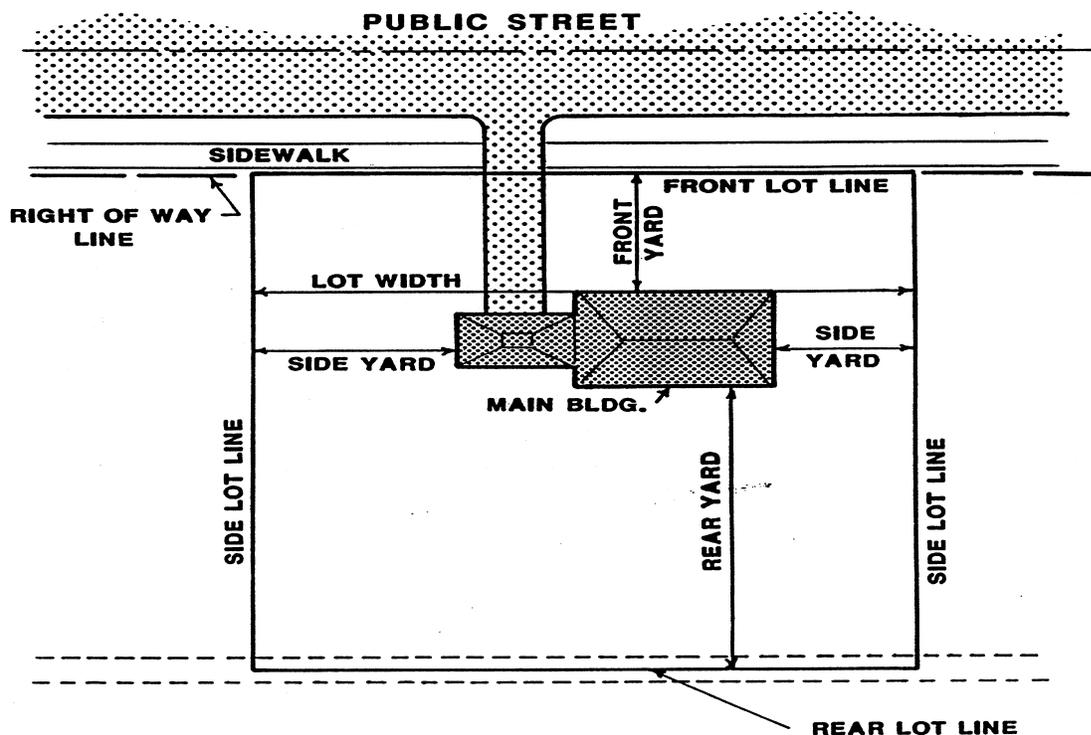
**LOT LINE, FRONT:** The lot line separating a lot from a street right-of-way, private road, or other thoroughfare.

**LOT LINE, REAR:** The lot line opposite and most distant from the front lot line. In the case of a triangular or otherwise irregular shaped lot or parcel, an imaginary line ten feet in length entirely within the lot or parcel, parallel to and at a maximum distance from the front lot line. In the event that none of these definitions are applicable, the Zoning Administrator shall designate the rear lot line.

**LOT LINE, SIDE:** Any lot line other than a front or rear lot line.

**LOT WIDTH:** The horizontal distance between the side lot lines, measured parallel to the front lot line at the minimum required building setback line.

## LOT LINES AND YARDS



**MOBILE HOME:** A vehicular, portable structure built on a chassis and designed to be used without a permanent foundation as a dwelling when connected to required utilities and which is, or is intended to be, attached to the ground, to another structure, or to a utility system on the same premises for more than thirty (30) consecutive days.

**MOBILE HOME PARK:** A parcel or tract of land under the control of a person upon which three or more mobile homes are located on a continual, non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home.

**MOTEL:** A building or group of buildings on the same lot, whether detached or in connected rows, containing sleeping or dwelling units which may or may not be independently accessible from the outside with garage or parking space located on the lot and designed for, or occupied by, travelers. The term shall include any building or building groups designated as motor lodges, transient cabins, or by any other title intended to identify them as providing lodging, with or without meals, for compensation on a transient basis.

**MOTOR HOME:** A self-propelled, licensed vehicle prefabricated on its own chassis, intended for recreational activities and temporary occupancy.

**NONCONFORMING BUILDING OR STRUCTURE:** A building/structure or portion thereof lawfully existing prior to the enactment of this Ordinance or amendments thereto, and which does not conform to the provisions (e.g. set-backs, height, lot coverage) of this Ordinance for the zoning district in which it is located.

**NONCONFORMING LOT OF RECORD:** A lot or parcel lawfully existing of record prior to the enactment of this Ordinance and which does not conform to the provisions of this Ordinance (i.e. area, width, etc.).

**NONCONFORMING USE:** A use which lawfully occupied a building/structure or land prior to the enactment of this Ordinance or amendments thereto, and that does not conform to the use regulations of this Ordinance for the zoning district in which it is located.

**NORMAL HIGH-WATER MARK:** The normal high water mark of the lake as determined by the Department of Natural Resources, or if the Department has not made such a finding, the normal high water mark location shall be determined by the Township Zoning Administrator. Moreover, the measurement shall be made only along a natural shoreline, and shall not include any manmade channel, lagoon, canal or the like.

**NURSING HOME:** A convalescent or nursing home is a facility for the care of children or the aged or infirm, or a place of rest for those suffering bodily disorders, wherein four or more persons are cared for. Said facility shall conform to, and qualify for license under, applicable State laws.

**ON-FARM BIOFUEL PRODUCTION FACILITY (TYPE I):** A facility designed and intended to be used to produce biofuel, and having all of the following characteristics:

- A. The facility is located on land used in the commercial production of farm products.
- B. The facility has a designed annual production capacity of not more than 100,000 gallons of biofuel.
- C. The facility is located at least 100 feet from the boundary of any contiguous property under different ownership.
- D. The facility meets all otherwise applicable setback requirements.
- E. At least 75% of the feedstock for the facility is produced on the farm where the facility is located, on an annual basis.
- F. At least 75% of the biofuel or other product/byproduct of the facility is used on the farm where the facility is located, on an annual basis.

**ON-FARM BIOFUEL PRODUCTION FACILITY (TYPE II):** A facility designed and intended to be used to produce biofuel, and having all of the following characteristics:

- A. The facility is located on land used in the commercial production of farm products.
- B. The facility has a designed annual production capacity of not more than 100,000 gallons of biofuel.
- C. The facility is located at least 100 feet from the boundary of any contiguous property under different ownership.
- D. The facility meets all otherwise applicable setback requirements.
- E. Less than 75% of the feedstock for the facility is produced on the farm where the facility is located, on an annual basis.
- F. Less than 75% of the biofuel or other product/byproduct of the facility is used on the farm where the facility is located, on an annual basis.

**ON-FARM BIOFUEL PRODUCTION FACILITY (TYPE III):** A facility designed and intended to be used to produce biofuel, and having all of the following characteristics:

- A. The facility is located on land used in the commercial production of farm products.
- B. The facility has a designed annual production capacity of at least 100,000 gallons but not more than 500,000 gallons of biofuel.
- C. The facility is located at least 100 feet from the boundary of any contiguous property under different ownership.
- D. The facility meets all otherwise applicable setback requirements.

**OPEN AIR BUSINESS:** A business, a substantial part of which involves activities or the display and sale of goods outside of a building, including motor vehicle and boat sales, mobile home sales, lawn and garden centers, golf driving ranges, and similar uses.

**PARK:** A park is a non-commercial recreational area.

**PORCH, ENCLOSED:** A covered entrance to a building or structure which is totally enclosed, and projects out from the main building and has a separate roof or an integral roof with the building to which it is attached.

**PORCH, OPEN:** A covered entrance to a building or structure which is unenclosed except for supporting columns.

**PRINCIPAL USE:** The primary or predominant use of the premises.

**PRIVATE ROAD:** (See Section 4.18).

**RESIDENTIAL DISTRICT:** The RA, RR, R-1, PA, SP, R-2 and R-3 Districts.

**RESTAURANT:** A business located in a building wherein food, beverages, or meals are prepared, served and sold for consumption on or off the premises, and deriving the major portion of its receipts from the sale of such products.

**RIGHT-OF-WAY:** A street, alley or other thoroughfare or easement permanently established for passage of persons or vehicles.

**ROADSIDE STAND:** A building or structure designed or used for the display and/or sale of agricultural products produced on the premises upon which the stand is located.

**SALVAGE YARD:** This term includes automobile wrecking yards and salvage areas and includes any area of more than two hundred square feet for the storage, sale, processing, keeping or abandonment of junk, including scrap metals, other scrap materials or reclaimed materials, or for the dismantling, demolition, or abandonment of automobiles or other vehicles or machinery or parts thereof for profit, but does not include uses established entirely within enclosed buildings.

**SETBACK:** The minimum unoccupied distance between the lot line and the nearest dripline of the principal or accessory building.

**STABLE:** A structure, building, or land used for the keeping, care, and raising of horses.

- (a) **COMMERCIAL** - Any lot or parcel where horses are kept for training, riding, stabling, or breeding for compensation.
- (b) **PRIVATE** - Any lot or parcel where horses are kept and used solely by the owner or owners of the lot or parcel with no commercial activities involved.

**STORY:** That portion of a building, other than a basement or mezzanine, included between the surface of any floor and the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it.

A “mezzanine” floor shall be deemed a full story only when it covers more than fifty percent of the area of the story underneath said mezzanine, or, if the vertical distance from the floor next below it to the floor next above it is twenty-four feet or more.

**STREET:** A publicly owned and maintained right-of-way which affords traffic circulation and principal means of access to abutting property. A street is not an alley.

**STRUCTURE:** Anything constructed or erected in or upon the ground and having a permanent location in or upon the ground, including, though not limited to, buildings, accessory buildings, sheds, patios, gazebos, tennis courts, swimming pools, radio and television towers, decks and platforms; provided, however, that patios shall not be deemed structures if no parts thereof are above the ground and if they are located outside the minimum front, side, and rear yard setback lines. Lawful fences or walls, utility poles, basketball goals, play structures, mailboxes, sidewalks, driveways, streets,

parking areas, retaining walls, or sea walls shall not be considered to be structures for purposes of this Ordinance.

**THEATER:** Any building or place used for presentation of dramatic spectacles, shows, movies, or other entertainment, open to the public with or without charge.

**TOWER:** (in the context of a communications tower) Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers or monopole towers. Tower includes those used for transmission for radio and television, microwave, common carrier, cellular telephone, alternative tower structures and the like. Tower includes the structure thereof and any support thereto. Also see “wireless communications support structure”.

**TOWER HEIGHT:** The distance measured from the finished grade of the parcel of land to the highest point on the tower or other structure, including the base pad and any antenna.

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

**UTILITY GRID WIND ENERGY SYSTEM:** A wind energy system consisting of one or more structures designed and primarily intended to generate electrical power for a utility grid, rather than to generate power to primarily serve the needs of the occupants of the premises on which the system is located.

**WIRELESS COMMUNICATIONS EQUIPMENT:** The set of equipment and network components used in the provision of wireless communications services, including, but not limited to, antennas, transmitters, receivers, base stations, equipment shelters, cabinets, emergency generators, power supply cables, and coaxial and fiber optic cables; but does not include any wireless communications support structure, alternative tower structure, or other structure or device designed to support or capable of supporting wireless communications equipment.

**WIRELESS COMMUNICATIONS SUPPORT STRUCTURE:** A structure that is designed to support, or is capable of supporting, wireless communications equipment, including a monopole, self-support lattice tower, guyed tower, water tower, utility pole, or building; provided that for purposes of this Ordinance this term shall not include any tower or other support structure for wireless communications equipment not exceeding 35’ in height. The term “tower” as defined in this ordinance is a type of wireless communications support structure.

A tower or other structure within the scope of this definition shall not be considered to be either “Essential Public Service Structures or Buildings” or “Essential Public Service Equipment” as those terms are defined in Section 2.02 of this Ordinance, for purposes of this Ordinance.

**YARD:** A required yard is an open space of prescribed width or depth on the same land with a building or group of buildings, which open space lies between the building or group of buildings and the nearest lot line and is unoccupied and unobstructed from the ground upward, except as otherwise provided herein.

- (a) **Front Yard** - a yard extending across the full width of lot between the front lot lines and the nearest drip line of the main building.
- (b) **Rear Yard** - a yard extending across the full width of the lot between the rear lot line and the nearest drip line of the main building.
- (c) **Side Yard** - a yard extending from the front yard to the rear yard between the side lot line and the nearest drip line of the main building or of accessory building attached thereto.

<p><b>CHAPTER 3</b></p> <p><b>ZONING DISTRICTS &amp; MAP</b></p>
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### **SECTION 3.01 ZONING DISTRICTS**

For the purpose of this Ordinance, the Township is hereby divided into the following zoning districts:

A	Agricultural District
RA	Rural Agricultural District
RR	Resort Residential District
R-1	Village Residential District
PA	Point Arcadia District
SP	Star-Key Point District
R-2	Medium Density Residential District
R-3	Manufactured Housing Community Residential District
RC	Restricted Commercial District
C	Commercial District
CO	Commercial Overlay District
I	Industrial District

### **SECTION 3.02 THE ZONING MAP**

The locations and boundaries of these descriptions are hereby established on a map entitled "The Official Zoning Map of Arcadia Township" which is hereby made a part of this Ordinance.

The official zoning map shall be located in the Township offices and shall be the final authority as to the current zoning status of any property in the Township. Said map is to be kept up to date, and accessible to the general public.

Where uncertainty exists as to the boundaries of any zoning district as shown on the zoning map, the following rules of construction and interpretation shall apply:

- (a) Boundaries indicated as approximately following the centerline of streets, highways, alleys, or railroads shall be construed to follow such centerlines.
- (b) Boundaries indicated as approximately following platted lot line shall be construed as following such lot lines.
- (c) Boundaries indicated as approximately following township boundaries shall be construed as following township boundaries.
- (d) Boundaries indicated as approximately following the centerline of creeks, streams or rivers shall be construed as following such creeks, streams or rivers,

or in the event of change in the location of creeks, streams or rivers, shall be construed as moving with the creek, stream or river.

- (e) Boundaries indicated as approximately following property lines, section lines or other lines of government survey shall be construed as following such property lines, section lines, or other lines of government survey as they exist as of the effective date of this Ordinance or applicable amendment thereto.

**SECTION 3.03      LANDS NOT INCLUDED WITHIN A DISTRICT**

In any case where, for whatever reason, lands have not been included within a zoning district on the zoning map, such lands shall be deemed to be included in the RA Rural Agricultural District.

<p style="text-align: center;"><b>CHAPTER 4</b></p> <p style="text-align: center;"><b>GENERAL PROVISIONS</b></p>
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**SECTION 4.01 GENERAL INTENT AND APPLICATION**

It is the purpose of this Chapter to establish general regulations which have not been specifically provided for in other sections of this Ordinance. Unless specifically noted, these regulations apply to uses in all zoning districts.

**SECTION 4.02 THE EFFECT OF ZONING**

Except as hereinafter specified, no lot or land or premises shall hereafter be used, maintained, or occupied, and no building or structure or part thereof shall be constructed, erected, moved, placed, maintained, reconstructed, used, extended, enlarged, or altered, except in conformity with the regulations herein specified for the zoning district in which it is located.

Nothing in this ordinance shall be deemed to require any change in the plans, construction, or design of any building upon which construction has lawfully begun or for which a valid building permit has been issued; provided, however, that such building shall be completed within one year from the date of passage of this ordinance or subsequent amendments affecting the district in which the building is or will be located.

**SECTION 4.03 RESTORATION OF UNSAFE BUILDINGS**

Nothing in this Ordinance shall prevent the strengthening or bringing to a safe condition of any building or structure, or part thereof, which does not comply with the building codes in force in the Township.

**SECTION 4.04 REQUIRED AREA OR SPACE**

No lot or lots in common ownership and no yard, parking area, or other space shall be so divided, altered, or reduced as to make such area or dimension less than the minimum required under this Ordinance. If already less than the minimum required under this Ordinance, said area or dimension shall not be further divided or reduced.

**SECTION 4.05 ACCESSORY BUILDINGS**

- (a) General Regulations. The following regulations shall apply to accessory buildings in all zoning districts unless otherwise provided:
- (1) In any zoning district, an accessory building may be erected detached from the permitted principal building or as an integral part of the permitted principal building. When erected as an integral part of the permitted principal building, it shall comply in all respects with the requirements of this Ordinance applicable to the permitted principal building.

- (2) Accessory buildings shall not be erected in any required front or side yards.
- (3) Accessory buildings or garages shall be considered as attached to the principal building when the distance between structures is solidly covered by a breezeway, portico, covered colonnade, or similar architectural device.
- (4) No accessory building shall include residential or living quarters for human beings, except for a permissible accessory apartment for which the Zoning Administrator has issued a permit in accordance with Section 4.21 of this Ordinance.
- (5) When an accessory use or building is located on a corner lot, it shall not project beyond the front yard setback line required on the lot in the rear of such corner lot.
- (6) An accessory building or accessory structure, except for farm buildings as defined herein, shall not be constructed on a lot before the principal building or use is constructed or established
- (7) An accessory building in the R-1, PA, SP, R-2, R-3, and RC Districts shall not be larger than 800 square feet in size and the side walls of such accessory building shall not be higher than ten feet. The setback from the rear lot line shall not be less than five feet [except for the SP District, see Section 9.04-B(b)(3)].
- (8) The rear and side setbacks for accessory buildings in the C, CO and I Districts shall not be less than the required setbacks for principal buildings.

#### **SECTION 4.06 EXISTING LOTS (see Section 25.09)**

#### **SECTION 4.07 BUILDING HEIGHTS**

No building or structure shall exceed a height of 35 feet except for the following: parapet walls not exceeding four feet in height, chimneys, cooling towers, elevator bulkheads, fire towers, gas tanks, grain elevators and driers, silos, stacks, water tanks, monuments, cupolas, domes, spires, penthouses housing necessary mechanical appurtenances, fruit storage facilities, and accessory wind energy structures (except as otherwise specifically regulated in this Ordinance), and similar structures.

#### **SECTION 4.08 FRONT YARD AVERAGING AND ENCROACHMENT**

Where an existing front setback line has been established by two or more existing buildings on the same block or where unplatted, within two hundred feet of the lot containing the proposed building on the same side of the street, the average of these

established setbacks shall apply. Unenclosed porches, steps, or similar facilities may project into a required front yard for a distance not to exceed five feet.

#### **SECTION 4.09      TEMPORARY DWELLINGS**

A tent, cabin, travel trailer or other similar temporary enclosures may be used for one year for living accommodations while a permanent structure is under construction, upon approval of the Zoning Administrator, who shall determine that the following standards are met:

- (a) The temporary mobile home shall be used solely by the owner who is constructing the permanent structure and his immediate family.
- (b) The owner shall have secured a building permit for the permanent structure.
- (c) The temporary dwelling shall be provided with a potable water supply and a safe and sanitary means of sewage disposal.
- (d) Mobile homes may also be used temporarily while constructing a permanent dwelling damaged by wind, rain, fire, or the like for a period of one year. One extension of one year may be permitted by the Zoning Administrator. The mobile home, when used as a dwelling, must be connected to a well and septic system and/or public sewer or water system approved by Manistee County Health Department and must be not smaller than 12 feet wide throughout its length.

#### **SECTION 4.10      MINIMUM REQUIREMENTS FOR DWELLINGS OUTSIDE MOBILE HOME PARKS**

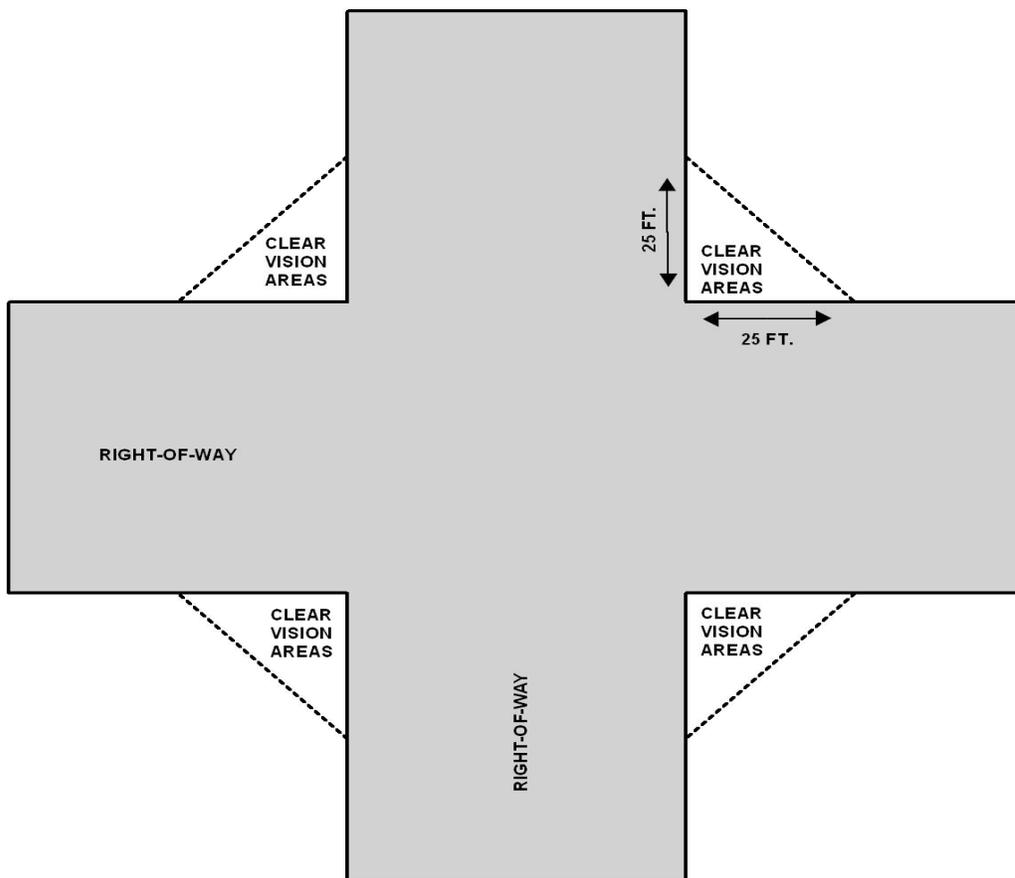
All dwelling units located outside of mobile home parks shall comply with the following requirements:

- (a) The minimum width of any single-family dwelling unit shall be 24 feet for at least 67% of its length, measured between the exterior part of the walls having the greatest length.
- (b) The wheels, pulling mechanism, and tongue of any mobile home shall be removed prior to placement on a foundation.
- (c) All dwellings shall be connected to a sewer system and water supply system approved by the County Health Department.
- (d) All dwelling units located outside of mobile home parks shall obtain a building permit from the Building Inspector.
- (e) If the dwelling is a mobile home the entire exterior perimeter of a frame bearing mobile home, between the ground level and mobile home, shall be skirted with skirting material that meets exterior sheeting requirements of mobile homes and

meets and is installed to mobile home industry standards. Such skirting must be installed with 30 days after placement of the mobile home on the lot or parcel.

#### SECTION 4.11 CLEAR VISION CORNERS

On any corner, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of 30 inches and eight feet above the established abutting road grade within a triangle formed by the two street right-of-way lines and a line connecting them to points 25 feet from the intersection of the right-of-way lines.



#### **SECTION 4.12 FENCES AND WALLS IN RESIDENTIAL DISTRICTS**

- (a) In all residential zoning districts, solid fences or walls, shall not exceed a height of three feet within the required front yard. A “see-through” type fence in the required front yard shall not exceed four feet in height. Height shall be measured from the average grade within a 25 foot radius of the fence, wall, or landscaping.
- (b) For all other areas, a solid fence or wall shall not exceed six feet in height. The use of barbed wire strands is permitted in all but the residential zones.
- (c) On corner lots, a six feet high solid privacy fence or wall may be erected within the front setback area parallel to the side of the house which faces the street subject to the restrictions for clear vision corners as contained herein.

#### **SECTION 4.13 ESSENTIAL PUBLIC SERVICE EQUIPMENT**

The erection, construction, alteration, or maintenance of essential public service equipment shall be exempt from the provisions of this Ordinance.

#### **SECTION 4.14 DEMOLITION PERMITS**

No principal building shall be razed unless a permit has been obtained from the Zoning Administrator. The demolition must be completed within 90 days of the issuance of the permit.

#### **SECTION 4.15 CORNER LOT SETBACKS**

For a lot or parcel bounded by two intersecting streets, there shall be a front yard setback along each abutting street. The remaining setbacks shall comply with the side setback requirements of the zoning district in which the lot is located. For a lot bounded by three intersecting streets, there shall be three front yard setbacks and the remaining setback shall be a side setback.

#### **SECTION 4.16 PRINCIPAL USE**

Except in the RC and C Districts a lot or parcel shall not contain more than one main building or use, excepting groups of apartment, retail, industrial or agricultural buildings, or other groups of buildings which are used together as a main use collectively.

#### **SECTION 4.17 LANDSCAPE REQUIREMENTS FOR THE R-2 MEDIUM DENSITY RESIDENTIAL, COMMERCIAL AND INDUSTRIAL DISTRICTS**

- (a) Intent. The intent of this section is to set forth minimum standards for required landscape buffer strips. Buffer strips planted with trees and shrubs are intended to maintain or improve air quality, stabilize soils, increase groundwater infiltration, decrease wind velocity, reduce noise, and create zones of privacy.

- (b) **Greenbelt Landscaping.** Where a landscape buffer strip or greenbelt is required by this Ordinance, the following minimum landscape standards shall be observed.
- (1) For each 25 feet abutting the adjacent property three trees shall be planted within the greenbelt. Such trees shall be a minimum of evergreen and deciduous trees.
  - (2) All deciduous trees shall be a minimum of two and one half inch caliper at five feet in height and evergreen trees shall be a minimum of four feet in height at planting.
  - (4) Any and all plantings in the buffer strip shall be hardy plant materials and maintained thereafter in a neat and orderly manner. Withered and/or dead plant materials shall be replaced within a reasonable period of time but no longer than one growing season.
- (c) **Landscape Requirements for Off Street Parking Lots**
- (1) All parking areas having at least 20 spaces, shall be landscaped with one canopy and one evergreen tree for every ten parking spaces, with a minimum of two trees. These trees shall be planted adjacent to the parking area.
  - (2) Landscaping shall be arranged so as not to obscure traffic signs or fire hydrants, or obstruct drivers' sight distance within the parking area and at driveway entrances.
- (d) **Front Yard Landscaping for Commercial and Industrial Uses.** Except for necessary driveways, frontage roads, service drives, or walkways, the front yard for Commercial and Industrial uses shall be landscaped according to the following minimum requirements:
- (1) One canopy tree, two evergreen trees and one ornamental tree for each 50 feet in length of road frontage.
  - (2) Landscaping shall be located so it does not obstruct the vision of drivers entering or leaving the site.
  - (3) Earthen berms within the front yard are encouraged to provide variety in appearance and for screening of parking areas.
- (e) **Landscape Modifications.** The landscape requirements of this section may be modified by the Planning Commission in consideration of existing trees on site, proposed building setbacks, existing and proposed uses on adjacent lands, topographical elevations on a site and on adjacent lands. In deciding whether to modify the landscape regulations of this section, the Planning Commission shall

determine that the intent of the regulations will still be met if modifications are allowed.

## **SECTION 4.18 PRIVATE ROADS**

### **(a) DEFINITIONS**

- (1) Driveway means an improved or unimproved path or road extending from a public or private road or right-of-way to a single building, dwelling or structure, intended to provide ingress and egress primarily for the occupants thereof.
- (2) Private road is any undedicated path, trail or road which is privately owned and maintained and which provides or is intended to provide the primary means of ingress and egress to one or more lots, principal buildings, or dwelling units.
- (3) Existing Private Road - a private road which is used to provide access to lots, buildings or dwellings existing as of the effective date of this chapter.
- (4) Private Road Easement - An easement which is granted exclusively for private access to one or more parcels of land and which contains a private road.

### **(b) APPLICABILITY.**

Private roads are permitted in all zoning districts except the Industrial Zoning District except that a private road in the Commercial and Commercial Overlay Districts shall comply with Section 4.17.

- (c) **EXISTING PRIVATE ROAD.** After the effective date of this amendment, no existing private road shall be extended to provide access to a lot, dwelling or building which was not provided access by the private road as of the effective date of this amendment, unless the existing private road is re-constructed according to the minimum construction standards and other requirements of this Section.

Existing private roads may be improved, upgraded and maintained without being subject to these regulations.

### **(d) PROCEDURE FOR PERMITTING OF PRIVATE ROADS**

#### **(1) Application and Fee**

An application to establish, construct or extend a private road shall be filed with the Township Zoning Administrator along with a fee as set by resolution of the Township Board. The application shall contain or be accompanied by the following information:

- (a) The names(s) of the owners and any other parties having any legal interest in the private road.
  - (b) Permanent parcel number or legal description of the property over which the private road is to be constructed.
  - (c) A site location map not to scale which shows the location of the parcel containing the road to surrounding properties and roadways within one-half mile of the site.
  - (d) A scaled drawing which illustrates all of the lots which will be served by the private road.
  - (e) A scaled drawing sealed by a registered engineer or surveyor showing the precise location, route, elevations, dimensions, specifications and design of the private road and any proposed extensions of the road, existing or proposed curb cuts and the location and distance to any public street which the private road is to intersect. This drawing shall include a profile of the proposed road.
  - (f) The location of all public utilities including but not limited to water, sewer, telephone, gas, electricity and television cable to be located within the private road right-of-way or within twenty (20) feet either side thereof.
  - (g) A road maintenance agreement, access easement agreement and deed restrictions as required in this Section shall also accompany the application.
- (2) Review by Zoning Administrator
- (a) The Zoning Administrator shall review this information in conjunction with the Township Fire Chief to determine compliance with the standards and requirements for private roads as contained herein and may consult with the Township, Attorney, Engineer or Planner.
  - (b) If the Zoning Administrator finds that the application meets the requirements of this Section, the application shall be approved and a Construction Permit issued for the construction of the private road. This Construction Permit shall consist of a stamp noting approval and containing the signature of the Zoning Administrator and the date of approval. Two copies of the private road plans shall be stamped for approval, one copy shall be kept by the applicant, and one by the Township.

This Construction Permit is not a Private Road Permit and does not authorize the construction of any buildings on the private road. The Construction Permit is valid for a period of one year from the date of approval. If construction of the private road has not commenced before this date, the permit shall expire. A new Construction Permit shall be required before construction can begin.

- (c) If the Zoning Administrator denies the application, the written reasons for denial shall be provided to the applicant within five working days of the date of denial.
- (d) Final Compliance Requirements - Upon completion of construction of the private road, the applicant shall provide to the Zoning Administrator:
  - (i) A letter from a registered professional engineer or surveyor that the road has been constructed in compliance with the approved private road plans, and
  - (ii) Documentation that the road maintenance agreement, access easement and deed restrictions have been recorded with the Manistee County Register of Deeds office.
  - (iii) The Zoning Administrator shall also conduct an inspection of the private road to ensure that all other requirements of this Section have been met.
  - (iv) A driveway permit from the Manistee County Road Commission or Michigan Department of Transportation as the case may be.
- (e) Private Road Permit Issuance - Upon approval of items required for final compliance, the Zoning Administrator shall issue a Private Road Permit.
- (f) Permits for Buildings on Private Roads - A building permit shall not be issued for any building, dwelling or structure which derives its primary access from a private road unless (i) the private road has been completed in accordance with an approved Private Road Permit, or (ii) the applicant for the building permit or the owner(s) of the private road right-of-way have provided the Township with an irrevocable letter of credit in an amount determined by the Township to ensure construction of the private road in accordance with the approved private road construction permit. The letter of credit shall be valid for a period of one year from the date of the issuance of the building permit. The Township shall have the right to draw on the funds if the private road is not completed to the

satisfaction of the Township prior to the expiration of the letter of credit.

(e) MINIMUM STANDARDS FOR PRIVATE ROADS

- (1) A private road shall be located within a private road easement. Such easement shall not be less than 66 feet in width at any point. At any dead-end of such easement, the easement shall widen such that there is a minimum radius of 60 feet.
- (2) A lot shall have frontage on the private road easement which is at least equal to the minimum lot width required for the zoning district in which the lot is located. For lots on a cul-de-sac the frontage requirement shall be regulated by Section 4.20 herein.
- (3) A private road shall intersect and connect to a public road.
- (4) The private road shall be given a street name that is not the same or similar to any other street name in the county. A street sign bearing the street name of the private road meeting Manistee County Road Commission standards as to design, location, and maintenance shall be erected and maintained where such private road adjoins any public road.
- (5) The area in which the private road is to be located shall be cleared and kept clear of vegetation for a minimum width of 28 feet. The private road may be located anywhere within the private road easement, allowing for the required shoulder, provided that the balance of the right-of-way shall remain unencumbered to allow for future expansion.
- (6) All private roads shall be constructed on a base of at least six inches of compacted gravel with a suitable sand sub-base.
- (7) A private road shall have a minimum roadway width (driving surface) of 22 feet with a minimum shoulder width of three feet on each side.
- (8) All private roads shall widen at any dead end so there is at least a 40 feet radius driving surface turnaround. In the event of severe topography, mature trees or other similar natural feature which prevents the reasonable installation of the turnaround a different turnaround design may be approved.
- (9) A private road shall not exceed a grade of 14 percent; provided that a minimum of 50 feet of flat gradient (maximum 0.5% sloped away the through street having the right of way) measured from the shoulder line, shall be provided at the approach of a private street to another private street or public street. Intersections shall not be allowed on grades steeper than six percent.

- (10) A private road shall be constructed in a manner to provide effective storm water drainage and to prevent run-off onto adjacent property. If a private road crosses a natural drainage course, stream or other natural body of water, the method of crossing (by bridge, culvert or other structure) must be certified by a registered professional engineer that it complies with applicable Manistee County Road Commission and State of Michigan requirements.
- (11) A dwelling unit which derives its primary access from a private road shall display a house number in a manner so that the number is at all times readily visible from the private road. The house numbers shall be a minimum of three inches in height.
- (12) The edge of the private road driving surface shall be no closer than 50 feet from any dwelling unit located on a parcel adjacent to the private road.
- (13) A private road that intersects a public street shall be at least 150 feet from a public or private road which intersects the same street as measured between the centerlines of the roadways.

(f) PRIVATE ROAD MAINTENANCE AGREEMENT

The applicant(s) and/or owner(s) of the proposed private road shall provide to the Township a recordable or recorded road maintenance agreement, access easement agreement, and/or deed restrictions which shall provide for the perpetual private (non-public) maintenance of such roads and/or easements to a necessary and reasonable standard to serve the parties having an interest in the private road. These documents shall include provisions for the following:

- (1) A method of financing such road and/or easements in order to keep the road in a reasonably good and usable condition.
- (2) A method of apportioning the costs of maintenance and improvements and an enforcement mechanism to ensure that such maintenance and improvements are carried out.
- (3) A notification that no public funds of the Township of Arcadia will be used to build, repair, or maintain the private road.
- (4) Easements to the public for purposes of emergency and other public vehicles for whatever public services are necessary.
- (5) Each of the owners of property utilizing the road shall refrain from prohibiting, restricting, limiting or in any manner interfering with normal ingress and egress and use by any of the other owners and ensuring that the property owners shall have a mechanism provided to enforce these rights. Normal ingress and egress and use shall include use by family,

guests, invites, tradesmen, and others bound to or returning from any of the properties having a right to use the road.

- (6) If the private road entrance is secured by a locked gate or other similar mechanism the applicant shall arrange for emergency vehicle access with the Township Fire Chief.
  - (7) The agreement shall provide that it is enforceable by the Township at its option. The agreement shall also provide that, if the private road is not maintained to the requirements of this Ordinance, all of the owners of lots utilizing or benefited by the private road shall be deemed to have consented to the creation of a special assessment district by the Township in order to maintain or upgrade the private road.
- (g) PRIVATE ROADS IN THE C COMMERCIAL AND CO COMMERCIAL OVERLAY DISTRICTS

A private road may be permitted in the Commercial and Commercial Overlay Districts in accordance with the requirements of this Section but such private road shall only provide access to no more than four residential lots or dwellings. Use of the private road to access a non-residential use is prohibited.

#### **SECTION 4.19 SWIMMING POOL**

- (a) A swimming pool shall not be constructed, installed, enlarged, or altered until a permit has been obtained from the Zoning Administrator.
- (b) The outside edge of the pool wall shall not be located closer than 10 feet from any rear or side property line. No pool shall be located under any electrical wiring or in a required front yard.

#### **SECTION 4.20 CUL-DE-SAC LOTS**

In the case of lots abutting cul-de-sac streets, the minimum required lot width shall be measured at the minimum required front setback distance for buildings and structures. Such cul-de-sac lots shall have a minimum lot width of 40 feet at the front lot line. For lots in the A-Agricultural District which have their entire frontage on a cul-de-sac, a minimum lot width of 175 feet shall be achieved at a point 125 feet from the front lot line.

A lot shall be considered to be a cul-de-sac lot if the lot has more than one-half of its required frontage on the cul-de-sac. The cul-de-sac shall be determined to commence at the intersection of the radius of the cul-de-sac with the street right-of-way line.

**SECTION 4.21      ACCESSORY APARTMENTS**

- (a) Intent. It is the intent of this section to permit the establishment of detached accessory apartments associated with occupied single family dwellings to provide homeowners with a means of obtaining, through tenants in accessory apartments, companionship, security and services; provide a means for homeowners to care for elderly or ailing relatives and still allow them to maintain the independence and comfort of separate living quarters; and add inexpensive rental units to the housing stock to meet the smaller household needs of both young and old persons.

These regulations are also designed to protect the stability, property values, and single family residential character of a neighborhood by ensuring that accessory apartments are accessory to owner occupied houses in such a manner that the appearance of the building remains that of a single family residence.

- (b) Authorization and Development Standards. The Zoning Administrator shall only issue a permit for an accessory apartment in those zoning districts which permit single family dwellings and when the following development standards have been met:
- (1) The accessory apartment shall be a complete housekeeping unit, containing kitchen and bathroom facilities, designed for and occupied by one family and detached from the principal single family dwelling to which it is accessory.
  - (2) Only one accessory apartment shall be allowed for each principal single family dwelling.
  - (3) The accessory apartment shall be located on the same lot as the principal single family dwelling to which it is accessory. An accessory apartment may also be located on an adjacent lot, if both lots are in common ownership, and if both such lots are tied-together by deed restriction prohibiting the sale of one lot separately from the other.
  - (4) The owner of the lot(s) shall occupy either the principal single family dwelling or the accessory apartment.
  - (5) The accessory apartment shall comply with all applicable requirements of the State Construction Code.
  - (6) An accessory apartment shall consist of a minimum of 300 square feet of floor area. The entire accessory apartment shall consist of no more than 35% of the total square footage of the principal single family dwelling.
  - (7) A minimum of three parking spaces shall be provided on the premises for use by occupants of the accessory apartment and the principal single family dwelling.

- (8) The accessory apartment shall be constructed so that the appearance of the building remains that of a single family residence.
  - (9) An accessory apartment shall be constructed in compliance with all applicable Zoning Ordinance regulations as contained herein.
  - (10) A site plan shall accompany a permit application for an accessory apartment. For purposes of this section, the site plan shall illustrate, at a minimum, the following:
    - (i) Dimensions of the site.
    - (ii) Dimensions of the principal dwelling and accessory apartment.
    - (iii) Existing and proposed building setback distances.
    - (iv) Floor plan of the accessory apartment illustrating room dimensions and location of the accessory apartment relative to the principal single family dwelling.
    - (v) Dimensions and location of existing and proposed off-street parking area.
- (c) General Regulations. Accessory apartments shall also comply with the following general regulations:
- (1) The establishment of an accessory apartment shall not result in any building site or use situation which is nonconforming.
  - (2) Dwelling units designed for or occupied by transient or migrant workers shall not be considered accessory apartments.

#### **SECTION 4.22 LOTS WITHOUT PUBLIC OR PRIVATE ROAD FRONTAGE**

Farm buildings as defined herein as well as essential public service buildings and structures and radio towers and antennas may be located on a lot which does not have frontage on a public or private road.

#### **SECTION 4.23 MINIMUM LOT FRONTAGE**

- (a) A building or dwelling unit shall be erected only on a lot or parcel which abuts or has frontage on a public street or private road in accordance with the lot width requirements for the zoning district in which it is located and in accordance with Section 4.06 herein.
- (b) Except as allowed by Section 4.22 herein any lot created after the effective date of this Ordinance shall front upon a public street or private road meeting the

requirements of the Township private road regulations, for the minimum lot width required by this Ordinance.

#### **SECTION 4.24 NATURAL VEGETATION STRIP**

- (a) To minimize erosion, stabilize the banks of water bodies, protect water quality, keep nutrients out of the water, maintain water temperature at natural levels, preserve fish and wildlife habitat, screen manmade structures, and also to preserve aesthetic values of the creeks, ponds, and lakes in Arcadia Township, natural ground cover and existing vegetation shall be preserved to the fullest extent feasible on all banks within 10 feet of the ordinary high water mark of any body of water, river, creek or other flowing water course which flows on a year round basis.
- (b) Within the natural vegetation strip, trees and shrubs may be selectively pruned or removed for harvest of merchantable timber. Removal of the root structure of existing plants within the natural vegetation strip is prohibited except as permitted in (c) below.
- (c) Dead, diseased, unsafe or fallen trees and noxious plants and shrubs, including poison ivy, poison sumac and poison oak, and other similar plants regarded as a common nuisance, may be removed.

#### **SECTION 4.25 HOME OCCUPATIONS**

- (a) A home occupation is a permitted use so located and conducted that the average neighbor, under normal circumstances, would not be aware of its existence. The standards for home occupations in this section are intended to ensure compatibility with other permitted uses in the area and with the character of the neighborhood.

A home occupation shall be permitted in all dwelling units in every zoning district that permits dwelling units after a determination by the Zoning Administrator that the home occupation meets all of the following standards:

- (1) Only members of the immediate family who reside on the premises shall be involved in the operation of the home occupation, plus not more than one nonresident.
- (2) The use of the dwelling for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants and not more than 25 percent of the floor area of the dwelling unit, including the basement, shall be used in the conduct of the home occupation but in no case shall the area occupied by the home occupation exceed 500 square feet.

If conducted in an accessory building, the occupation shall not exceed 25 percent of the area of the accessory building or a maximum of 500 square feet.

- (3) Exterior storage of equipment used in the conduct of the home occupation is prohibited. All activities shall be conducted within an enclosed building.
- (4) The establishment of a home occupation shall not require exterior modification to any building on the property except those modifications necessary to accommodate the physically handicapped. A non-illuminated sign not exceeding two square feet in area is permitted if mounted flat against the wall of the building which contains the home occupation.
- (5) A home occupation shall produce no offensive noise, vibration, smoke, electrical interference, dust, odors, or heat. Any noise, vibration, smoke electrical interference, dust, odors, or heat detectable beyond the property lines, shall constitute a violation of the terms of this Section. The judgment of the Zoning Administrator shall be considered decisive and final, unless formally appealed to the Zoning Board of Appeals.
- (6) The home occupation shall not increase vehicular traffic and parking such that more than two additional vehicles, other than those owned and operated by the resident family, are parked on the premises at any time. Such parking spaces shall be provided in an off-street area other than in a required front yard as regulated herein.

#### **SECTION 4.26 USES NOT OTHERWISE INCLUDED WITHIN A DISTRICT**

A land use which is not designated as an allowed use in a zoning district may be permitted upon determination by the Zoning Board of Appeals that such use is clearly similar in nature and compatible with the listed uses in that district.

In making a determination of similarity and compatibility the Zoning Board of Appeals shall consider specific characteristics of the use in question and compare such characteristics with those of the uses which are expressly permitted in the district. Such characteristics shall include, but are not limited to, traffic generation, types of service offered, types of goods produced, methods of operation, and building characteristics.

No use shall be permitted in a district under the terms of this section if the use is specifically listed as a use permitted by right or as a special or conditional use in any other district.

The authority herein granted to the Zoning Board of Appeals to make use similarity/compatibility determinations is specifically not intended to and shall not be interpreted as authorizing the granting of use variances.

## SECTION 4.27 MAXIMUM LOT WIDTH TO DEPTH RATIO

- (a) In all zoning districts, a building shall not be constructed or occupied on a lot or parcel of less than 10 acres if the depth of the lot or parcel exceeds four times its width unless such lot was created before the effective date of this Ordinance.
- (b) The depth of a lot shall be measured along a horizontal line located midway between the side lot lines and connected to the front and rear lines, or the two front lines of a through lot. The width of the lot shall be measured between the side lot lines parallel to the front lot line at the minimum required front setback line.

## SECTION 4.28 LAKE ACCESS REGULATIONS

- (a) In all zoning districts there shall be at least 100 feet of frontage on the lake, as measured along the normal high water mark of the lake for each dwelling unit, single-family dwelling, condominium unit, site condominium unit, apartment unit or family utilizing the frontage for boat access to the lake, for swimming, sunbathing or for other activities or uses associated with the lake.

This restriction shall apply to all lots on or abutting any lake or body of water in any zoning district, regardless of whether use of the lake frontage for access to the lake or body of water shall be by easement, private park, common-fee ownership, single-fee ownership, condominium arrangement, license or lease except that lots which are owned or controlled by the State of Michigan shall be exempt from this requirement.

- (b) Definitions. For purposes of this section the following definitions shall apply.

*Boat* shall mean a watercraft having a motor, engine or other machinery of more than five horsepower or the equivalent, boat shall also mean a “personal watercraft” as defined in the Marine Safety Act, Act. 303 of the Public Acts of 1967, as amended.

*Boat access* shall mean and include boat launching, mooring, and docking, and over night anchoring within 50 feet of the shore from or incidental to a single private riparian property or public or private road end abutting a lake.

*Docked or docking* shall mean the anchoring or mooring of a boat directly to a pier, structure, platform, pole, anchor, or dock in a lake, which is a platform or structure extending from the shore or bottomlands, and is directly accessible to a lot fronting on a lake; and shall also mean the placement of a boat in a boat cradle or shore station offshore or the regular or overnight anchoring, mooring, or storage of a boat adjacent to a lot.

*Mooring or slip* shall mean a space for a single boat at or adjacent to a dock or in an offshore boat cradle or shore station.

*Boat cradle or shore station* shall mean a device or devices placed on, at or near the shore of a lot on a lake for the purpose of mooring, anchoring or holding a boat or other watercraft, in, on or above the water in the lake.

*Lake* shall also include other water bodies, including rivers and streams.

*Person* shall mean a human being, partnership, corporation, association, including a condominium association, and any other entity to which the law provides or imposes rights or responsibilities.

#### **SECTION 4.29      LOTS ON LAKES, RIVERS AND STREAMS**

Lots which abut or contain a lake or stream or navigable body of water shall comply with the following regulations:

- (a) The width of the lot on the street side shall be the minimum width required for the zoning district in which the lot is located.
- (b) All lots abutting an inland lake or stream shall be a minimum of one hundred (100) feet wide measured at the normal high water mark between side lot lines.
- (c) The front yard shall be that area between normal high water mark and the nearest wall of the principal building.
- (d) The rear yard shall be that area between the street right-of-way line and the nearest wall of the principal or accessory building. The minimum required setback distance shall be the same as that required for the front yard for the zoning district in which the lot is located.
- (e) The side yard setback requirements shall be as required for the zoning district in which the lot is located.

#### **SECTION 4.30      ACCESSORY WIND ENERGY STRUCTURES**

Any lot in any zoning district may have located thereon one accessory wind energy structure, as defined in this Ordinance, as an accessory use to the residential or other conforming principal use of the premises, subject to compliance with all of the following requirements and regulations:

1. On-site Use. The wind energy structure shall be designed and intended to primarily serve the premises on which the structure is located.
2. Permissible Type.
  - A. A tower-mounted type of wind energy structure is permissible on any lot in any zoning district, subject to the height limitation determined pursuant to subsection 3.A. herein.

- B. A roof-mounted type of wind energy structure is permissible on any lot in any zoning district, subject to the height limitation determined pursuant to subsection 3.B. herein.
3. Height.
- A. The total height of a tower-mounted wind energy structure shall not exceed 120 feet, including the tip of the rotor blade at its highest point (measured from ground grade), or such lesser height as is necessary to comply with the setback/location requirements in subsection 4 herein. In addition, the rotor blade shall have a ground clearance of at least 20 feet when the blade tip is at its lowest point.
- B. The total height of a roof-mounted wind-energy structure shall not exceed 10 feet above the peak height of the roof on which the structure is located.
4. Setback/Location. The wind energy structure shall have a setback from all lot lines equal to at least the height of the structure, including the tip of the rotor blade in its highest position. Any part of an anchoring system for the wind energy structure, such as guy wire anchors, may be located within this required setback distance, but shall comply with all minimum setbacks for accessory structures in the pertinent zoning district as specified in this Ordinance, or a minimum setback of 12 feet, whichever is greater. A tower-mounted wind energy structure and its anchoring system shall also be located in compliance with Section 4.05 (accessory structure location).
5. Noise and Other Potential Interferences. The wind energy structure shall not generate noise exceeding 55dB(A), or 35d(B) at any octave frequency centered below 250Hz, as measured at or beyond every boundary line of the subject premises; shall not produce any physical vibrations that are humanly perceptible at or beyond the lot boundaries; and shall not cause any electromagnetic interference at or beyond the lot boundaries.
6. Construction Codes and Other Regulatory Standards. The wind energy structure and all anchoring systems shall comply with all applicable building and electrical code requirements, and any other applicable regulations imposed by federal or state law; in each instance to the extent such standards and regulations are not less restrictive than the provisions of this Ordinance.
7. Safety Standards. The wind energy structure shall be designed and operated so as to include all of the following in addition to such features as may be required by the codes and regulations referenced in the preceding paragraph:

- A. An automatic braking, governing, or feathering system to prevent uncontrolled rotation or over-speeding of the rotor blades.
  - B. Lightning protection.
  - C. The use of color or other devices to cause any guy wires or other ground anchoring system for the structure to be clearly visible from the ground to a vertical height of at least six feet above the ground.
  - D. (tower-mounted type) A non-climbable tower design up to at least 12 feet above the ground at the tower base.
8. Visual Impact. All wind energy structure installations shall use measures to reduce the visual impact of the structure to the occupants of adjoining properties and the general public, including all of the following specific measures:
- A. All components of the wind energy structure, including any above-ground anchoring system, shall be finished in a non-reflective, non-obtrusive neutral color (except as provided in subsection 7.C.), which shall be maintained throughout the life of the structure.
  - B. A wind energy structure shall not be illuminated or have lighting of any kind; except to the extent mandated by the Federal Aviation Administration or other applicable governmental authority, which shall be shielded to the extent possible to reduce glare and visibility from the ground.
  - C. The wind energy structure shall not display lettering, company insignia, advertising, or graphics of any kind on any part of the structure; except non-obtrusive lettering and/or insignia intended to identify the manufacturer in such a manner as to not be visible from any adjoining property or adjoining public right-of-way.
9. Maintenance and Removal. The wind energy structure and all related systems shall be properly maintained in accordance with the manufacturers recommendations and so as to be operable as designed. The Planning Commission may require the applicant to submit the manufacturer's recommendations with respect to maintenance and the anticipated life of the structure. The structure shall be dismantled and removed if it is not being properly maintained or if its use for generating electricity has been abandoned. The Planning Commission may require adequate assurances of future compliance with this structure dismantling and removal requirement, including performance guarantees to the extent allowed by law.

10. Pre-installation Administrative Review and Land Use Permit. Before beginning any on-site work associated with the installation of a wind energy structure the owner of the premises shall submit to the Zoning Administrator sufficient documentation of compliance with all of the requirements of this Section, including any requirements incorporated by reference, and shall obtain a zoning permit for the structure pursuant to Section 26.02 of this Ordinance.

<p style="text-align: center;"><b>CHAPTER 5</b></p> <p style="text-align: center;"><b>A-AGRICULTURAL DISTRICT</b></p>
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**SECTION 5.01 INTENT AND PURPOSE**

This district is intended primarily for general farming activities including dairying, forestry, and other rural activities as well as farm support services. Single family houses are also permitted in this district although residential developments and individual houses should be designed and placed to respect active farming activities and not interfere with the rights of farmers to pursue their livelihood in accordance with the State of Michigan Right to Farm Act. The minimum lot size is designed to provide separation between farm and non-farm uses in order to minimize conflicts. The land within this district is generally well suited for growing crops and fruit due to climate, soil types and terrain which are a unique natural resource of the Township.

**SECTION 5.02 PERMITTED USES**

Land and/or buildings in this district may be used for the following purposes only:

- (a) Farms, including farms for both general and specialized farming together with farm dwellings and other activities customary to such farms.
- (b) Livestock facilities as defined by the State of Michigan Generally Accepted Agricultural and Management Practices (GAAMPs). Such facilities shall comply with all regulations administered by the Michigan Department of Agriculture.
- (c) Detached single family dwellings.
- (d) Two family dwellings as regulated by Section 5.05 herein.
- (e) Roadside stands for the sale of farm products.
- (f) The sale of agricultural products which are grown primarily on the premises or off the premises on land under the control of the person selling such products. Other uses allowed in conjunction with the sale of agricultural products include and are similar to: arts and crafts or similar items, processed food items or similar items not produced on the premises; baked goods, beverages, light meals or snacks such as soups, sandwiches and desserts for consumption on the premises provided that the sale of all above items are subordinate to the sale of the agricultural products as provided herein.
- (g) Uses which utilize farm land, farm buildings or farm equipment for rural recreation/amusement enterprises in conjunction with an active farm operation. Such uses include and are similar to crop mazes, hay rides, horse rides, petting farms, bike and foot trails and similar uses.

- (h) Tree and sod farms.
- (i) Storing, packaging, processing, canning and freezing of farm produce which is grown on the farm or on land owned by the farmer or operator of the farm.
- (j) Commercial agriculture uses, including “u-pick” or “u-cut” operations with sufficient off-street parking provided.
- (k) Child and adult day care homes with no more than six minor children or adults.
- (l) State licensed adult foster care family homes with no more than six adults provided that such facilities are at least 1,500 feet apart as measured between property lines.
- (m) Private stables.
- (n) Farm labor housing of any size as an accessory use to a farm, provided the following conditions are met in addition to the other requirements of the A-Agricultural District:
  - (1) Compliance with Michigan Public Health Code, being Act 368 of the Public Acts of Michigan of 1978, as amended, including any rules promulgated pursuant thereto;
  - (2) The occupants are employed for farm labor at some time by the owner of the property while they occupy the farm labor housing;
  - (3) Mobile homes may be used to provide such housing per Section 4.10 herein;
  - (4) Farm labor housing must be at least 100 feet from all property lines;
  - (5) Farm labor housing may be permitted as a principal use on a parcel which contains a minimum of one acre and which complies with all other requirements of this section. This parcel shall be adjacent to the farm parcel where the laborers are employed and both parcels shall be under the same ownership.
- (o) Cemeteries.
- (p) Storage of materials, vehicles and equipment which are used by the occupant of the dwelling on the premises in the operation of a business which is conducted off the premises. This shall primarily include, but shall not be limited to, materials, equipment and vehicles used in the building and construction trades. Materials and equipment shall be located either indoors or screened from the view of adjacent roadways and properties.

The storage of such materials and the buildings used in the business shall be located within a contiguous area not to exceed three acres regardless of the size of the parcel containing the use. Such storage shall be clearly incidental to the permitted principal use.

- (q) Towers and antennas which do not exceed 100 feet in height as measured from the ground to the top of the antenna or tower, whichever is higher, except that an antenna mounted on a building may extend to a maximum of ten feet above the highest point of the building; provided each such ground-mounted and roof-mounted tower/antenna shall be setback from all adjoining property lines a distance of at least the total height of the tower/antenna.
- (r) Essential public service equipment, structures and buildings.
- (s) Home occupations as regulated by Section 4.25.
- (t) On-Farm Biofuel Production Facility (Type I).
- (u) Uses and structures customarily incidental and accessory to the principal use.

### **SECTION 5.03 SPECIAL LAND USES**

The following uses may be permitted as a special land use in the A-Agricultural District when approval is granted by the Planning Commission. Such uses are subject to the provisions of Chapter 20 contained herein and the provisions noted below where applicable.

- (a) Airfields and associated facilities.
- (b) Campgrounds.
- (c) Golf courses and associated buildings including pro shop, snack bar, restaurant, maintenance buildings, and guest rooms providing overnight lodging for guests participating in on-site activities.
- (d) Removal of sand, stone, gravel, topsoil, lime or other soil or mineral resource as regulated by Section 20.09(e).
- (e) Commercial kennels.
- (f) Commercial stables.
- (g) Junkyards or salvage yards.
- (h) Landscaping, nursery, and greenhouse establishments which are primarily wholesale in operation.

- (i) Churches mosques, synagogues and similar houses of worship, including associated uses such as pastor's houses, rectories, and convents, on a lot or parcel of at least two acres.
- (j) Parks, playgrounds, community centers and similar recreational uses when operated by a governmental or non-profit organization.
- (k) Public and non-public schools not including colleges or universities.
- (l) Farm implements repair services.
- (m) Bed and breakfast establishments, as regulated by Section 20.09(c).
- (n) Agricultural service establishments which engage in performing agricultural, animal husbandry, or horticultural services on a fee or contractual basis, including but not limited to the following:
  - (1) Centralized bulk collection, refinement, storage and distribution of farm products to wholesale and retail markets (such as grain cleaning and shelling; sorting, grading, and packing of fruits and vegetables for the grower and agricultural produce milling and processing);
  - (2) The storage and sale of seed, feed, fertilizer, and other products essential to agricultural production;
  - (3) Crop dusting;
  - (4) Fruit packing;
  - (5) Farm equipment sales and service;
  - (6) Veterinary services;
  - (7) Facilities used in the research and testing of farm products and techniques.
- (o) Wireless communications support structures which are higher than permitted by Section 5.02(q), as regulated by Section 20.9(f).
- (p) Uses which utilize farm land, farm buildings or farm equipment for rural recreation/amusement enterprises not in conjunction with an active farm operation. Such uses may include and are similar to crop mazes, hay rides, horse rides, petting farms, bike and foot trails and similar uses.
- (q) Commercial paintball and similar games and commercial off road vehicle trails.
- (r) Group daycare homes which provide care to not less than seven and not more than 12 minor children.

- (s) On-Farm Biofuel Production Facility (Type II or Type III), as regulated by Section 20.09(h).

#### **SECTION 5.04 AREA REGULATIONS**

No principal building or structure nor the enlargement of any building or structure shall be hereafter erected unless the following yard and area requirements are provided and maintained in connection with such building, structure, or enlargement:

- (a) Minimum lot size & width - Two acres with 175 feet of lot width at the minimum required building setback line. The lot area may include road right-of-way if it is contained in the legal description for the lot.
- (b) Minimum Required Building Setbacks
- (1) *Front Yard* - 50 feet for each street abutting the lot as measured from the front lot line or the right of way line if there is no front lot line. For lots abutting M-22 the minimum required front yard setback shall be 133 feet from the center of the right of way for M-22.
  - (2) *Side Yard* - 20 feet from each side lot line.
  - (3) *Rear Yard* - 50 feet.
- (c) Maximum Building Height – 35 feet. Barns, silos, windmills and similar agriculturally related accessory buildings or structures shall not exceed 50 feet in height.
- (d) Minimum Floor Area per Dwelling Unit - 800 square feet.

#### **SECTION 5.05 ADDITIONAL REGULATIONS**

- (a) Parking shall be provided in accordance with the requirements of Chapter 23.
- (b) Signs shall be regulated in accordance with the requirements of Chapter 22.
- (c) Site plan review is required for all Special Land Uses under Chapter 19.
- (d) Site condominiums shall be regulated by Chapter 21.
- (e) Two family dwellings shall have the exterior appearance of a single family dwelling and shall comply with the following regulations:
- (1) The building shall not have more than one entrance door in the same plane on any front or side of the building.
  - (2) For newly constructed two family dwellings the garage or garages shall not be constructed between the two dwelling units and shall be placed so

as to avoid the appearance of the building having two garages as viewed from the street abutting the lot containing the two family dwelling.

<p style="text-align:center"><b>CHAPTER 6</b></p> <p style="text-align:center"><b>RA RURAL AGRICULTURAL DISTRICT</b></p>
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**SECTION 6.01 INTENT AND PURPOSE**

The RA Rural Agricultural District is intended to provide for residential development in a rural setting close to agricultural areas and zoning districts. The RA Rural Agricultural District is analogous to the Low Density Residential classification as recommended in the Arcadia Township Master Plan. With a density of one unit per acre, this district will permit general and specialized farming activities but on a smaller scale than the A-Agricultural District. While farming is permitted in the RA Rural Agricultural District it is expected that as land values increase farmland and vacant land will be converted over time to residential use so that the predominant use in this district becomes detached single family dwelling units.

Non-residential uses such as churches, schools, and public buildings are also permitted as special uses according to their compatibility with nearby single family homes. The clustering of houses is encouraged as a land development technique to preserve open space and the rural view.

**SECTION 6.02 PERMITTED USES**

Land and buildings in the RA Rural Agricultural District may only be used for the following purposes:

- (a) As permitted by Section 5.02 herein

**SECTION 6.03 SPECIAL LAND USES**

The following uses may be permitted as a special land use when approval is granted by the Planning Commission. Such uses are subject to the provisions of Chapter 20 herein.

- (a) As permitted by Section 5.03 herein excluding salvage yards and junk yards.
- (b) Housing for the elderly or senior citizens including but not limited to assisted living facilities, nursing homes, or retirement housing in attached or multi-family buildings.
- (c) Municipal, county, state, and federal administration, educational or service buildings.
- (d) Essential public services buildings or equipment which are above ground.

- (e) Child care centers and nursery schools. A special land use shall not be required if such use is located within a principal building such as a church or school or similar public or institutional building.
- (f) Uses which are similar to one or more of the uses in Section 6.02 or Section 6.03, which are not specified elsewhere in this Ordinance and which in the opinion of the Planning Commission meet the intent of Section 6.01.

#### **SECTION 6.04 AREA REGULATIONS**

No buildings or structure, nor the enlargement of any building or structure, shall be hereafter erected unless the following yard and area requirements are provided and maintained in connection with such building, structure, or enlargement:

- (a) Minimum lot size & width - One acre with 132 feet of lot width at the minimum required building setback line. The lot area may include road right-of-way if it is contained in the legal description for the lot.
- (b) Minimum Required Building Setbacks
  - (1) *Front Yard* - 50 feet for each street abutting the lot as measured from the front lot line or the right of way line if there is no front lot line. For lots abutting M-22 the minimum required front yard setback shall be 133 feet from the center of the right of way for M-22.
  - (2) *Side Yard* - 15 feet from each side lot line.
  - (3) *Rear Yard* - 35 feet.
- (c) Maximum Building Height – 35 feet. Barns, silos, windmills and similar agriculturally related accessory buildings or structures shall not exceed 50 feet in height.
- (d) Minimum Floor Area per Dwelling Unit - 800 square feet.

#### **SECTION 6.05 ADDITIONAL REGULATIONS**

- (a) Parking shall be provided in accordance with the requirements of Chapter 23.
- (b) Signs shall be regulated in accordance with the requirements of Chapter 22.
- (c) Site plan review is required for all Special Land Uses under Chapter 19.
- (d) Site condominiums shall be regulated by Chapter 21.
- (e) Two family dwellings shall have the exterior appearance of a single family dwelling and shall comply with the following regulations:

- (1) The building shall not have more than one entrance door in the same plane on any front or side of the building.
- (2) For newly constructed two family dwellings the garage or garages shall not be constructed between the two dwelling units and shall be placed so as to avoid the appearance of the building having two garages as viewed from the street abutting the lot containing the two family dwelling.

<p style="text-align: center;"><b>CHAPTER 7</b></p> <p style="text-align: center;"><b>RR RESORT RESIDENTIAL DISTRICT</b></p>
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**SECTION 7.01 INTENT AND PURPOSE**

The RR Resort Residential District is intended to provide primarily for detached single family dwelling units with a density of approximately two units per acre. Lot sizes may be reduced depending upon the availability of public or community water and sanitary sewer. Non-residential uses such as churches, schools, and public buildings are also permitted as Special Land Uses according to their compatibility with nearby single family homes. Existing agricultural uses in the RR Resort Residential District shall be permitted to continue but the intent of this district is to phase out such uses over time so that the predominant use becomes residential.

**SECTION 7.02 PERMITTED USES**

Land and buildings in the RR Resort Residential District may only be used for the following purposes:

- (a) Single family detached dwelling units.
- (b) Two family dwellings per Section 7.05.
- (c) State licensed adult foster care family homes with no more than six adults provided that such facilities are at least 1,500 feet apart as measured between property lines.
- (d) Family day care homes and adult day care homes with no more than six minor children or adults.
- (e) Towers and antennas which do not exceed 100 feet in height as measured from the ground to the top of the antenna or tower, whichever is higher, except that an antenna mounted on a building may extend to a maximum of ten feet above the highest point of the building; provided each such ground-mounted and roof-mounted tower/antenna shall be setback from all adjoining property lines a distance of at least the total height of the tower/antenna.
- (f) Essential public service equipment.
- (g) Home occupations as regulated by Section 4.25.
- (h) Marinas.
- (i) Uses and structures customarily incidental and accessory to the principal use.

### SECTION 7.03 SPECIAL LAND USES

The following uses may be permitted as a special land use when approval is granted by the Planning Commission. Such uses are subject to the provisions of Chapter 20 herein.

- (a) Churches mosques, synagogues and similar houses of worship, including associated uses such as pastor's houses, rectories, and convents, on a lot or parcel of at least two acres.
- (b) Public and non-public schools not including colleges or universities.
- (c) Cemeteries.
- (d) Housing for the elderly or senior citizens including but not limited to assisted living facilities, nursing homes, or retirement housing in attached or multi-family buildings.
- (e) Parks, playgrounds, community centers, summer camps and similar recreational uses when operated by a governmental, religious or non-profit organization.
- (f) Municipal, county, state, and federal administration or educational or service buildings.
- (g) Essential public services buildings or equipment which are above ground.
- (h) Child care centers and nursery schools. A special land use shall not be required if such use is located within a principal building such as a church or school or similar public or institutional building.
- (i) Bed and breakfast establishments as regulated by Section 20.09(c).
- (j) Group daycare homes which provide care to not less than seven and not more than 12 minor children

### SECTION 7.04 AREA REGULATIONS

No principal building or structure nor the enlargement of any building or structure shall be hereafter erected unless the following yard and area requirements are provided and maintained in connection with such building, structure, or enlargement:

- (a) **Minimum Lot Size & Width** –
  - (1) For single and two family dwellings without public sewer and water, the minimum lot area shall be 20,000 square feet with a minimum of 132 feet of lot width at the minimum required building setback line. The lot area may include road right-of-way if it is contained in the legal description for the lot.

- (2) For single family dwellings with both public sanitary sewer and water or a community septic and well system the minimum lot area shall be 10,000 square feet with a minimum of 80 feet of lot width at the minimum required building setback line.
  - (3) For two family dwellings with or without public sewer and water, the minimum lot area shall be 20,000 square feet with a minimum of 132 feet of lot width at the minimum required building setback line. The lot area may include road right-of-way if it is contained in the legal description for the lot.
- (b) **Minimum Required Building Setbacks**
- (1) *Front Yard* - 25 feet for each street abutting the lot as measured from the front lot line or the right of way line if there is no front lot line. For lots abutting M-22 the minimum required front yard setback shall be 133 feet from the center of the right of way for M-22.
  - (2) *Side Yard* - 10 feet from each side lot line.
  - (3) *Rear Yard* - 25 feet.
- (c) **Maximum Building Height** – 35 feet.
- (d) **Minimum Floor Area per Dwelling Unit** - 800 square feet.

## SECTION 7.05 ADDITIONAL REGULATIONS

- (a) Parking shall be provided in accordance with the requirements of Chapter 23
- (b) Signs shall be regulated in accordance with the requirements of Chapter 22.
- (c) Site plan review is required for all Special Land Uses under Chapter 19.
- (d) Site condominiums shall be regulated by Chapter 21.
- (e) Two family dwellings shall have the exterior appearance of a single family dwelling and shall comply with the following regulations:
  - (1) The building shall not have more than one entrance door in the same plane on any front or side of the building.
  - (2) For newly constructed two family dwellings the garage or garages shall not be constructed between the two dwelling units and shall be placed so as to avoid the appearance of the building having two garages as viewed from the street abutting the lot containing the two family dwelling.

<p style="text-align: center;"><b>CHAPTER 8</b></p> <p style="text-align: center;"><b>R-1 VILLAGE RESIDENTIAL DISTRICT</b></p>
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**SECTION 8.01 INTENT AND PURPOSE**

The R-1 Village Residential District comprises the densest residential area of Arcadia Township with lot sizes and a grid street pattern reflective of a traditional village. The lot sizes, street trees and sidewalks create a very walkable community. The intent of this District is to continue this village pattern of development.

**SECTION 8.02 PERMITTED USES**

Land and buildings in the R-1 Village Residential District may only be used for the following purposes:

- (a) Single family detached dwelling units.
- (b) Two family dwellings per Section 8.05.
- (c) State licensed adult foster care family homes with no more than six adults provided that such facilities are at least 1,500 feet apart as measured between property lines.
- (d) Family day care homes and adult day care homes with no more than six minor children or adults.
- (e) Towers and antennas which do not exceed 35 feet in height as measured from the ground to the top of the antenna or tower, whichever is higher, except that an antenna mounted on a building may extend to a maximum of ten feet above the highest point of the building.
- (f) Essential public service equipment.
- (g) Home occupations as regulated by Section 4.25.
- (h) Marinas.
- (i) Uses and structures customarily incidental and accessory to the principal use.

**SECTION 8.03 SPECIAL LAND USES**

The following uses may be permitted as a special land use when approval is granted by the Planning Commission. Such uses are subject to the provisions of Chapter 20 herein.

- (a) Churches mosques, synagogues and similar houses of worship, including associated uses such as pastor's houses, rectories, and convents, on a lot or parcel of at least two acres.
- (b) Public and non-public schools not including colleges or universities.
- (c) Housing for the elderly or senior citizens including but not limited to assisted living facilities, nursing homes, or retirement housing in attached or multi-family buildings.
- (d) Parks, playgrounds, community centers, and similar recreational uses when operated by a governmental or non-profit organization.
- (e) Municipal, county, state, and federal administration or educational or service buildings.
- (f) Essential public services buildings or equipment which are above ground.
- (g) Child care centers and nursery schools. A special land use shall not be required if such use is located within a principal building such as a church or school or similar public or institutional building.
- (h) Bed and breakfast establishments as regulated by Section 20.09(c).
- (i) Group daycare homes which provide care to not less than seven and not more than 12 minor children.

#### **SECTION 8.04 AREA REGULATIONS**

No principal building or structure nor the enlargement of any building or structure shall be hereafter erected unless the following yard and area requirements are provided and maintained in connection with such building, structure, or enlargement:

##### **(a) Minimum Lot size & Width**

###### **(1) Non – conforming Lots of Record**

Lots which were part of a subdivision recorded before the adoption of this Ordinance and which do not comply with the minimum lot size and width requirements of Section 8.04(a)(2) (a non - conforming lot of record) may be used for a single family dwelling provided the minimum building setbacks are met and approval is obtained from the Manistee County Health Department.

Two or more non-conforming lots of record or portions of such lots which are adjacent to each other and held in common ownership may be combined in order to construct a single family dwelling unit. The new lot resulting from such combination shall comply with the minimum lot size and lot width requirements of Section 8.04 (a)(2) below. Such new lot shall be recorded with the Manistee

County Register of Deeds and shall no longer be considered a non-conforming lot of record.

- (2) For single family dwellings without public sewer and water, the minimum lot area shall be 7500 square feet with a minimum of 75 feet of lot width at the minimum required building setback line. The lot area may include road right-of-way if it is contained in the legal description for the lot.
- (3) For single family dwellings with both public sanitary sewer and water or a community septic and well system the minimum lot area shall be 6000 square feet with a minimum of 50 feet of lot width at the minimum required building setback line.
- (4) For two family dwellings with or without public sewer and water, the minimum lot area shall be 12,000 square feet with a minimum of 100 feet of lot width at the minimum required building setback line. The lot area may include road right-of-way if it is contained in the legal description for the lot.

(b) **Minimum Required Building Setbacks**

- (1) *Front Yard* - 10 feet for each street abutting the lot as measured from the front lot line or the right of way line if there is no front lot line or as may be permitted by Section 4.08 herein.
- (2) *Side Yard* - 8 feet, from each side lot line.
- (3) *Rear Yard* - 25 feet.

(c) **Maximum Building Height** – 35 feet.

(d) **Minimum Floor Area per Dwelling Unit** - 800 square feet.

**SECTION 8.05 ADDITIONAL REGULATIONS**

- (a) Parking shall be provided in accordance with the requirements of Chapter 23.
- (b) Signs shall be regulated in accordance with the requirements of Chapter 22.
- (c) Site plan review is required for all Special Land Uses under Chapter 19.
- (d) Site condominiums shall be regulated by Chapter 21.
- (e) Two family dwellings shall have the exterior appearance of a single family dwelling and shall comply with the following regulations:
  - (1) The building shall not have more than one entrance door in the same plane on any front or side of the building.

- (2) For newly constructed two family dwellings the garage or garages shall not be constructed between the two dwelling units and shall be placed so as to avoid the appearance of the building having two garages as viewed from the street abutting the lot containing the two family dwelling.

**CHAPTER 9-A**  
**PA POINT ARCADIA DISTRICT**

**SECTION 9.01-A INTENT AND PURPOSE**

The PA Point Arcadia District consists of a platted subdivision and a manufactured housing community which was first developed in the 1980's under a set of zoning regulations approved by the Township specifically for this project. The intent of this district is to update certain district regulations to reflect current State of Michigan law and also to ensure that the PA Point Arcadia District is also comparable to other Township zoning districts while still allowing the existing uses to continue as permitted uses and the platted lots to be developed as originally intended.

**SECTION 9.02-A PERMITTED USES**

Land and buildings in the PA Point Arcadia District may only be used for the following purposes:

- (a) Single family detached dwelling units.
- (b) Two family dwellings per Section 9.05.
- (c) State licensed adult foster care family homes with no more than six adults provided that such facilities are at least 1,500 feet apart as measured between property lines.
- (d) Family day care homes and adult day care homes with no more than six minor children or adults.
- (e) Towers and antennas which do not exceed 35 feet in height as measured from the ground to the top of the antenna or tower, whichever is higher, except that an antenna mounted on a building may extend to a maximum of ten feet above the highest point of the building.
- (f) Essential public service equipment.
- (g) Home occupations as regulated by Section 4.25 herein.
- (h) Marinas.
- (i) Uses and structures customarily incidental and accessory to the principal use.

## SECTION 9.03-A SPECIAL LAND USES

The following uses may be permitted as a special land use when approval is granted by the Planning Commission. Such uses are subject to the provisions of Chapter 20 herein.

- (a) Churches mosques, synagogues and similar houses of worship, including associated uses such as pastor's houses, rectories, and convents, on a lot or parcel of at least two acres.
- (b) Public and non-public schools not including colleges or universities.
- (c) Housing for the elderly or senior citizens including but not limited to assisted living facilities, nursing homes, or retirement housing in attached or multi-family buildings.
- (d) Parks, playgrounds, community centers, and similar recreational uses when operated by a governmental or non-profit organization.
- (e) Municipal, county, state, and federal administration or educational or service buildings.
- (f) Essential public services buildings or equipment which are above ground.
- (g) Child care centers and nursery schools. A special land use shall not be required if such use is located within a principal building such as a church or school or similar public or institutional building.
- (h) Bed and breakfast establishments as regulated by Section 20.09(c).
- (i) Group daycare homes which provide care to not less than seven and not more than 12 minor children.

## SECTION 9.04-A AREA REGULATIONS

No principal building or structure nor the enlargement of any building or structure shall be hereafter erected unless the following yard and area requirements are provided and maintained in connection with such building, structure, or enlargement:

- (a) **Minimum Lot size & Width**
  - (1) For single family dwellings all lots shall be greater than or equal to the size and width of those lots of record which existed in the PA Point Arcadia District as of the date of adoption of this Ordinance. Any such lot of record shall not be reduced in size or width. The platted lots in the Point Arcadia Subdivision shall be as recorded in the Office of the Register of Deeds of Manistee County in Liber 6 of Plats, pages 1-3, as amended, which Plat is incorporated by reference.

- (2) For two family dwellings the minimum lot area shall be 12,000 square feet with a minimum of 100 feet of lot width at the minimum required building setback line. The lot area may include road right-of-way if it is contained in the legal description for the lot.

(b) **Minimum Required Building Setbacks**

- (1) *Front Yard* - 25 feet for each street abutting the lot as measured from the front lot line or the right of way line if there is no front lot line or as may be permitted by Section 4.08 herein.
- (2) *Side Yard* - 10 feet from as measured to the foundation of the building and 8 feet as measured to the drip line of the building for each side lot line.
- (3) *Rear Yard* - 25 feet.
- (4) From the water's edge – 50 feet.

(c) **Maximum Building Height** – 35 feet.

(d) **Minimum Floor Area per Dwelling Unit** - 800 square feet.

**SECTION 9.05-A ADDITIONAL REGULATIONS**

- (a) Parking shall be provided in accordance with the requirements of Chapter 23.
- (b) Signs shall be regulated in accordance with the requirements of Chapter 22.
- (c) Site plan review is required for all Special Land Uses under Chapter 19.
- (d) Site condominiums shall be regulated by Chapter 21.
- (e) Two family dwellings shall have the exterior appearance of a single family dwelling and shall comply with the following regulations:
  - (1) The building shall not have more than one entrance door in the same plane on any front or side of the building.
  - (2) For newly constructed two family dwellings the garage or garages shall not be constructed between the two dwelling units and shall be placed so as to avoid the appearance of the building having two garages as viewed from the street abutting the lot containing the two family dwelling.

**CHAPTER 9-B**  
**SP STAR-KEY POINT DISTRICT**

**SECTION 9.01-B INTENT AND PURPOSE**

The SP Star-Key Point District is intended as a unique single family residential zoning district to apply only to the Star-Key Point Subdivision created and recorded in 1967. This district is unique, because each lot in the subdivision has frontage on either Lake Michigan or Arcadia Lake, and each lot is accessed by an existing private road.

This district recognizes the existing platted lots as conforming, provided neither the frontage/width nor the area of any such lot as created and recorded may be diminished. This district also applies minimum setback and other dimensional regulations intended to facilitate reasonable single family development in a manner consistent with the size and other characteristics of each lot.

**SECTION 9.02-B PERMITTED USES**

The following land uses are designated as permitted uses in the SP Star-Key Point District:

- (a) Single family detached dwelling units.
- (b) State licensed adult foster care family homes with no more than six adults provided that such facilities are at least 1,500 feet apart as measured between property lines.
- (c) Family day care homes and adult day care homes with no more than six minor children or adults.
- (d) Towers and antennas which do not exceed 35 feet in height as measured from the ground to the top of the antenna or tower, whichever is higher, except that an antenna mounted on a building may extend to a maximum of ten feet above the highest point of the building.
- (e) Essential public service equipment.
- (f) Home occupations as regulated by Section 4.25 herein.
- (g) Uses and structures customarily incidental and accessory to the principal use.

**SECTION 9.03-B SPECIAL LAND USES**

The following land uses are designated as special land uses in the SP Star-Key Point District, subject to the provisions of Chapter 20 herein:

- (a) Parks, playgrounds, community centers, and similar recreational uses when operated by a governmental or non-profit organization, or subdivision association.
- (b) Essential public services buildings or equipment which are above ground.
- (c) Bed and breakfast establishments as regulated by Section 20.09(c).
- (d) Group day care homes which provide care to not less than seven and not more than 12 minor children.

## **SECTION 9.04-B AREA REGULATIONS**

Development on lots in this District is subject to the following area and yard requirements, except as may be specified otherwise in this Ordinance (and these requirements shall not be subject to alteration or reduction by Section 4.06 or Section 4.08 of this Ordinance):

### (a) Minimum Lot size & Width

- (1) Lots 1-37 of the Star-Key Point Subdivision, as created and recorded in 1967, are each recognized as conforming lots for purposes of this Zoning Ordinance. No such existing lot shall be altered so as to reduce the frontage/width, depth, or area of a lot to be less than its respective frontage/width, depth, or area when the subdivision was created/recorded; provided this restriction does not preclude two or more lots in the subdivision as created/recorded, or parts of such lots, from being combined into the same ownership so as to create one or more buildable "zoning lots", where no such resulting zoning lot has less frontage/width, depth, or area as any of the underlying original lots as created/recorded.

### (b) Minimum Required Building Setbacks

- (1) *Front Yard* - 5 feet, as measured from the front lot line.
- (2) *Side Yard* - 10 feet, as measured from each side lot line.
- (3) *Rear Yard/Waterfront*:
  - Lots 1-17 or otherwise abutting Lake Michigan, where regulated by Part 323 of the Michigan Natural Resources and Environmental Protection Act (Shorelands Protection and Management) and administrative rules promulgated thereunder by the Michigan Department of Environmental Quality (high-risk erosion areas)---the minimum setback required for all construction activities on such lots or portions thereof shall be as determined pursuant to that statute/administrative rules; provided, if the minimum setback determined pursuant to that statute/administrative rules results in a

minimum setback of less than 50 feet from the ordinary high water mark of Lake Michigan, the minimum setback administered and enforced by Arcadia Township shall be 50 feet from the ordinary high water mark of Lake Michigan.

- Lots 1-17 or otherwise abutting Lake Michigan, where not regulated by Part 323 of the Michigan Natural Resources and Environmental Protection Act (Shorelands Protection and Management) and administrative rules promulgated thereunder by the Michigan Department of Environmental Quality (high-risk erosion areas)---50 feet from the ordinary high water mark of Lake Michigan.
- Lots 18-37 or otherwise abutting Arcadia Lake and/or the channel between Lake Michigan and Arcadia Lake (and not regulated by Part 323 of the Michigan Natural Resources and Environmental Protection Act)---25 feet from the ordinary high water mark.

(c) Maximum Building Height – 35 feet.

(d) Minimum Floor Area per Dwelling Unit - 800 square feet.

#### **SECTION 9.05-B ADDITIONAL REGULATIONS**

(a) Parking shall be provided in accordance with the requirements of Chapter 23.

(b) Signs shall be regulated in accordance with the requirements of Chapter 22.

(c) Site plan review is required for all Special Land Uses under Chapter 19.

(d) Septic/well systems shall not be located within any part of the 66 foot private road right-of-way width extending through the subdivision, and shall also not be located within any portion of a lot required to comply with the off-street parking area required by Chapter 23 for single family residential uses (two parking spaces each having a minimum area of 9 feet by 20 feet).

(e) No structures shall be constructed or otherwise placed within the required off-street parking area, except for a garage otherwise complying with all applicable setback requirements.

<p style="text-align: center;"><b>CHAPTER 10</b></p> <p style="text-align: center;"><b>R-2 MEDIUM DENSITY RESIDENTIAL DISTRICT</b></p>
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**SECTION 10.01 DESCRIPTION AND PURPOSE**

The R-2 Medium Density Residential District is intended to provide for medium density residential development up to six units per acre. Multi-family dwelling units are permitted in this zoning district along with duplexes. Certain non-residential uses are also permitted by special land use. Medium density residential uses shall be located on paved streets in order for better accessibility by fire and police services. Medium density residential uses are also intended to serve as a buffer or transition zone between non-residential uses and low density residential uses.

**SECTION 10.02 PERMITTED USE**

Land in the R-2 Medium Density Residential District may only be used for the following purposes:

- (a) Two-family dwelling units per Section 10.05 herein.
- (b) Multiple family dwelling units with no more than eight units per building.
- (c) Housing for the elderly or senior citizens including but not limited to assisted living facilities, nursing homes, or retirement housing in attached or multi-family buildings. Such buildings may exceed eight units per building.
- (d) Towers and antennas which do not exceed 35 feet in height as measured from the ground to the top of the antenna or tower except that an antenna mounted on a building may extend to a maximum of ten feet above the highest point of the building.
- (e) Essential public service equipment.
- (f) Home occupations as regulated by Section 4.25 herein.
- (g) Uses customarily incidental to the permitted principal use.

**SECTION 10.03 SPECIAL LAND USES**

The following uses may be permitted as a special land use when approval is granted by the Planning Commission. Such uses are subject to the provisions of Chapter 20 herein.

- (a) Multi-family buildings with more than eight units per building.

- (b) Churches mosques, synagogues and similar houses of worship, including associated uses such as pastor's houses, rectories, and convents, on a lot or parcel of at least two acres.
- (c) Public and non-public schools not including colleges or universities.
- (d) Parks, playgrounds, community centers, and similar recreational uses when operated by a governmental or non-profit organization.
- (e) Municipal, county, state, and federal administration or educational or service buildings.
- (f) Essential public services buildings or equipment which are above ground.
- (g) Child care centers and nursery schools. A special land use shall not be required if such use is located within a principal building such as a church or school or similar public or institutional building.
- (h) Group daycare homes which provide care to not less than seven and not more than 12 minor children.

#### **SECTION 10.04 AREA REGULATIONS**

##### **(a) Minimum Lot size & Width -**

- (1) For two family dwellings with or without public sewer and water, the minimum lot area shall be 20,000 square feet with a minimum of 132 feet of lot width at the minimum required building setback line. The lot area may include road right-of-way if it is contained in the legal description for the lot.
- (2) Multiple family dwellings shall have a minimum lot area of 7,260 square feet per dwelling unit with a lot width of not less than 150 feet at the building line. The lot area may include road right-of-way if it is contained in the legal description for the lot.

##### **(b) Minimum Required Building Setbacks**

- (1) *Front Yard* - 35 feet for each street abutting the lot as measured from the front lot line or the right of way line if there is no front lot line. For lots abutting M-22 the minimum required front yard setback shall be 133 feet from the center of the M-22 right of way.
- (2) *Side yard and building separation* -
  - (a) For two-family dwelling units 10 feet from each side lot line.

- (b) The minimum side yard setback for multi-family dwelling units which abut a different zoning district shall be 30 feet. For multi-family units which abut an R-2 Medium Density Residential District, the minimum side yard setback shall be 15 feet.
- (c) The minimum distance between tallest multi-family buildings shall not be less than the height of the building.

(c) **Rear yard** -

- (1) For two family units, 25 feet.
- (2) For multiple family units, the minimum rear yard shall be 50 feet.

(d) **Maximum Building Height** – 35 feet.

(e) **Minimum Floor Area per Dwelling Unit** –

Multiple family dwelling units shall have the following minimum floor areas:

One bedroom	350 square feet.
Two bedroom	550 square feet.
Three bedroom	800 square feet.

## **SECTION 10.05 ADDITIONAL REGULATIONS**

- (a) A project containing more than one multi-family building approved under this Section shall provide a play area with equipment or facilities for use by the children residing in the project. The Planning Commission shall determine the size and type of equipment to be provided based on the number of dwellings, the children likely to be living there, and the existence of nearby play areas.
- (b) Parking shall be provided in accordance with the requirements of Chapter 23.
- (c) Signs shall be regulated in accordance with the requirements of Chapter 22.
- (d) Site plan review is required for all multi-family uses in accordance with the requirements of Chapter 19.
- (e) Site plan review is required for Special Land Uses in accordance with the requirements of Chapter 20.
- (f) Site condominiums shall be regulated by Chapter 21.
- (h) Two family dwellings shall have the exterior appearance of a single family dwelling and shall comply with the following regulations:

- (1) The building shall not have more than one entrance door in the same plane on any front or side of the building.
  - (2) For newly constructed two family dwellings the garage or garages shall not be constructed between the two dwelling units and shall be placed so as to avoid the appearance of the building having two garages as viewed from the street abutting the lot containing the two family dwelling.
- (i) Parcels containing multi-family buildings shall be located on paved roads.

<p style="text-align: center;"><b>CHAPTER 11</b></p> <p style="text-align: center;"><b>R-3 MANUFACTURED HOUSING COMMUNITY RESIDENTIAL DISTRICT</b></p>
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**SECTION 11.01    PURPOSE AND REGULATION**

The purpose of this district is to allow for the establishment of mobile home parks and related accessory uses. A mobile home park within this zoning district shall comply with all applicable procedures and requirements of the Mobile Home Commission Act, being Act 419 of 1976, as amended, and the Michigan Administrative Code. A mobile home park established within this district shall be subject to the site plan review procedures of Chapter 19 herein.

Public sewer and water facilities or community sewer and water systems shall be provided for each mobile home park provided such facilities meet all State and County regulations.

<p style="text-align:center"><b>CHAPTER 12</b></p> <p style="text-align:center"><b>RC RESTRICTED COMMERCIAL DISTRICT</b></p>
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**SECTION 12.01 DESCRIPTION AND PURPOSE**

The RC Restricted Commercial District includes those parcels along Lake Street and the west side of First Street which were historically the principal commercial corridors in Arcadia Township. The intent of these regulations is to preserve the historical architectural style of the houses by allowing them to also be used for commercial purposes and allowing new commercial uses to be established in a manner consistent with the existing pattern of development. The intent of this District is to preserve this village pattern by allowing some flexibility in building setbacks, by not requiring parking to be on site and by requiring certain architectural building standards.

**SECTION 12.02 PERMITTED USES**

Land and buildings in the RC Restricted Commercial District may only be used for the following purposes:

- (a) As permitted by Section 7.02 herein.
- (b) Retail shops and stores, including but not limited to bakeries, drug stores, hardware stores, appliance and furniture stores, clothing shops, and similar uses.
- (c) Personal service establishments such as barber shops, beauty salons, shoe repair, and other similar establishments.
- (d) Professional offices of doctors, dentists, lawyers, architects, and other similar professions including offices for municipal, county, state, and federal agencies.
- (e) Essential public services and equipment.
- (f) Service clubs.
- (g) Restaurants and cafes which do not serve alcoholic beverages and which do not have drive up or drive through facilities.
- (h) Financial and business service establishments such as banks, insurance offices, and other similar businesses without drive through facilities.
- (i) Health and physical fitness salons.
- (j) Post office.
- (k) Buildings may be used for both residential and commercial uses.
- (l) Marinas.

### SECTION 12.03 SPECIAL LAND USES

The following uses may be permitted as a special land use when approval is granted by the Planning Commission. Such uses are subject to the provisions of Chapter 20 herein.

- (a) Churches mosques, synagogues and similar houses of worship, including associated uses such as pastor's houses, rectories, and convents.
- (b) Parks, playgrounds, community centers, and similar recreational uses when operated by a governmental or non-profit organization.
- (c) Bed and breakfast establishments as regulated by Section 20.09(c) herein.
- (d) Hotels and motels provided such uses are similar in size and scale to other buildings along Arcadia Lake and do not exceed two stories in height.
- (e) Restaurants and cafes which serve alcoholic beverages and which do not have drive up or drive through facilities.

### SECTION 12.04 AREA REGULATIONS

No principal building or structure nor the enlargement of any building or structure shall be hereafter erected unless the following yard and area requirements are provided and maintained in connection with such building, structure, or enlargement:

- (a) **Minimum lot size & width** - No minimum required.
- (b) **Minimum Required Building Setbacks**
  - (1) *Front Yard* – Minimum of zero with a maximum of 12 feet however the Planning Commission may approve a greater setback if such setback will allow the building to be more compatible with the setbacks of existing buildings on the same block.
  - (2) *Side Yard*- Minimum of five feet however a zero feet setback may be permitted provided the building is constructed to prevent stormwater from draining onto the adjoining property. For a corner lot the setback from the right of way line shall be equal to the average setback of the buildings on the side street for the block containing the proposed building.
  - (3) *Rear Yard* - 12 feet.
- (c) **Maximum Building Height** – 35 feet.

### SECTION 12.05 ADDITIONAL REQUIREMENTS

- (a) All businesses, service or processing shall be conducted wholly within a completely enclosed building, except such portions of marina operations, cafes,

restaurants, and similar businesses which often conduct outdoor services as an incidental portion of the business operation. Limited outdoor display of merchandise for sale is permitted.

- (b) Any storage of supplies, merchandise, containers or any other material stored outside the confines of an enclosed building or structure shall be enclosed by a solid fence of no less than six feet in height around such storage area. Such materials shall not exceed the height of the fence enclosing the materials.
- (c) On site parking is not required.
- (d) All refuse containers shall be within a four sided solid enclosure which is at least two feet higher than the container. This enclosure shall not be located in a front yard.
- (e) Signs shall be regulated in accordance with the requirements of Chapter 22.
- (f) Site plan review is required for all uses permitted in the RC Restricted Commercial District except single and two family dwellings according to Chapter 19.
- (g) Site condominiums shall be regulated by Chapter 21.

#### **SECTION 12.06 SPECIAL REQUIREMENTS**

To preserve and reinforce the context of historic buildings and land development patterns of the RC Restricted Commercial District all new buildings and additions to existing buildings are to be designed, constructed and used in accordance with the following standards.

- (a) No building shall have a gross floor area of more than 4,500 square feet on one level, and no more than 9,000 square feet gross floor area total.
- (b) The predominant building wall and entry way shall face the street.
- (c) The building wall plan facing the street shall be interrupted or offset vertically at intervals no greater than 25 feet. Relief from a continuous street facing wall may be achieved with wall offsets in combination with pilasters, corbelling or other permanent architectural elements, however, offsets in any wall shall not be less than eight inches from the subject plane.
- (d) Windows shall be set to the inside of all building walls.
- (e) Doors and windows facing or visible from any public street or way shall use clear "low E" decorative stained glass, leaded or beveled glass, singly or in combination. Mirrored and smoked glass is prohibited.

- (f) Street-facing building facades shall incorporate permanent architectural elements which create shadow patterns and surface textures which, in turn, enhance visual interest.
- (g) Windows or street level activities are required on 50 percent of the first story street wall facing any public street. Street level activities include public display space, public atriums, pedestrian entrances and interior circulation and windows with views into any designated street level use.
- (h) For each 90 feet of linear building frontage, separate pedestrian entrances will be required. Pedestrian entrances may open onto the sidewalk or mid-block passages or walkways leading to the public right-of-way, separate pedestrian entrances will be at least 25 feet apart. Entries must set back a minimum four feet from the facade.
- (i) The spacing and shape of windows and openings on the building shall closely reflect the fenestration of any adjacent historic buildings. Brick, stone, wood or a combination thereof, compatible with adjacent buildings, shall be used.

#### **SECTION 12.07 MODIFICATIONS AND DESIGN STANDARDS**

In reviewing a development project proposed under this Section, the Planning Commission or Zoning Administrator as the case may be, shall have the authority to modify the standards of Section 12.06 as they pertain to that project if it is demonstrated by findings that such modifications will result in a proposed building or an addition to an existing building which substantially complies with the intent of each standard.

<p style="text-align:center"><b>CHAPTER 13</b></p> <p style="text-align:center"><b>C COMMERCIAL DISTRICT</b></p>
--

**SECTION 13.01 DESCRIPTION AND PURPOSE**

This district is intended to permit local retail business and service uses that are desirable to serve the residential areas of the Township and nearby areas. The intent of this district is also to encourage the concentration of business uses, to the mutual advantage of consumers and merchants. Residential uses are also permitted in order to allow the owner of business operators to live in close proximity to their work while being compatible with existing residential uses.

**SECTION 13.02 PERMITTED USES**

Land and/or buildings in this district may be used for the following uses only:

- (a) Retail shops and stores, including but not limited to bakeries, drug stores, hardware stores, appliance and furniture stores, clothing shops, and similar uses.
- (b) Personal service establishments such as barber shops, beauty salons, shoe repair, and other similar establishments.
- (c) Professional offices of doctors, dentists, lawyers, architects, and other similar professions.
- (d) Retail building supply sales.
- (e) Essential public services buildings and equipment.
- (f) Vehicle service stations not performing vehicle body work.
- (g) Financial and business service establishments such as banks, insurance offices, and other similar businesses.
- (h) Health and physical fitness salons.
- (i) Gas station/convenience stores.
- (j) Indoor and outdoor community recreation establishments such as bowling centers, indoor theaters, skating rinks, miniature golf, and video amusement establishments.
- (k) Business contractors such as painters, plumbers, electrical, cement, heating, air conditioning and fencing provided that any materials or equipment kept outdoors shall be screened from the view of nearby properties and roadways.

- (l) Eating and drinking establishments with or without drive through or drive up facilities.
- (m) Auto wash facilities.
- (n) Dry cleaning pick up establishments.
- (o) Printing shops.
- (p) Towers and antennas which do not exceed 100 feet in height as measured from the ground to the top of the antenna or tower, whichever is higher, except that an antenna mounted on a building may extend to a maximum of ten feet above the highest point of the building; provided each such ground-mounted and roof-mounted tower/antenna shall be setback from all adjoining property lines a distance of at least the total height of the tower/antenna.
- (q) Public and private business or trade schools, and educational, music or art schools.
- (r) Hotels and motels.
- (s) Veterinary clinics.
- (t) Public and private clubs, lodges banquet halls and similar places of assembly.
- (u) Uses and structures customarily incidental and accessory to the principal use.
- (v) Residential uses as permitted by Section 7.02 herein.
- (w) Other uses which are determined by the Planning Commission to be similar in nature and operation to the above uses.
- (x) Establishments which service, repair, and/or store but do not sell motor vehicles, motor homes, mobile or modular homes, boats, recreational vehicles or similar items.

### **SECTION 13.03 SPECIAL LAND USES**

The following uses may be permitted as a special land use when approval is granted by the Planning Commission. Such uses are subject to the provisions of Chapter 20 herein.

- (a) Adult businesses as regulated by Section 20.09(d) herein.
- (b) Open air businesses including but not limited to sale of new and used motor vehicles, farm implements, lawn and garden equipment sales and service, motor homes, mobile or modular homes, boats or similar uses.
- (c) Go-cart tracks.

- (d) Wireless communications support structures which are higher than permitted by Section 13.02(p), as regulated by Section 20.9(f).
- (e) Public and non-public schools including colleges or universities.
- (f) Housing for the elderly or senior citizens including but not limited to assisted living facilities, nursing homes, or retirement housing in attached or multi-family buildings.
- (g) Municipal, county, state, and federal administration or educational or service buildings.
- (h) Essential public services buildings or equipment which are above ground.
- (i) Child care centers and nursery schools. A special land use shall not be required if such use is located within a principal building such as a church or school or similar public or institutional building.

#### **SECTION 13.04 AREA REGULATIONS FOR NON RESIDENTIAL USES**

No building or structure nor the enlargement of any building or structure shall be hereafter erected unless the following requirements are provided and maintained in connection with such building, structure, or enlargement:

- (a) **Minimum lot size & width** – 30,000 square feet with 150 feet of lot width at the minimum required building setback line. The lot area may include road right-of-way if it is contained in the legal description for the lot.

For lots which abut M-22 and which are located between Bowens Creek and a point 660 feet north of Oak Street the minimum lot width shall be 100 feet.

- (b) **Minimum Required Building Setbacks**

- (1) *Front Yard* - 50 feet for each street abutting the lot as measured from the front lot line or the right of way line if there is no front lot line. For lots abutting M-22 the minimum required front yard setback shall be 133 feet from the center of the right of way for M-22 or as may be permitted by Section 4.08 herein.
- (2) *Side Yard* - A side yard is not required in this district except that where it is not desired to build to the property line, a minimum side yard of 10 feet shall be required. Where this district abuts any district other than commercial or industrial or abuts a residential use a minimum side yard of 20 feet is required.
- (3) *Rear Yard* - 25 feet when abutting a commercial district and 50 feet when abutting a residential district.

- (c) **Maximum Building Height** – 35 feet.

### **SECTION 13.05 AREA REGULATIONS FOR RESIDENTIAL USES**

A building used exclusively for a dwelling shall comply with all applicable requirements of the RR Resort Residential District of this Ordinance. A dwelling may be located on the same lot as a non residential use but the dwelling shall be located so it can achieve the minimum lot area, width and setback requirements of the RR Resort Residential District.

### **SECTION 13.06 GREENBELT**

When a C Commercial District abuts a residential zoning district, a greenbelt 20 feet wide shall be installed along the entire length of the common lot line according to the provisions of Section 4.17 herein.

### **SECTION 13.07 ADDITIONAL REQUIREMENTS**

- (a) Loading areas shall be located so that trucks and other vehicles do not need to maneuver on the public street to access the loading area.
- (b) All refuse containers shall be within a four sided solid enclosure which is at least two feet higher than the container. This enclosure shall not be located in a front yard.
- (c) Parking shall be provided in accordance with the requirements of Chapter 23.
- (d) Signs shall be regulated in accordance with the requirements of Chapter 22.
- (e) Site plan review is required for all uses permitted in the C Commercial District except single and two family dwellings according to Chapter 19.
- (f) Site condominiums shall be regulated by Chapter 21.

<p style="text-align:center"><b>CHAPTER 14</b></p> <p style="text-align:center"><b>CO COMMERCIAL OVERLAY DISTRICT</b></p>
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**SECTION 14.01 DESCRIPTION AND PURPOSE**

This district is intended to allow for the continuation of existing commercial zoned land along the east side of M-22 while allowing for certain light industrial uses which do not need the visibility provided by M-22 but which would benefit from the access provided by this highway. The regulations of this Chapter would allow these industrial uses to locate in the back portion of the underlying C Commercial District with proper buffering and separation so that the different uses allowed can operate in a manner compatible with each other. The frontage along M-22 would then be preserved for those types of commercial uses which typically require exposure to passing traffic and proximity to similar commercial uses.

**SECTION 14.02 APPLICABILITY**

The standards of this Chapter shall apply to those lands which are located beginning 400 feet east of the center of the M-22 right of way and extending eastward 1320 feet east of the center of the M-22 right of way and south of Norman Road to Bowens Creek as illustrated on the Arcadia Township Zoning Map.

The provisions of this Chapter 14 are to apply in addition to the existing underlying zoning district regulations. Where other ordinance provisions conflict with the provisions of this Chapter, the provisions of this Chapter shall control.

**SECTION 14.03 PERMITTED USES**

Land and/or buildings in this district may be used for the following uses only:

- (a) Contractor yards for construction equipment such as bulldozers, backhoes, dump trucks and similar vehicles and equipment.
- (b) Mini-warehouse/self storage facilities including outside storage.
- (c) Vehicle body shops, including wrecker services.
- (d) Transportation, communications, and utility facilities.
- (e) Crating and packing service.
- (f) Lumber yards and other building supply establishments.
- (g) Machine shop.
- (h) Sign painting and servicing shops.

- (i) Warehouse and storage including self storage facilities.
- (j) Propane gas distributorships.

#### **“SECTION 14.04 AREA REGULATIONS**

No building or structure nor the enlargement of any building or structure shall be hereafter erected unless the following requirements are provided and maintained in connection with such building, structure or enlargement:

- (a) Minimum Lot Size & Width – For lots fronting on M-22 or Glovers Lake Road: 30,000 square feet lot area and 100 feet lot width. For all other lots: 30,000 square feet lot area and 150 feet lot width.
- (b) Minimum Required Building Setbacks
  - (1) *Front Yard* - For lots fronting on M-22 or Glovers Lake Road: 20 feet as measured from the front lot line (street right-of-way); or as otherwise permitted by Section 4.08 of this Ordinance. For all other lots: 10 feet, or as otherwise permitted by Section 4.08 of this Ordinance.
  - (2) *Side Yard* - 10 feet.
  - (3) *Rear Yard* - 10 feet.
- (c) Maximum Building Height – 35 feet.
- (d) Permissible single family dwellings in this district shall be subject to the density, area, placement, and height requirements specified in Chapter 8 for the R-1 Village Residential District, instead of the requirements specified in this section.

#### **SECTION 14.05 ADDITIONAL REQUIREMENTS**

- (a) Uses permitted in this district shall not produce noxious odors, noise, smoke, dust, vibration, or similar nuisance which significantly adversely affects adjoining properties.
- (b) All utilities must be placed underground.
- (c) Loading areas shall be located so that trucks and other vehicles do not need to maneuver on a public road to access the loading area.
- (d) All refuse containers shall be placed within a three sided solid enclosure which is at least two feet higher than the container and shall not be located in a front yard.
- (e) Parking shall be provided in accordance with the requirements of Chapter 23.
- (f) Signs shall be regulated in accordance with the requirements of Chapter 22.

- (g) Site plan review is required for all uses allowed in the CO Commercial Overlay District according to the requirements of Chapter 19.
- (h) Site condominiums shall be regulated by Chapter 21.

**SECTION 14.06 GREENBELT**

Where a use in the CO Commercial Overlay District abuts an RA or R-1 zoning district or a use permitted in the C Commercial District, a greenbelt 20 feet wide shall be installed between the uses so as to provide an effective screen according to the provisions of Section 4.17 herein. If a CO Commercial Overlay District abuts an A-Agricultural District and an existing dwelling is within 100 feet of the CO Commercial Overlay District zoned parcel, a greenbelt shall be provided per Section 4.17 herein.

<p style="text-align:center"><b>CHAPTER 15</b></p> <p style="text-align:center"><b>I INDUSTRIAL DISTRICT</b></p>
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**SECTION 15.01 PURPOSE**

It is the intent of this chapter to provide for the development of a variety of industrial and manufacturing uses that can be characterized by the absence of objectionable external effects. Regulations contained in this district are designed to encourage the development of industrial areas that will be compatible with one another and nearby land uses.

**SECTION 15.02 PERMITTED USES**

Land and buildings in the I Industrial District may only be used for the following purposes:

- (a) The manufacture, compounding, processing, packing, or treatment of such products as candy, cosmetics, drugs, perfumes, pharmaceuticals, toiletries, and food products, except the rendering or refining of fats and oils.
- (b) The manufacturing, compounding, assembly, or treatment of articles from the following previously prepared materials: aluminum, bone, cellophane, canvas, cloth, cork, feathers, felt, fibers, fur, glass, hair, horn, leather, paint, paper, plastics, precious or semi-precious metals or stones, shell, rubber, tin, iron, steel, tobacco, wood, and yarn.
- (c) Transportation, communications, and utility facilities.
- (d) Commercial fuel depots.
- (e) Vehicle body shops provided all vehicles and materials are kept within a building or in an area well screened from the view of nearby properties and roadways.
- (f) Bottle plants and dairies.
- (g) Contractor yards.
- (h) Crating and packing service.
- (i) Lumber yards and other building supply establishments.
- (j) Machine shop.
- (k) Printing shops.
- (l) Sign painting and servicing shops.

- (m) Tool and die manufacturing establishments.
- (n) Warehouse and storage including self storage facilities.
- (o) Wholesale establishments.
- (p) Accessory uses and structures customarily incidental to the permitted principal uses.
- (q) Essential public service equipment and buildings.
- (r) Accessory building and uses customarily incidental to the permitted principal uses.
- (s) Towers and antennas which do not exceed 100 feet in height as measured from the ground to the top of the antenna or tower, whichever is higher, except that an antenna mounted on a building may extend to a maximum of ten feet above the highest point of the building; provided each such ground-mounted and roof-mounted tower/antenna shall be setback from all adjoining property lines a distance of at least the total height of the tower/antenna.
- (t) Industrial uses which are similar to the above.

### **SECTION 15.03 SPECIAL LAND USES**

The following uses may be permitted as a special land use when approval is granted by the Planning Commission. Such uses are subject to the provisions of Chapter 20 herein.

- (a) Asphalt manufacturing or refining, tar distillation or tar products manufacture.
- (b) Iron, steel, aluminum, and other ferrous and nonferrous forging, casting, or rolling.
- (c) Manufacture, processing, and bulk storage of petroleum products and by-products.
- (d) Wireless communications support structures which are higher than permitted by Section 15.02(s), as regulated by Section 20.9(f).
- (e) Recycling stations.

### **SECTION 15.04 AREA REGULATIONS**

No building or structure nor the enlargement of any building or structure shall be hereafter erected unless the following requirements are provided and maintained in connection with such building, structure, or enlargement:

- (a) **Minimum Lot size & Width** – One acre with 150 feet of lot width at the minimum required building setback line. The lot area may include road right-of-way if it is contained in the legal description for the lot.
- (b) **Minimum Required Building Setbacks**
  - (1) *Front Yard* - 50 feet for each street abutting the lot.
  - (2) *Side Yard* - 20 feet from each side lot line except where an I Industrial District abuts a district which permits residential use or an area recommended for such use in the Township Master Plan, a side yard of at least 50 feet must be maintained.
  - (3) *Rear Yard* - 50 feet except where an I Industrial District abuts a district which permits residential use or an area recommended for such use in the Township Master Plan, then the setback shall be at least 75 feet.
- (c) **Maximum Building Height** – 35 feet.

#### **SECTION 15.05 ADDITIONAL REQUIREMENTS**

- (a) All outdoor storage of materials shall be screened from the view of adjoining properties and roadways as approved by the Planning Commission. Such screening if required shall consist of a solid fence or wall, an earthen berm or landscaping.
- (b) Uses permitted in this district shall not produce noxious odors, noise, smoke, dust, vibration, or similar nuisance which significantly adversely affects adjoining properties.
- (c) Drives and service roads to industrial buildings must be paved. All utilities must be placed underground.
- (d) Loading areas shall be located so that trucks and other vehicles do not need to maneuver on a public road to access the loading area.
- (e) All refuse containers shall be placed within a three sided solid enclosure which is at least two feet higher than the container and shall not be located in a front yard.
- (f) **Structure Facade** - At least eighty percent (80%) of that portion of a structure or building, be it a front, side, or rear, which faces a public street shall be finished with face brick, wood, glass, stone, or fluted cement block, or stucco-like material. In recognition of developing technologies in building materials, the Planning Commission may agree to approve other materials provided that they are compatible with surrounding properties, and further provided that such materials meet appropriate architectural, aesthetic, and safety concerns as may be provided for in any duly adopted Ordinances and/or Building and Fire Codes.

- (g) Parking shall be provided in accordance with the requirements of Chapter 23.
- (h) Signs shall be regulated in accordance with the requirements of Chapter 22.
- (i) Site plan review is required for all uses allowed in the I Industrial District according to the requirements of Chapter 19.
- (j) Site condominiums shall be regulated by Chapter 21.

**SECTION 15.06 GREENBELT**

When an I Industrial District abuts the RA Rural Agricultural District or the R-1 Village Residential District, a greenbelt 20 feet wide shall be installed along the entire length of the common lot line according to the provisions of Section 4.17 herein. If an I Industrial District abuts an A-Agricultural District and an existing dwelling is within 100 feet of the industrial parcel, a greenbelt shall be provided per Section 4.17 herein.

**CHAPTER 16**  
**OPEN SPACE PLANNED UNIT**  
**DEVELOPMENT (OS-PUD)**

**SECTION 16.01 INTENT**

This Chapter provides enabling authority and standards for the submission, review, and approval of applications for Open Space Planned Unit Developments (OS-PUD's). The intent of this Chapter is to offer an alternative to traditional subdivision design by encouraging innovation and offering flexibility in the design of residential developments, which may incorporate the permanent preservation of open space, agricultural lands, and other valuable natural and cultural resources. Flexibility is permitted in lot area and required yards, but it is also intended that each OS-PUD development will complement uses that are near and adjacent to the OS-PUD development.

**SECTION 16.02 AUTHORIZATION**

An OS-PUD may be approved by the Planning Commission as an overlay special land use in any location Master Planned A-Agricultural or LDR, Low Density Residential or zoned RA Rural Agricultural District. Areas which are zoned or Master Planned for RR Resort Residential may also be approved for an OS-PUD but only if the entire development will be served by public or community sewer and water.

The provisions of this Chapter are not intended as a device for ignoring the Zoning Ordinance or the planning upon which it has been based. To that end, provisions of this Chapter are intended to result in land use development substantially consistent with the recommendations of the Township's Master Plan, with modifications and departures from generally applicable requirements made in accordance with standards provided in this Chapter and Chapter 18 to ensure appropriate, fair, and consistent decision-making.

**SECTION 16.03 QUALIFYING CONDITIONS**

- (a) **Minimum Parcel Size**. In order to be eligible for OS-PUD approval, the property shall consist of a minimum of six acres.
- (b) **Unified Control**. The proposed development shall be under unified ownership or control, so that one person or entity has proprietary responsibility for the full completion of the project. The applicant shall provide sufficient documentation of unified ownership or control in the form of agreements, contracts, covenants, and/or deed restrictions indicating that the development will be completed in its entirety as proposed.

#### **SECTION 16.04 ALLOWABLE USES**

Land and buildings in an OS-PUD shall only be used for the following uses or combination of such uses, as may be indicated on the development plan and approved by the Planning Commission:

- (a) Single family detached dwelling units.
- (b) Attached dwelling units up to four units per building provided that such dwellings shall not constitute more than 25% of the total dwellings in an OS-PUD.
- (c) Limited farming activities if conducted within the dedicated open space. For purposes of this Section, farming activities shall be limited to the growing of crops, fruits, and vegetables and the raising and keeping of farm animals.
- (d) Golf courses, tennis courts, ball fields, bike paths, walking paths, playground, community buildings, equestrian riding trails and facilities, and similar recreational facilities as well as day care facilities, provided such uses are accessory to the residential uses in the OS-PUD and designed to be used primarily by residents of the OS-PUD.
- (e) Convenience retail and service uses of a relatively small size which are designed to serve residents of the OS-PUD and those living nearby.
- (f) Uses which are incidental to the principal use or which provide support services .
- (g) Uses and structures which are customarily incidental and accessory to the principal use.

#### **SECTION 16.05 DEVELOPMENT REQUIREMENTS**

The lot area, lot width, building setback, and yard requirements applicable within an OS-PUD shall be determined by the Planning Commission in order to achieve the objectives of this section based on the application of site planning criteria to achieve integration of the project with the characteristics of the project area. Other criteria which shall be used in making these determinations shall include the following:

- (a) Number and type of dwelling units.
- (b) Proximity and impact of the OS-PUD on adjacent existing and future land uses.
- (c) Preservation of existing vegetation or other natural features on site.
- (d) Topography of the site.
- (e) Provision of public water, sanitary sewer and storm sewer, or approval of the Manistee County Health Department for on site well and septic systems.
- (f) Access for emergency vehicles to all dwellings.

- (g) To encourage the availability of open space, as a part of the development of residential lands, and to promote the development of passive and recreational land uses.

### **SECTION 16.06 DENSITY BASED ON FUTURE LAND USE CATEGORY**

- (a) The permitted number of dwellings per acre (density) for the proposed PUD area shall be based on the following Density Table, which shall supersede any density provision in the Zoning Ordinance for the existing zoning district.

**DENSITY TABLE**

<b><u>Master Plan Category</u></b>	<b><u>Maximum Ave. Density</u></b>
A-Agricultural	One unit/2 acres (.5 du/acre)
LDR Low Density Residential	One unit/acre (1.0 du/acre)
RR Resort Residential	One unit/.459 acres (20,000 sq. ft./lot; 2.17 du/acre) but only if public or community sewer & water are provided

- (b) To determine the number of dwelling units which may be constructed within the OS-PUD, multiply the permitted density from the Density Table by the total acreage of the site excluding one-half of those areas within the 100-year flood plain, wetland areas and areas permanently inundated by water such as lakes, ponds, streams and rivers, and one half of the area of any golf course which is to be included within the OS-PUD.

The determination of the existence of wetlands and floodplain areas on a parcel shall be demonstrated to the satisfaction of the Planning Commission through a written determination by the Michigan Department of Environmental Quality or by an analysis performed by a professional biologist, ecologist, environmental engineer or similar qualified professional person deemed acceptable to the Planning Commission.

- (c) Subject to the limitations of Section 16(d) additional dwellings above what is allowed by Section 16.06(a) & (b) may be permitted at the discretion of the Planning Commission if the development provides additional amenities or preserves additional open space which would result in a significant recognizable benefit to the Township and residents of the OS-PUD. Items which could be

added to a PUD so it may be eligible for consideration for additional dwelling units shall include one or more of the following items as well as similar items:

- (1) Provision of recreational facilities such as playground areas with play equipment, ball fields, golf course, bike path, walking path, man-made lake, community building or similar recreation facility.
  - (2) Additional landscaping to preserve or enhance the rural view along the roadway.
  - (3) Enhancement of existing wetlands, subject to applicable regulations.
  - (4) Provision of additional unique open space or mature stands of trees which would be of recognizable benefit to Township residents.
  - (5) Provision of a public or private community water and/or sanitary sewer system.
- (d) If additional dwelling units are to be permitted, the maximum number of dwelling units which the Planning Commission shall be authorized to approve shall be determined by multiplying the density permitted in the Density Table by the total acreage of the site including wetlands, floodplain, bodies of water, steep slopes, golf courses, and portions of the site within existing road right of way. In no case shall the number of dwelling units exceed what is permitted by this subsection.

#### **SECTION 16.07 MINIMUM DEDICATED OPEN SPACE REQUIREMENTS**

- (a) An OS-PUD shall provide and maintain the following minimum amount of dedicated open space in accordance with the standards of this Chapter:
- (1) For land master planned for Agricultural, 40 percent of the gross area of the site shall be preserved as dedicated open space.
  - (2) For land master planned for Low Density Residential or RR Resort Residential, 20 percent of the gross site area shall be preserved as dedicated open space.
- (b) **Areas Not Considered Dedicated Open Space**. The following land areas shall not be classified as dedicated open space for the purposes of this Section:
- (1) The area within any public street right-of-way.
  - (2) The area within private road access easements.
  - (3) Any easement for overhead utility lines unless adjacent to qualifying open space.

- (4) Fifty percent of the area of any floodplain, lakes, streams, or other surface water bodies, or wetlands.
  - (5) The area within a platted lot or site condominium lot.
  - (6) Any area not contiguous with the rest of the property proposed for planned unit development.
- (c) **Standards for Dedicated Open Space.** The following standards shall apply to the dedicated open space provided in the development:
- (1) The dedicated open space shall be centrally located, located along the road frontage of the development, located to preserve significant natural features, and/or located to connect open spaces throughout the development.
  - (2) If the site contains a lake, stream or other body of water, a portion of the dedicated open space shall abut the body of water.
  - (3) A portion of the dedicated open space shall be located along the public road frontage abutting the site. The depth of this area shall be at least 50 feet not including public road right-of-way, and this area shall be left in its natural condition or landscaped to help reduce the view of houses on site from the adjacent roadway and preserve the rural view.
  - (4) Open space areas are encouraged to be linked with any adjacent open spaces, public parks, bicycle paths or pedestrian paths.
  - (5) Grading in the dedicated open space shall be minimal, with the intent to preserve existing topography where practical.
  - (6) Dedicated open space may consist of ball fields, tennis courts, swimming pools and related buildings, community buildings and golf courses, and similar recreational facilities. These uses however shall not utilize more than 50 percent of the dedicated open space.
- (d) **Guarantee of Dedicated Open Space.** The applicant shall provide an open space preservation and maintenance agreement to the Planning Commission stating that all dedicated open space portions of the development shall be maintained in the manner approved. Documents shall be presented that bind all successors and future owners in title to commitments made as part of the proposal. This provision shall not prohibit a transfer of ownership or control, provided notice of such transfer is provided to the Township and the land uses continue as approved in the OS-PUD plan, unless an amendment is approved by the Planning Commission.

The agreement must be acceptable to the Planning Commission, after review and recommendation by the Township Attorney, and may consist of a recorded

deed restriction, covenants that run perpetually with the land, or a conservation easement established according to the Michigan Conservation and Historic Preservation Act, Public Act 197 of 1980 as amended.

The agreement shall:

- (1) Indicate the proposed allowable use(s) of the dedicated open space.
- (2) Require that the dedicated open space be maintained by parties who have an ownership interest in the open space.
- (3) Provide standards for scheduled maintenance of the dedicated open space including necessary pruning, harvesting of trees and new plantings.
- (4) Provide for maintenance to be undertaken by Arcadia Township in the event that the dedicated open space is inadequately maintained, or is determined by the Township to be a public nuisance, and requiring all such costs incurred by the Township to be assessed to the owners of the property within the OS-PUD.

#### **SECTION 16.08 PROCEDURES**

An application for an Open Space Planned Unit Development shall comply with the submittal and procedural requirements of Chapter 18 of this Ordinance.

#### **SECTION 16.09 STANDARDS FOR APPROVAL**

An OS-PUD shall comply with the standards for approval of a PUD specified in Chapter 18 of this Ordinance, in addition to all standards in this Chapter.

<p style="text-align: center;"><b>CHAPTER 17 PLANNED UNIT DEVELOPMENT (PUD)</b></p>
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**SECTION 17.01 INTENT**

This Chapter provides enabling authority and standards for the submission, review, and approval of applications for Planned Unit Development (PUD). The intent of this Chapter is to encourage and allow a variety of uses to be located within one development which would not be allowed under traditional zoning regulations whose purpose is to separate differing uses by districts. A PUD is not intended for single use residential developments, but for projects with a mix of dwelling unit types, residential and non-residential uses, or larger non-residential uses which are otherwise not specifically authorized by this Ordinance within the zoning district.

A PUD is intended to allow substantial flexibility in planning and designing a project. This flexibility often accrues in the form of relief from compliance with conventional zoning ordinance site and design requirements. Ideally, this flexibility results in a development that is better planned, that contains more amenities, and ultimately a development that is more desirable to live in than one produced in accordance with typical zoning ordinance and subdivision controls.

Through proper planning and design, each Planned Unit Development should include features which further, and are in compliance with, the following objectives:

- (a) To allow a mix of uses, structures, facilities, housing types and open space in a manner compatible with existing and planned uses on nearby properties.
- (b) To allow for the design of developments that achieves better utilization of land than is possible through strict application of standard zoning and subdivision controls.
- (c) To encourage land development that, to the greatest extent possible, preserves natural vegetation, respects natural topographic conditions, and does not adversely affect wetlands, flood plains, the natural drainage pattern, and other natural site features.
- (d) To promote the efficient use of land resulting in networks of utilities, streets and other infrastructure features that maximize the allocation of fiscal and natural resources.
- (e) To promote further creativity in design and construction techniques.
- (f) To provide for the regulation of legal land uses not otherwise authorized within the zoning district by this Ordinance.

- (g) To provide for single non-residential or mixed use developments which comply with the goals and objectives of the Arcadia Township Master Plan.

### **SECTION 17.02 AUTHORIZATION & PROCEDURES**

Except for those lands recommended for A-Agricultural use in the Township Master Plan, and any land in the SP Star-Key Point District zoning classification, land in any location within Arcadia Township is eligible for Planned Unit Development approval by the Planning Commission as an overlay special land use in accordance with the regulations and standards of this chapter and Chapter 18 of this Ordinance.

### **SECTION 17.03 QUALIFYING CONDITIONS**

- (a) **Minimum Parcel Size** In order to be eligible for PUD approval, the property shall consist of a minimum of two acres; except in the case of a multiple family dwelling project, then the minimum parcel size shall be one acre. In areas recommended in the Township Master Plan for RA Rural Agricultural and RR Resort Residential Districts the minimum parcel size shall be 10 acres.
- (b) **Unified Control.** The proposed development shall be under unified ownership or control, so that one person or entity has proprietary responsibility for the full completion of the project. The applicant shall provide sufficient documentation of ownership or control in the form of agreements, contracts, covenants, and/or deed restrictions indicating that the development will be completed in its entirety as proposed.

### **SECTION 17.04 ALLOWABLE USES**

Land and buildings in a PUD may only be used for the following uses or combination of such uses, as may be indicated on the development plan and approved by the Planning Commission:

- (a) Single and two family dwellings, multi-family dwellings, and townhouses are permitted but only if combined with a different dwelling unit type or a non-residential use as part of a unified PUD development. A PUD which proposes only a single type of dwelling e.g. all single family dwelling, shall not be permitted, except as provided by subsection (b) herein.
- (b) Multi-family dwellings as a single use project.
- (c) Any use permitted by right in the C Commercial District, I Industrial District, or CO Commercial Overlay District.
- (d) Any Special Land Use permitted in the C Commercial District, I Industrial District, or CO Commercial Overlay District, when specifically authorized by the Planning Commission.

- (e) Any legal land use not specifically authorized by this Zoning Ordinance which the Planning Commission determines would satisfy the purpose and objectives of the PUD chapter.

### **SECTION 17.05 DEVELOPMENT REQUIREMENTS FOR ALL USES**

The lot area, lot width, building height, setback, and yard requirements, general provisions, signs and parking regulations contained in this Ordinance which would apply for the zoning district in which the uses proposed are normally allowed shall be met; except that the Planning Commission may increase, decrease or otherwise modify these regulations, as may be requested by the applicant, or as determined by the Planning Commission to be appropriate in order to achieve the objectives of this Chapter. Other criteria which shall be used in making these determinations shall include the following:

- (a) The modification will result in a project which better satisfies the intent and objectives of this chapter.
- (b) The modification will be compatible with adjacent existing and future land uses and will not significantly adversely affect the use and enjoyment of nearby property.
- (c) The modification will result in the preservation of existing vegetation or other natural features on site.
- (d) The modification is necessary due to topography, natural features or other unusual aspects of the site.
- (e) The modification will improve or not impede emergency vehicle and personnel access.
- (f) The modification will improve or not impede adequate pedestrian circulation.
- (g) The modification will not result in traffic or other safety hazards; will not result in visual blight, distraction, or clutter; and will not otherwise result in a detriment to the public health, safety or general welfare.

### **SECTION 17.06 DEVELOPMENT REQUIREMENTS FOR PUDS WITH RESIDENTIAL USES**

For Planned Unit Developments which will devote all or a portion of the site to residential use the following requirements shall apply in addition to the requirements of Section 17.05:

- (a) **Determination of Number of Dwellings**

The permitted number of dwellings for the proposed PUD shall be based on the density recommendations of the Master Plan designation of the property as set forth in the

following Density Table, which shall supersede any density provision in the Zoning Ordinance for the applicable zoning district.

The Planning Commission may choose to allow fewer dwellings than permitted by the Density Table if, in the opinion of the Commission, a reduction in the number of dwellings proposed would better achieve the intent and objectives of the PUD district.

**Density Table**

<b><u>Master Plan Category</u></b>	<b><u>Maximum Ave. Density</u></b>
LDR Low Density Residential	One unit/acre (1.0 du/acre)
RR Resort Residential	One unit/.459 acres (20,000 sq. ft./lot; 2.17 du/acre) but only if public or community sewer & water are provided
R-2 Medium Density Residential	Six units/acre (6.0 du/acre)

(b) **Formula to Determine Number of Dwellings.**

The number of dwellings which may be constructed within a PUD shall be determined as follows:

- (1) Determine gross site acreage. The gross site acreage may include road right of way if included in the legal description.
- (2) Subtract from the gross site acreage the following:
  - (i) One-half of the acreage within the 100-year flood plain, wetland areas and areas permanently inundated by water such as lakes, ponds, streams and rivers.
  - (ii) One-half of acreage devoted to a golf course.
  - (iii) Acreage devoted to non-residential uses.
- (3) The resulting acreage is the Net Development Acreage which is then multiplied by the Maximum Average Density from the Density Table to determine the number of each dwelling unit type permitted. (For example, the Net Development Acreage for the multi-family area would be multiplied by six du/acre; the Net Development Acreage for the single family area would be multiplied by one du/acre if the site were master planned for

LDR or by 2.17 du/acre if the site were master planned for RR.) If the area proposed for PUD is not master planned for any specific residential density the density and number of dwellings permitted shall be determined by the Planning Commission.

In making this determination the Commission shall take into consideration the density recommended for the surrounding lands, the nature of the existing land uses nearby, the type and number of dwellings proposed by the applicant, and the intent and objectives of this Chapter.

The determination of the existence of wetlands and floodplain areas on a parcel shall be demonstrated to the satisfaction of the Planning Commission through a written determination by the Michigan Department of Environmental Quality or by an analysis performed by a professional biologist, ecologist, environmental engineer or similar qualified professional person deemed acceptable to the Planning Commission.

(c) **Additional dwellings**

Subject to the limitations in this subsection 17.05(c) additional dwellings above what is allowed by Section 17.05(b) above may be permitted at the discretion of the Planning Commission if the development provides additional amenities or preserves additional open space which would result in a significant recognizable benefit to the Township and residents of the PUD. Items which could be added to a PUD so it may be eligible for consideration for additional dwelling units shall include one or more of the following items as well as similar items:

- (1) Provision of recreational facilities such as playground areas with play equipment, ball fields, golf course, bike path, man-made lake, community building or similar recreation facility.
- (2) Additional landscaping to preserve or enhance the rural view along the roadway.
- (3) Enhancement of existing wetlands, subject to applicable regulations.
- (4) Provision of additional unique open space or mature stands of trees which would be of recognizable benefit to Township residents.
- (5) Provision of a public or private community water and/or sanitary sewer system.

If additional dwelling units are to be permitted, the maximum number of dwelling units shall be determined by multiplying the Maximum Average Density permitted in the Density Table by the gross site acreage of the site instead of the Net Development Acreage excluding only the acreage devoted to any non-residential uses. In no case shall the number of dwelling units exceed what is permitted by this subsection.

**SECTION 17.07 MINIMUM DEDICATED OPEN SPACE REQUIREMENTS.**

A PUD which devotes all or a portion of the site to residential uses shall provide and maintain dedicated open space in accordance with the requirements of Section 16.07 of this Ordinance. If the project does not contain any residential uses then a minimum of five percent of the site shall be dedicated open space. This space may preserve or enhance a specific natural feature of the site or may consist of a central community square or squares which could be utilized for gatherings, civic functions, passive recreation such as picnicking or strolling or similar uses. This space shall be separate from any landscaping requirements of this Ordinance.

**SECTION 17.08 PROCEDURES**

An application for a Planned Unit Development shall comply with the submittal and procedural requirements of Chapter 18 of this Ordinance.

**SECTION 17.09 STANDARDS FOR APPROVAL**

A PUD shall comply with the standards for approval of a PUD specified in Chapter 18 of this Ordinance, in addition to all standards in this Chapter.

<p style="text-align: center;"><b>CHAPTER 18 PLANNED UNIT DEVELOPMENT PROCEDURES AND REGULATIONS</b></p>
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**SECTION 18.01 PURPOSE**

This Chapter sets forth procedures, regulations and approval standards for both types of planned unit development addressed in Chapters 16 and 17 of this Ordinance (for purposes of this Chapter 18 both are designated as "PUD").

**SECTION 18.02 PROCEDURES**

- (a) **Preapplication Conference**. Before submitting an application for a PUD, an applicant shall meet with the Planning Commission to submit information regarding a proposed PUD and to confer with the Planning Commission about the proposed application and the PUD.
- (b) **Application for PUD Approval**. An application for a PUD shall comply with Chapter 16 or 17, as applicable, this Chapter, and shall be in accordance with the application procedures for site plan review as required by Chapter 19 of this Ordinance.
- (c) **Preliminary Development Plan**. An applicant shall submit a preliminary development plan in accordance with the requirements for Preliminary Site Plan review as set forth in Chapter 19 of this Ordinance.
- (d) **Environmental Impact Assessment**. The Planning Commission may require an environmental impact assessment as part of the preliminary or final development plan.
- (e) **Review of Preliminary Development Plan**. The Planning Commission shall review the preliminary development plan and make recommendations to the applicant regarding the PUD, including any required or recommended changes. Such review and other consideration of the preliminary plan shall take place at a public meeting or meetings of the Planning Commission, and at public meetings of committees of the Commission, where appropriate.
- (f) **Final Development Plan**.
  - (1) After receiving the recommendations of the Planning Commission on the preliminary development plan, the applicant shall submit a Final Development Plan to the Township office in accordance with the requirements for Final Site Plan Review as contained in Chapter 19 of this Ordinance. Copies of the plan shall be forwarded to the Planning Commission.

- (2) The final development plan shall contain all of the information required for Final Site Plan review unless the same is waived by the Planning Commission as not being reasonably necessary for the consideration of the PUD, plus the following:
- (i) All of the drawings, narrative, studies, assessments, and other information, and materials comprising the preliminary development plan, including all of the recommendations of the Planning Commission thereon, or if the applicant has not incorporated all of such recommendations, the final development plan shall indicate such fact and shall state the basis or grounds upon which such recommendations have not been included.
  - (ii) Projected time for completion of the entire PUD; proposed phasing, if any, of the PUD and the projected time for completion of each phase.
  - (iii) Any other information reasonably required by the Planning Commission in connection with its review of the PUD.
- (g) **Public Hearing on PUD Application and Final Development Plan.** The Planning Commission shall hold a public hearing on a PUD application and the proposed final development plan. The public hearing shall be preceded by notice and conducted in accordance with the requirements imposed by applicable laws and this Ordinance for consideration of a Special Land Use by the Planning Commission.
- (h) **Consideration of PUD Application and Final Development Plan.** After the public hearing the Planning Commission shall determine, at the same or a subsequent meeting, whether the PUD application and proposed final development plan complies with all applicable requirements and standards of this Ordinance, including:
- (i) Chapter 16 or 17, as applicable.
  - (ii) The general standards for special land use approval specified in Section 20.04.
  - (iii) The standards for PUD approval specified in Section 18.02(i) below.
- (i) **Standards for Approval.** In making a determination to approve a PUD, the Planning Commission must find that the proposed PUD meets the following standards:
- (1) The development will result in a recognizable and substantial benefit to ultimate users of the project and to the community, and the benefit would otherwise be unfeasible or unlikely to be achieved.

- (2) The development will not result in a significant increase in the need for public services and facilities and will not place a significant burden upon surrounding lands or the natural environment, unless the resulting adverse effects are adequately provided for or mitigated by features of the PUD as approved.
- (3) The development will be generally compatible with the Master Plan of the Township and consistent with the intent and objectives of Chapters 16 or 17 depending upon the type of PUD under consideration.
- (4) The development will not result in significant adverse effects upon nearby or adjacent lands, and will not significantly change the essential character of the surrounding area.
- (5) The development protects all floodplains and wetlands from filling except as approved for essential services or recreation amenities.
- (6) The development preserves and maintains mature woodlands, fields, pastures, meadows, orchards, and creates sufficient buffer areas to minimize conflicts between residential and agricultural uses.
- (7) The development leaves scenic views and vistas unblocked or uninterrupted, particularly as seen from public road rights-of-way.
- (8) Any houses located on hilltops, hillsides, or ridges in the development are situated so they do not detract from the existing appearance of the property as viewed from off site.
- (9) The development protects the rural roadside character by establishing buffer zones along scenic corridors and improves public safety and vehicular carrying capacity by avoiding development that front directly on to existing roadways.
- (10) Pedestrian walkways are provided in the development so that pedestrians can walk safely and easily throughout the site.
- (11) The individual lots, buildings, roadways, and open space areas in the development are designed to minimize the alteration of environmental site features.
- (12) The project can be adequately served by public utilities such as police and fire protection or public or on site community water or sanitary sewer.
- (13) If the project is a PUD and not an OS-PUD it will provide for a mix of residential housing types, non-residential uses, and useable open space or would allow for a use not specifically authorized in the Zoning Ordinance for the applicable zoning district.

- (j) **Conditions of Approval.** The Planning Commission may impose reasonable conditions upon its approval. Such conditions may include conditions necessary to insure that public services and facilities affected by a proposed project will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all of the following requirements.
- (1) They shall be designed to protect natural resources, the health, safety, and welfare and the social and economic well being of those who will use the proposed project under consideration, residents, and landowners immediately adjacent to the proposed project and the community as a whole.
  - (2) They shall be related to the valid exercise of the police power, and the purposes which are affected by the proposed project.
  - (3) They shall be necessary to meet the intent and purpose of this Ordinance, be related to the standards established in the Ordinance for the proposed PUD under consideration, and be necessary to insure compliance with those standards.

The conditions imposed with respect to the approval of a PUD shall be recorded in the record of the approval action.

### **SECTION 18.03 AMENDMENTS TO APPROVED PUD**

- (a) An approved Final PUD Development Plan and any conditions imposed upon Final PUD approval shall not be changed except upon the mutual consent of the Planning Commission and the applicant, or as otherwise allowed below for minor amendments.
- (b) **Minor Amendments.** A minor change may be approved by the Zoning Administrator who shall notify the Planning Commission of the minor change and that such change does not substantially change the basic design or alter any conditions required for the plan by the Commission.

The following items shall be considered as minor changes:

- (1) Reduction of the size of any building and/or sign.
- (2) Movement of buildings and/or signs by no more than 10 feet.
- (3) Plantings approved in the site plan landscape plan may be replaced by similar types of landscaping.
- (4) Changes in floor plans which do not alter the character of the use.

- (5) Internal rearrangement of a parking lot which does not affect the size of the lot, the number of parking spaces, or alter access locations or design.
- (6) Changes required or requested by the Township for safety reasons.
- (7) Changes which will preserve the natural features of the site without changing the basic site layout.
- (8) Other similar changes of a minor nature proposed to be made to the configuration, design, layout or topography of the site plan which are deemed by the Zoning Administrator to be not material or significant in relation to the entire site and which the Zoning Administrator determines would not have any significant adverse effect on adjacent or nearby lands or the public health, safety and welfare.

The Zoning Administrator may refer any decision regarding any proposed change to an approved site plan to the Planning Commission for review and approval (regardless of whether the change may qualify as a minor change). In making a determination whether a change is a minor change, or whether to refer a change to the Planning Commission for approval, the Zoning Administrator shall consult with the Chairperson of the Planning Commission.

- (c) Should the Zoning Administrator determine that the requested modification to the approved site plan is not minor, re-submission to the Planning Commission for an amendment shall be required and conducted in the same manner as an original application.

#### **SECTION 18.04 PERFORMANCE GUARANTEES**

The Planning Commission may require reasonable performance guarantees or assurances deemed satisfactory in the circumstances and authorized by law.

The Township, upon recommendation by the Planning Commission, may rebate or refund a proportionate share of the amount specified in a performance bond, letter of credit, or other written assurance, based upon the percent or other portion of improvements completed, as verified by the Planning Commission or appropriate Township official.

#### **SECTION 18.05 TIME LIMITATIONS ON DEVELOPMENT**

Each PUD shall be under construction within one year after the date of approval of the final development plan. If this requirement is not met the Planning Commission may, in its discretion, grant an extension not exceeding one year, provided that the PUD applicant submits reasonable evidence to the effect that unforeseen difficulties or special circumstances have been encountered, causing delay in commencement of the PUD.

If the PUD has not been commenced within the above-stated period of time, or within any authorized extension thereof, the approved PUD plan shall be deemed abandoned and any building permits issued for the PUD or any part thereof shall be of no further effect.

<p style="text-align: center;"><b>CHAPTER 19</b> <b>SITE PLAN REVIEW</b></p>
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**SECTION 19.01 PURPOSE**

The purposes of Site Plan Review are: to determine compliance with the provisions of this ordinance; to promote the orderly development of the Township, to prevent the depreciation of land value through uses or structures which do not give proper attention to siting or area protection; to provide consultation and cooperation between the applicant and the Township Planning Commission in order that applicants may accomplish their objectives in the utilization of their land within the regulations of this zoning ordinance and achieve the purposes of the Arcadia Township Master Plan.

**SECTION 19.02 SITE PLAN REVIEW REQUIRED**

A site plan shall be submitted for review and approval prior to the issuance of a building permit as follows:

**(a). Planning Commission Review:**

- (1) Any new principal commercial, office, industrial, business, or institutional use or a residential use having more than a two family dwelling unit. Farm buildings as defined herein, in the A-Agricultural District, shall not require site plan review.
- (2) An alteration of the building or property or change in the use of a building or property which results in the increase in the intensity of the use or results in the need for more parking spaces as required by this Ordinance.
- (3) Special land uses and planned unit developments.
- (4) All other uses requiring site plan approval as required by this Ordinance.

**(b) Staff Review:** The following uses shall be reviewed by the Zoning Administrator, or the Township Planner and Township Engineer if deemed necessary by the Zoning Administrator, to ensure compliance with the site plan review requirements. The Zoning Administrator may also refer such uses to the Planning Commission to be reviewed in accordance with the requirements of this Ordinance.

- (1) Expansion of an existing use or building which comprises less than 50 percent of the area of the existing building or use.
- (2) Construction of a building which is accessory to a non-residential principal use.

Review of site plans by the Zoning Administrator shall be in accordance with the

same procedures, requirements and standards used by the Planning Commission except the number of site plan copies and submittal date shall be subject to the discretion of the Zoning Administrator.

### **SECTION 19.03 APPLICATION AND PROCEDURES**

- (a) An application for site plan review along with eight sets of the site plan shall be submitted to the Zoning Administrator in accordance with the submittal schedule established by the Planning Commission along with the fee as set by resolution of the Township Board. The application shall at a minimum contain the following information:
- (1) The applicant's name, address and phone number.
  - (2) Proof that the applicant is the owner of the property or has a legal or financial interest in the property, such as a purchase agreement.
  - (3) The name, address and phone number of the owner(s) of record if different than the applicant.
  - (4) The address of the property.
  - (5) Legal description of the property.
  - (6) Current zoning.
  - (7) Project description.
  - (8) Size of the parcel in acres.
  - (9) Signature of the applicant and owner of the property.

### **SECTION 19.04 PRELIMINARY SITE PLAN REVIEW.**

- (a). If desired by the applicant, a preliminary site plan may be submitted to the Planning Commission. The purpose of this procedure is to allow discussion between the applicant and the Planning Commission, to better inform the applicant of the acceptability of the project before significant engineering efforts are incurred which might be necessary for final site plan approval.
- (b) Applications for preliminary site plan review shall be made in accordance with the application procedures of this section.
- (c) Upon receipt of the preliminary site plan and application, the Township Zoning Administrator may forward copies to the Township Fire Chief, Planner, Engineer and others as necessary for review and subsequent report to the Planning Commission. The Clerk shall send the application and site plan to members of the Planning Commission prior to the meeting at which it will be considered.

- (d) The preliminary site plan shall be drawn at a scale of not more than one (1) inch equals one hundred (100) feet (1" = 100') and shall contain the following information unless specifically waived by the Planning Commission.
- (1) Existing adjacent streets and proposed streets, public or private, as well as development within 100 feet of the site.
  - (2) Parking lots and access points.
  - (3) Proposed buffer strips or screening.
  - (4) Significant natural features and other natural characteristics, including but not limited to open space, stands of trees, brooks, ponds, floodplains, hills, and similar natural assets.
  - (5) Existing and proposed buildings.
  - (6) General topographical features including existing contour at intervals not greater than ten feet.
  - (7) Proposed method of providing public or private utilities including storm drainage.
  - (8) Also, small scale sketch of properties, streets, and zoned uses of land within one-half (1/2) mile of the site.
- (e) The Planning Commission shall review the preliminary site plan and may make recommendations to assist the applicant in preparing a final site plan which will conform to the standards of this Ordinance.

#### **SECTION 19.05 FINAL SITE PLAN REVIEW**

- (a) If desired by the applicant, a final site plan may be submitted for review without first receiving preliminary site plan approval except for all PUD applications requiring approval under Chapter 18 of this Section. Application for final site plan review shall be made in accordance with the application procedures of this section and shall be reviewed in accordance with the same procedures for preliminary site plans.
- (b) Upon receipt of the site plan and application, the Zoning Administrator may forward copies to the Township Fire Chief, Planner, Engineer and others as necessary for review and subsequent report to the Planning Commission. The Zoning Administrator shall send the application and site plan to members of the Planning Commission prior to the meeting at which it will be considered.
- (c) Site plans shall be drawn at a scale of not more than one inch to 100 feet and shall contain the following information **UNLESS SPECIFICALLY WAIVED BY THE PLANNING COMMISSION:**

- (1) The date on which the site plan was prepared.
- (2) The name, address and professional seal of the architect, landscape architect, engineer or professional surveyor who prepared the plan.
- (3) A north arrow and legal description based upon the most current survey.
- (4) Property lines, dimensions, and building setback distances and all structures, lot lines and wetlands within 100 feet of the site.
- (5) Existing and proposed topographic elevations at five feet intervals on the site and to a distance of 50 feet outside the boundary lines of the site.
- (6) Direction of storm water drainage and how storm water runoff will be handled.
- (7) Location of existing and proposed buildings, their intended use, the length, width and height of each building, and the square footage and finished floor elevation of each building.
- (8) Location of abutting streets, rights-of-way, service drives, curb cuts, and access easements serving the site, as well as driveways opposite the site and driveways within 100 feet on either side of the site. Also driveway locations.
- (9) Location and size of all water and sanitary sewer lines and storm drainage lines as well as fire hydrants and catch basins, and location of septic tanks and drainfields, and utility easements.
- (10) Location and type of all sidewalks, bike paths, and other walkways.
- (11) Location, type and size of any walls, fences or other screening devices.
- (12) Location of all proposed landscape materials, including size and type of plantings.
- (13) Location, size and height of all proposed accessory structures, flagpoles, storage sheds, transformers, dumpsters or trash removal areas or devices, and methods of screening, and existing and proposed utility poles.
- (14) Proposed parking areas and access drives showing the number and dimensions of spaces and aisles, loading areas, handicapped access ramps, and the method of surfacing such areas.
- (15) Exterior lighting showing areas of illumination and type of fixtures as well as the method of shielding lights from adjacent properties and roadways.

- (16) Location and type of significant existing vegetation, water courses, and water bodies including county drains and manmade surface drainage ways, floodplains, and wetlands. Vegetation which is to be retained on the site must be illustrated.
- (17) Location of existing and proposed slopes which are 20 percent or greater.
- (18) Zoning and land use on adjacent properties.
- (19) Location of any existing or proposed above or below ground storage facilities for any hazardous materials.
- (20) The Planning Commission may request architectural elevation drawings of a building and cross-section drawings of the site.
- (21) Small-scale sketch of properties, streets and zoned uses of land within one-quarter mile of the site.
- (22) Any other information deemed necessary by the Planning Commission.

The Planning Commission may waive any of the above enumerated site plan application content requirements whenever the Planning Commission determines that such requirement is unnecessary to evaluate the use for which approval is sought.

- (d) The final site plan for developments which have been proposed in phases shall generally conform to the approved preliminary plan.
- (e) The Planning Commission may require written statements relative to the effects of the proposed use on the traffic capacity and safety of existing streets, and the proposed development's impact on schools, existing utilities, the environment and natural features.

In addition, the Commission may request additional studies, graphics or other written materials from the applicant in order to assist in determining the appropriateness of the site plan.

#### **SECTION 19.06 FINAL SITE PLAN APPROVAL**

- (a) The Planning Commission shall review the site plan according to the general standards for site plan review as contained in this Article and any other applicable regulations of this Ordinance. If approved contingent upon revisions, the applicant shall revise the site plan as necessary and submit the site plan to the Zoning Administrator, Planner, Engineer, Fire Chief or others as necessary to ensure that all revisions as required by the Planning Commission have been made.

- (b) Upon approval of the final site plan, three copies of this plan shall be approved, dated, and signed by the Zoning Administrator and Chair of the Planning Commission. One copy of the approved plan shall be retained by the applicant, one shall be retained by the Building Inspector as part of the building permit review process, and one copy shall be kept by the Clerk. The final site plans shall not be signed pursuant to Section 19.06(b) until the required revisions have been completed.

## **SECTION 19.07 STANDARDS FOR APPROVAL**

Prior to approving a site plan, the Planning Commission shall require that the following standards be satisfied: If these standards and the other requirements noted in this section or in other Township ordinances are met, the site plan shall be approved.

- (a) The site shall be designed to minimize or avoid conflicting and unsafe vehicle turning movements on the site and at driveways serving the site; avoid driver sight obstructions and provide for vehicle access between adjoining parcels where practicable.
- (b) Areas of natural drainage such as swales, wetlands, ponds, or swamps shall be protected and preserved insofar as practical in their natural state to provide areas for natural habitat, preserve drainage patterns and maintain the natural characteristics of the land.
- (c) The site plan shall provide reasonable visual and sound privacy for all adjacent dwelling units. Fences and landscaping should be used, as appropriate, to accomplish these purposes.
- (d) All buildings or groups of buildings shall be arranged so as to permit necessary emergency vehicle access as requested by the Township Fire Department.
- (e) Walkways shall be provided as necessary for safe pedestrian movement.
- (f) The arrangement of public or common ways for vehicular and pedestrian circulation shall be connected to existing or planned streets and pedestrian or bicycle pathways in the area.
- (g) Appropriate measure shall be taken to ensure that removal of surface waters will not adversely affect neighboring properties or the public storm water drainage system. Surface water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic or create puddles in paved areas. Catch basins may be required to contain oil filters or traps to prevent contaminants from being discharged to the natural drainage system.
- (h) Exterior lighting shall be arranged so that illumination is deflected downward and away from adjacent properties and so that it does not interfere with the vision of the motorist along adjacent streets. Cut-off light fixtures may be required to

accomplish this. Flashing or intermittent lights shall not be permitted. Excessive lighting of buildings or structures should be minimized to reduce light pollution.

- (i) All loading and unloading areas and outside storage areas including areas for the storage of trash, which face or are visible from residential districts or public thoroughfares, shall be screened by a vertical screen consisting of structural or plant materials not less than six feet in height. The finished side of any wall, fence or other screen shall face adjacent properties.

#### **SECTION 19.08 CONDITIONS OF APPROVAL**

- (a) As part of an approval to any site plan, the Planning Commission may require conditions or limitations necessary to ensure that the standards for site plans approved under this Chapter are met.
- (b) The Planning Commission shall have the authority to limit the number of driveways for a site, to require that parking lots on contiguous parcels be connected, that driveways for contiguous parcels be shared, and that opposite driveways be directly aligned.
- (c) Approval of a site plan, including conditions made as part of the approval, shall apply to the property described in the application, regardless of subsequent changes in ownership.
- (d) Non-compliance with the requirements and conditions of the approved site plan shall be violations of this Ordinance.

#### **SECTION 19.09 VALIDITY OF FINAL SITE PLANS**

- (a) Approval of the final site plan is valid for a period of not longer than one year unless extended as allowed herein. If actual construction of a substantial portion of the improvements included in the approved site plan has not commenced and proceeded meaningfully toward completion during that period, the approval of the final site plan shall be voided.
- (b) Upon written application, filed prior to the termination of the one-year review period, the Planning Commission may authorize additional one year extensions. Such extensions shall only be granted based on evidence from the applicant that there is a likelihood of construction commencing within the one-year extension.

#### **SECTION 19.10 PERFORMANCE GUARANTEE**

The Planning Commission may require reasonable performance guarantees in order to assure the completion of required improvements. Such performance guarantees may include a performance bond, letter of credit or other written guarantees or assurances deemed satisfactory in the circumstances and authorized by law. The amount of the performance guarantee shall be determined by the Planning Commission. Such arrangements shall have such sureties or guarantors as are satisfactory to the Planning

Commission and shall be conditioned upon faithful compliance with all of the provisions and requirements of the approved site plan and construction and placement of all of the improvements therein.

The Planning Commission shall provide for a proportionate reduction of the amount specified in a performance bond, letter of credit or other written assurance, based upon the percentage or other portion of improvements completed, as verified by the Planning Commission or appropriate Township official. Correspondingly, the Planning Commission shall recommend to the Township Board the rebate or refund of a proportionate share of a cash bond as appropriate.

### **SECTION 19.11 AMENDMENTS TO APPROVED SITE PLAN**

- (a) Any person who has been granted site plan approval shall notify the Zoning Administrator of any proposed amendment to the approved site plan.
- (b) A minor change in the site plan may be approved by the Zoning Administrator who shall notify the Planning Commission of the minor change and that such change does not substantially change the basic design or alter the conditions required for the plan by the Commission.

The following items shall be considered as minor changes:

- (1) Reduction of the size of any building.
- (2) Movement of buildings by no more than 10 feet.
- (3) Plantings approved in the site plan landscape plan being replaced by similar types of landscaping.
- (4) Internal rearrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design.
- (5) Changes required or requested by the Township for safety reasons.
- (6) Changes which will preserve the natural features of the site without changing the basic site layout.
- (7) Other similar changes of a minor nature proposed to be made to the configuration, design, layout or topography of the site plan which are deemed by the Zoning Administrator to be not material or significant in relation to the entire site and which the Zoning Administrator determines would not have any significant adverse effect on adjacent or nearby lands or the public health.

The Zoning Administrator may refer any decision regarding any proposed change to an approved site plan to the Planning Commission for review and approval (regardless of whether the change may qualify as a minor change). In making a

determination whether a change is a minor change, or whether to refer a change to the Planning Commission for approval, the Zoning Administrator may consult with the Chairperson of the Planning Commission.

- (c) Should the Zoning Administrator determine that the requested modification to the approved site plan is not minor, re-submission to the Planning Commission for an amendment shall be required and conducted in the same manner as an original application.

<p style="text-align:center"><b>CHAPTER 20</b></p> <p style="text-align:center"><b>SPECIAL LAND USES</b></p>
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**SECTION 20.01 PURPOSE**

The purpose of this article is to provide regulations for uses which are not essentially incompatible with uses permitted by right in a given district, but which should not be permitted without restrictions or conditions being imposed by reason of special problems presented by the use itself or its particular location to neighboring properties. The special use permit procedure established herein is designed to provide the Township Planning Commission with an opportunity to review and act upon any application for a special use permit.

**SECTION 20.02 AUTHORIZATION**

The Township Planning Commission shall have the power to hear and decide such questions as are involved in determining whether special exception permit applications should be granted; to approve special exception permit applications with such conditions and safeguards as are appropriate under this Ordinance; or to deny special exception permit applications where not in harmony with the purpose and intent of this Ordinance.

**SECTION 20.03 SPECIAL LAND USE PROCEDURES**

Application for a special land use shall be submitted and processed under the following procedures:

- (a) An application shall be submitted to the Zoning Administrator on a form for that purpose. Each application shall be accompanied by the payment of a fee as determined by resolution of the Township Board.
- (b) Site Plan Requirement: Applications for a special land use permit shall also be accompanied by a site plan which shall contain the information for final site plans required by Chapter 19 herein.
- (c) Additional Information: The Planning Commission may require that the applicant provide additional information about the proposed use. Such information may include, but shall not be limited to, traffic analysis, environmental impact statement, an economic analysis justifying the need for a proposed commercial use or uses, impact on public utilities and services and affect on the public school system.
- (d) Upon receipt of an application for a special land use the Planning Commission shall hold a public hearing on the application preceded by notice as required by applicable laws.

- (e) At the public hearing or within a reasonable time thereafter, the Planning Commission shall deny, approve, or approve with conditions, the request for a special land use. The decision shall be incorporated in a statement containing the conclusions relative to the special land use under consideration which specifies the basis for the decision, and any conditions imposed.

The decision of the Planning Commission rendered pursuant to the request shall be final unless such decision is reversed or modified by a court of competent jurisdiction. The Board of Appeals is without jurisdiction to accept appeals or grant variances from the decision of the Planning Commission

#### **SECTION 20.04 STANDARDS FOR APPROVAL**

The following general standards shall serve as the basis for decisions by the Planning Commission involving special land use permits. The Commission shall find that, in addition to specific standards for a particular use, the proposed use shall:

- (a) Be designed, constructed, operated and maintained so it will be compatible in appearance and function with the existing or intended character of the area in which it is proposed.
- (b) Be adequately served by essential public facilities and services such as highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities and schools.
- (c) Not create excessive additional requirements at public cost for public facilities and services.
- (d) Not involve uses, activities, processes, materials and equipment or conditions of operation that will be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.
- (e) Be consistent with the intent and purpose of the zoning district in which such use will be located.

#### **SECTION 20.05 IMPOSITION OF CONDITIONS**

Reasonable conditions may be imposed with approval of a special land use. The conditions may include conditions necessary to insure that public services and facilities will be capable of accommodating increased service and facility loads caused by the proposed land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all of the following requirements:

- (a) Be designed to protect natural resources, the health, safety, and welfare and the social and economic well-being of those who will exercise the land use or activity

under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.

- (b) Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
- (c) Be necessary to meet the intent and purpose of the zoning Ordinance, be related to any standards established in the Ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.
- (d) The conditions imposed shall be recorded in the record of the approval action, and shall remain unchanged except as provided by law.

#### **SECTION 20.06 EXPIRATION OF PERMIT**

A special land use permit shall expire one year after it is granted, unless construction is complete or commencement of the use has substantially begun. The Planning Commission may, upon request by the applicant, extend the term of the special land use by successive periods of up to one year each upon a finding that there have been no changed conditions in the area which would require reconsideration of the special land use application or site plan.

#### **SECTION 20.07 AMENDMENT TO AN APPROVED SPECIAL LAND USE**

Any person or agency owning or operating land for which a Special Land Use has been approved shall notify the Zoning Administrator of any proposed amendment to the approved use and site plan. Such proposed amendment shall be considered in the same manner as set forth in Section 19 of this Ordinance regarding amendments to an approved site plan. The Township shall maintain a record of any conditions that are changed as a result of an amendment.

#### **SECTION 20.08 REVOCATION OF PERMIT**

If a violation of any of the conditions or standards imposed on a special land use is found to exist following inspection, the Zoning Administrator shall notify the owner of the premises of the special land use and the Planning Commission that such violation exists and that the permit will be revoked within 15 days of such notification. If said violation is not corrected within 15 days, the Planning Commission shall revoke the permit. Furthermore, such a violation is hereby declared to be a violation of the Zoning Ordinance, subject to all of the remedies and penalties provided for in this Ordinance.

#### **SECTION 20.09 SITE DESIGN STANDARDS**

Uses permitted as special land use shall be subject to the requirements of the zoning district in which they are permitted. In addition, specific site design and development standards shall apply to the following uses:

**(a) Airfields and Landing Strips**

- (1) The land areas beneath runway approaches shall be under the ownership or control of the owner or operator of the airfield. Ownership or control shall extend a minimum of 1,200 feet from each runway end and laterally 500 feet from the center line of the runway. The above requirements may be modified if the landing strip is intended solely for the use of ultra light aircraft.
- (2) The facility shall not exceed a Michigan Aviation System Plan (MASP) classification of U-1, offering service to small single engine utility aircraft.
- (3) The landing strip shall be of turf construction.
- (4) Unless specifically waived by the Planning Commission, areas upon which airplanes taxi shall be at least 200 feet from any property line. The airfield must be of a size and location that will not require limitations on the height of structures on land that is not controlled by the airfield operator.
- (5) The Planning Commission may require the fencing of appropriate areas to insure public safety. If required, such fencing shall be not less than six feet in height with suitable gating.

**(b) Campgrounds**

- (1) The minimum lot size shall be 10 contiguous acres.
- (2) No commercial enterprises shall be permitted to operate within the park, except that a convenience goods shopping building may be provided in a park containing more than 50 campsites.
- (3) No building or camp site shall be located within 200 feet of a property line. A house used only for purposes of residence by a park manager or owner shall be subject to the agricultural zoning regulations. Setback requirements on the side or rear property line may be waived or modified when said line is constituted by the edge of a river, lake, or State land, and the Planning Commission shall find that no useful purpose would be served by the stipulated setback.
- (4) In order to provide visual screening and privacy for nearby residents, the Planning Commission may require that landscaping be installed along the borders of a campground in order to achieve this purpose.

**(c) Bed & Breakfast Establishments**

- (1) Bed and breakfast establishments shall be located only in buildings that are used and have been used as detached single-family dwellings with a minimum of 2,000 square feet of floor area. No dwelling or other building

shall be constructed for the purpose of having or operating a bed and breakfast establishment.

- (2) Off-street parking shall be provided in addition to that required for residential purposes at the rate of one vehicle parking space per sleeping room. Such parking need not be paved.
- 3) One sign shall be allowed for identification purposes only. Such sign shall not exceed 16 square feet in size and shall otherwise comply with the requirements of Chapter 22 herein.
- 4) No use shall be permitted which is not also a permitted use under the terms of the zoning district in which the bed and breakfast establishment is located.
- 5) Meals may be served only to the operator's family and lodgers of the establishment.
- 6) Cooking facilities in bed and breakfast guest rooms are prohibited.
- 7) The bed and breakfast shall comply with all applicable regulations of the Manistee County Health Department for the serving of food. In addition, if a bed and breakfast is approved by the Planning Commission, the property owner shall provide documentation from the County Health Department that the well and septic system on the property is capable of serving the proposed use. This documentation shall be provided to the Township Zoning Administrator before the bed and breakfast is open for business.
- 8) The dwelling unit in which the bed and breakfast is located shall be the principal residence of the operator/owner, and the operator/owner shall live in the dwelling unit when the bed and breakfast operation is active.
- 9) Exterior refuse storage facilities in addition to what would normally be expected for a detached single-family dwelling shall be screened from view on all sides by a six-foot solid decorative fence or wall, or by other screening approved by the Planning Commission.
- 10) In addition to providing a site plan as required by Chapter 19 of this Ordinance, an applicant for a bed and breakfast shall also provide a floor plan of the dwelling unit and the use of each room.
- 11) The maximum stay for any lodger of a bed and breakfast (excluding the operator/owner) shall be ten consecutive days, not to exceed to a total of thirty days in any twelve-month period.
- 12) The Township Building Inspector and Fire Chief shall conduct an inspection of the dwelling proposed for the bed and breakfast

establishment following approval by the Planning Commission in order to ensure compliance with the applicable requirements of the Township Building Code and Fire Code. Any measures required to comply with these codes shall be completed before the bed and breakfast shall open for business.

(d) **Adult Businesses**

In the development and execution of this section, 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 in near proximity to a residential district, thereby having a deleterious effect upon the adjacent areas. Special regulation of these adult uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. These adult business regulations are itemized in this section. 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 sections of this Ordinance.

- (1) Adult businesses subject to these controls are as follows:
  - (i) Adult book and video stores.
  - (ii) Adult cabarets.
  - (iii) Adult motion picture theaters.
  - (iv) Adult entertainment.
  - (v) Adult live entertainment.
  - (vi) Adult merchandise store.
  - (vii) Massage establishments.
  - (viii) Nude modeling and photography studios.
- (2) Definitions. As used in this section, the following terms shall have the indicated meanings:
  - (i) *Adult Motion Picture Theaters.* Any establishment, or part thereof, used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas,” as defined herein for observation by patrons therein.
  - (ii) *Adult Book and Video Store.* Any establishment, or part thereof, having as a substantial or significant portion of its stock in trade,

videos, compact discs, books, magazines, or other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas” as defined herein, or an establishment with a segment or section devoted to the sale or display of such material.

- (iii) *Adult Cabaret.* A nightclub, bar, or restaurant or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features one or more of the following:
  - (1) Persons who appear nude or in a state of semi-nudity;
  - (2) Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities;
  - (3) Films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified anatomical areas or specified sexual activities;
  - (4) Persons who engage in lewd, lascivious or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.
- (iv) *Adult entertainment:* Any exhibition, display or dance which involves exposure to view of specified anatomical areas or specified sexual activities.
- (v) *Adult live entertainment theater:* An enclosed building for presenting live entertainment involving the use of strip dancers, naked individuals, individuals who wear see through clothing which permits the view of “specified anatomical areas,” individuals who are partially clothed so as to permit the view of “specified anatomical areas,” or individuals engaged in “specified sexual activities.”
- (vi) *Adult merchandise store:* Any establishment, or part thereof, having as a substantial or significant portion of its stock in trade merchandise or novelties which are predominantly distinguished or characterized by their emphasis on matter depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas” as defined herein, or an establishment with a segment or section devoted to the sale or display of such merchandise.
- (vii) *Peep Booth:* A viewing room, other than a private room not authorized for admittance by patrons, of less than 150 square feet

of floor space upon the premises of an adult business regulated herein where there is exhibited photographs, films, motion pictures, video cassettes, or other video reproductions, other visual representations or which depict or describe specified anatomical areas or specified sexual activities.

- (viii) *Specified Sexual Activities.* Specified sexual activities are defined as:
- (i) Human genitals in a state of sexual stimulation or arousal.
  - (ii) Acts of human masturbation, sexual intercourse, sodomy or excretory function.
  - (iii) Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.
- (ix) *Specified Anatomical Areas.* Specified anatomical areas are defined as:
- i) *Less than completely and opaquely covered:*
    - 1) Human genitals, pubic region,
    - 2) Buttock, and
    - 3) Female breast below a point immediately above the top of the areola; and
  - ii) Human male genitals in a discernibly turgid state, even if completely or opaquely covered.
- (x) *Massage Establishment.* Any establishment, or part thereof, having a fixed place of business where massages are administered solely or in combination with any other service or activity for pay, including but not limited to massage parlors, health clubs, sauna baths, and steam baths. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, or physical therapist duly licensed by the State of Michigan, nor barber shops or beauty salons in which massages are administered only to the scalp, the face, the neck, feet or the shoulder.

This definition shall not be construed to include establishments where massage is provided only by persons who have successfully completed not less than 500 hours of training from a recognized school or State accredited college or university or has been approved by the National Certification Board for Therapeutic

Massage and Bodywork or is certified as a massage therapist by the American Massage Therapy Association.

This definition shall also not be construed to include a non-profit organization operating a community center, swimming pool, tennis court, or other educational, cultural, recreational, and athletic facilities for the welfare of the residents of the area. This definition shall not be construed to include exercise clubs exclusively for members without massages in any form.

- (xi) *Massage.* A method of treating the external parts of the human body by rubbing, stroking, kneading, tapping, or vibrating with the hand or any instrument.
  - (xii) *Nude Modeling and Photography Studios.* Any building, structure, premises, or part thereof used solely or primarily as a place which offers as its principal activity the providing of models to display “specified anatomical areas” as defined herein, for artists and photographers for a fee or charge.
  - (xiii) *Novelty:* Any instrument, device, or paraphernalia which depicts or describes any “specified sexual activities,” or “specified anatomical areas” or which is designed for use, or commonly used, in connection with “specified sexual activities,” excluding condoms and other birth control and disease prevention products.
  - (xiv) *Substantial or Significant Portion:* An Adult Business will be deemed to have a “substantial or significant portion” of its stock in trade or services if it meets at least one of the following criteria: (a) Twenty five percent or more of the stock, materials, merchandise or services are distinguished or characterized by an emphasis on matter depicting, or relating to “specified anatomical areas” or “specified sexual activities,” as defined herein; or (b) twenty five percent or more of the usable floor area of the building is used for the sale, display or provision of materials, merchandise or services distinguished or characterized by an emphasis on matter depicting, or relating to “specified anatomical areas” or “specified sexual activities,” as defined herein.
- (3) **Authorization.** The Planning Commission may, by the issuance of a Special Use Permit in accordance with Chapter 20 of this Ordinance authorize the uses specified within this section only in the C Commercial District as noted in Chapter 13 herein and after finding that the following conditions exist:
- (i) The parcel upon which the use is intended is located outside a 300 foot radius of any parcel upon which is located any residential use,

church, public play ground, athletic field, library or public or private school, child care center, family day care home, or group day care home.

- (ii) The use is not located within a 300 foot radius of one other such use except that such restriction may be waived by the Planning Commission if the following findings are made:
    - 1) That the proposed use will not be contrary to the public interest or injurious to nearby properties and that the spirit and intent of this section will be observed.
    - 2) That the proposed use will not enlarge or encourage the development of a blighted or deteriorating area in its immediate surroundings.
    - 3) That the establishment of a regulated use, or an additional regulated use, in the area will not be contrary to any program of neighborhood conservation, nor will it interfere with any program of urban renewal.
    - 4) That all applicable state laws and local ordinances will be observed.
  - (iii) For purposes of this section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as part of the premises where an adult business is conducted, to the nearest property line of the premises of a residential use, church, public play ground, athletic field, library or public or private school, child care center, family day care home, or group day care home or another adult business.
- (4) Exterior Structural Requirements. All adult businesses must comply with the following exterior structural requirements:
- (i) The merchandise or activities of the adult business shall not be visible from any point outside the business.
  - (ii) The exterior of the adult business shall not utilize flashing lights, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner.
  - (iii) The exterior of the building containing the adult business shall not be painted any color other than a single neutral color.
- (5) Signs. Signs for an adult business shall comply with the following requirements:

- (i) One free standing sign and one wall sign is permitted per parcel.
  - (ii) A sign shall not exceed 50 square feet in area.
  - (iii) A sign shall not contain any photographs, silhouettes, drawings, or pictorial representations of any manner, and may contain only the name of the enterprise.
  - (iv) A sign shall not contain any flashing lights and shall only be internally illuminated.
  - (v) Signs for an adult business shall also comply with the requirements of Chapter 22 of this Ordinance except that the above requirements shall supersede the requirements of Chapter 22 where applicable.
- (6) **Conditions and Limitations.** The Planning Commission may impose any such conditions or limitations upon the establishment's location, construction, maintenance, or operation of the adult business as may in its judgment be necessary for the protection of the public interest. Any evidence and any guarantee may be required as proof that the conditions stipulated in connection therewith will be fulfilled. Failure to follow such limitation or condition will immediately terminate the special use permit.
- (7) **Limit in Reapplication.** No application for an adult business which has been denied wholly or in part shall be resubmitted for a period of one year from the date of said order of denial, except on the grounds of new evidence not previously available or proof of changed conditions.
- (e) **Mineral Mining**
- (1) **Purpose.** The purpose of the mineral mining special land use is to regulate the appropriate excavation and removal of mineral resources, but, to authorize such activity only if it can be accomplished without serious adverse consequences to other land uses in the vicinity and elsewhere in the Township. While the excavation and removal of mineral resources is a legitimate land use, it may involve activities which are incompatible with residential uses or which have other adverse impacts. The objective of these special land use provisions is to enable the Township to permit such mineral extraction and removal, where such activity can reasonably be permitted, but only upon such terms and conditions as will adequately protect residential and other land uses from serious adverse consequences and also assure that, once mineral material has been removed, the land shall be reclaimed and restored so as to be available for residential uses or other uses permitted by this Ordinance.
  - (2) **Removal Of One Thousand Cubic Yards Or Less Exempt**

- (i) The provisions of this section shall not apply to the extraction or removal of mineral material of 1,000 cubic yards or less; provided, however, that such mineral removal activity involving 1,000 cubic yards or less shall not result in hazardous or unsafe conditions nor have serious adverse consequences to adjacent or nearby lands.
  - (ii) In order for an extraction or removal of mineral material of 1,000 cubic yards or less to be exempt from the provisions of this section, such excavation and removal must be complete in and of itself; it may not, constitute only a part, portion of phase of some other larger, different, or recurring mineral removal operation, plan or activity. An applicant shall not repeat or combine successive removal operations of 1,000 cubic yards or less from the same parcel for the purpose of removing a larger total quantity of mineral material.
- (3) Special Land Use Required for Excavation and Removal of More than 1,000 Cubic Yards of Mineral Material. The excavation and removal of sand, gravel, soil and other mineral resources of more than 1,000 cubic yards shall take place only upon the granting of a special land use permit by the Arcadia Township Board following a recommendation by the Planning Commission in accordance with the provisions of this Section.

**AN APPLICATION FOR A SPECIAL LAND USE FOR MINERAL REMOVAL SHALL INCLUDE THE FOLLOWING:**

- (i) A written legal description of all of the lands proposed for the use.
- (ii) Ten copies of a site plan for mineral removal, drawn at a scale not exceeding 1" = 100' if the site is less than 50 acres and 1"= 200' if the site is 50 acres or more and sealed by a registered civil engineer, and including the following:
  - 1) A north arrow, scale and date;
  - 2) Property lines and dimensions of the parcel proposed for mineral removal including any buildings on the site and shading indicating the area on which mineral removal operations and activities will take place;
  - 3) The location and width of all easements or rights-of-way on or abutting the lands;
  - 4) Natural features of the site including wooded areas, wetlands, bodies of water and the location and direction of all water courses which may be affected by the mineral removal operations;

- 5) Existing elevations of the lands at intervals of not more than 5 feet; Such elevations shall be based on USGS datum.
  - 6) Typical cross sections showing the estimated extent of overburden, estimated extent of mineral material location in or on the lands, and the water table;
  - 7) Mineral processing and storage areas and stockpiling areas;
  - 8) Proposed fencing, gates, parking areas, temporary or permanent structures, drives, signs and other features of the proposed use; an illustration of the type of fencing and gate proposed shall also be provided;
  - 9) Roads for ingress to and egress from the lands, including on-site roads, acceleration and deceleration lanes, and a description of the proposed measures to limit dust generated by mineral removal activities and movement of vehicles;
  - 10) A map showing routes to be used for the hauling of minerals from the site and for trucks returning to the site.
  - 11) Areas, if any, to be used for ponding.
  - 12) The plan shall illustrate the phasing of site reclamation.
- (4) Narrative to be Submitted. The applicant shall submit a narrative description and explanation of the proposed mineral removal operations and activities, which shall include the following:
- (i) The date of commencement of operations and estimated duration of mineral mining activities.
  - (ii) The proposed hours and days of operations.
  - (iii) An estimate of the type and quantity of mineral material to be removed and estimated number of truck trips per day.
  - (iv) A description of the extraction and removal methods, including proposed excavation, crushing, screening and removal equipment and vehicles.
  - (v) A description of all adverse effects, whether anticipated or reasonably possible, on the ground water table and other underground sources of water supply, together with copies or reports of studies analyzing the effect, if any, of the mineral mining operation on the underground water supply of the subject land and adjacent and nearby lands.

- (5) Site Rehabilitation Plan to be Submitted. The applicant shall submit a site rehabilitation plan and narrative showing the final grades of the lands as rehabilitated, at contour intervals not exceeding 5 feet; and also including water courses, ponds or lakes, and landscaping and plantings.
- (6) Environmental Impact Statement. The Planning Commission may require the applicant to provide studies or information concerning the need for and consequences of the proposed mineral extraction and removal. Such studies may include but need not be limited to the following: an environmental impact study, hydro geological study, engineering data, traffic impact study, and economic analysis in particular the impact on the property values of nearby properties.

If a mineral removal operation is proposed within 1000 feet of a lake, river, stream or a wetland regulated by the State of Michigan a hydro geological study shall be conducted to determine the impact of the mining operation on such natural features.

- (7) Review by Planning Commission. Upon submission of a complete application and following the public hearing required by Chapter 20 the Planning Commission shall review the application and determine whether to recommend to the Township Board approval, disapproval or approval with conditions. In its review of the application, the Planning Commission shall consider, among other matters, the intent and purposes of this section and the Arcadia Township Zoning Ordinance. The Planning Commission shall not recommend approval of any special land use for mineral mining unless the application sufficiently demonstrates that the proposed mineral mining operations and activities will not create any serious adverse consequences or serious environmental impact upon adjacent or nearby lands or other lands in the Township or the area.
- (8) Operating and Site Reclamation Conditions. All mineral mining activities which are approved for a special land use shall comply with all of the following conditions:
  - (i) Mineral removal operations shall be approved for a total duration as determined by the Township Board, but the special land use authorizing the mineral mining activity shall be renewed annually as required under subsection (11) of this section. For purposes of this subsection the date of renewal shall be one year from the date of approval of the special land use by the Township Board.
  - (ii) The entry road or roads to and from a removal area shall be hard surfaced for such distance as may be required by the terms of the special land use.

- (iii) No machinery shall be located or used within 100 feet of any property or street line. No cut or excavation shall be made closer than 100 feet to any street right-of-way line or property line. The Township Board may require greater distances for the location of machinery, storage or parking of equipment, or limits of excavation.
- (iv) No cut or excavation, storage or stockpile area, structure, access drive or loading area shall be closer than 400 feet to a principal building or dwelling on adjoining or nearby lands existing at the time of the approval of the special land use. The Township Board may approve a lesser distance based upon evidence that such lesser distance will not result in adverse effect upon nearby buildings or dwellings.
- (v) All areas of excavation and removal shall be fenced and gated at all times. Such fencing shall be installed before any activity pertaining to the mining operation begins. The fence shall be installed around the entire parcel proposed for mining at the required setbacks set forth in (ii) and (iii) above. Fencing shall be at least four feet high and constructed of woven wire, chain link or similar wire material with a minimum of 10 gauge wire. Gates shall be at least four feet in height and locked when operations are not occurring.

The entrance to the site shall have a gate which shall be located so there is room on the site to accommodate mining vehicles waiting outside the gate.

- (vi) Mineral mining activities shall occur during the hours and days of the week as shall be determined by the Township Board in its approval of the special land use.
- (vii) Equipment for the excavation, crushing, screening and removal of mineral material, and other mineral excavation and removal activities, shall not emit noise louder than 70 decibels when measured at the nearest dwelling or occupied building.
- (viii) Any dust arising there from mining activities shall be controlled by such measures as may be required by the Township Board as a part of the special land use.
- (ix) Drainage on the mineral mining site shall be maintained in a manner which most closely approximates the natural drainage patterns. Measures shall be taken to avoid or mitigate the run off of surface water so that adjacent or nearby lands shall not be adversely affected by excessive surface water drainage, erosion or other effects.

- (x) The type, nature and quantity of equipment to be used at the removal site, and the type and nature of vehicles used to remove mineral material from the site, shall be specified in the special land use.
- (xi) Temporary stockpiling of excavated material shall be permitted within the removal site, at such locations and upon such terms as may be specified in the special land use.
- (xii) No sand, gravel or other mineral material excavated or obtained from lands other than those covered by the special land use shall be brought to the mineral removal site.
- (xiii) No cement, concrete, asphalt or other artificial mineral material, nor any other artificial material or debris shall be brought to or stored on a mineral removal site.
- (xiv) The Township Board may require compliance with such other conditions as may be necessary to insure compliance with the terms of this Ordinance. Such conditions may include, though need not be limited to, weed controls, erosion and sedimentation controls, fencing and visual screening, requirements for groundwater monitoring wells, preservation of trees and other vegetation and fuel loading and storage requirements.
- (xv) Topsoil shall be replaced on the site to a depth of not less than four inches unless it is demonstrated that there was less than four inches of topsoil on the site prior to any excavation in which case topsoil shall be replaced to the extent that it existed on the site prior to any excavation. Slopes shall be graded and stabilized to such extent as will accommodate the proposed end-use.
- (xvi) If the mining operation is to occur in phases, topsoil shall be replaced and slopes shall be graded and stabilized in one phase before mineral removal operations or activities are commenced in another phase or area. Within each phase no more than 20 acres, at any time shall be cleared and actively mined at any time without reclamation occurring consistent with the approved reclamation plan. The area used for stockpiling excavated material shall not be included in the 20 acres. It is the intent of this section that site restoration and reclamation occur in unison with the mining process.
- (xvii) Final slopes shall have a ratio of not greater than one foot of elevation to each four feet of horizontal distance. However, the Township Board may approve a ratio of one foot of elevation to each three feet of horizontal distance for portions of the site if it is demonstrated that such slopes will still allow the land to be used in

accordance with the recommendation of the Arcadia Township Master Plan.

- (xviii) The creation or enlargement of a lake, in connection with reclamation of the site, shall be permitted only where the applicant demonstrates from engineering and hydro geological studies that the waters of the lake will not become polluted or stagnant and will not adversely affect groundwater supplies for nearby uses. Any such lake shall be approved by those state and county agencies having jurisdiction. Construction of the lake shall not begin until written approvals from these agencies have been provided to the Township.
  - (xix) The end-use or uses provided for in the site reclamation plan shall conform to the uses designated for the lands by the Township Master Plan.
  - (xx) The mineral mining activity shall be subject to periodic inspections by the Township Engineer to determine that the mining activity is proceeding in accordance with the conditions of the approved site plan and special land use.
- (9) Review by Township Board. In its consideration of the special land use the Township Board shall hold a public hearing. Notice shall be given as required by Chapter 20 of this Ordinance.
- (i) The Township Board shall approve the use, disapprove the use or approve the use with conditions. In its discretion the Board may consider changes or additions to or departures from, the special land use as recommended by the Planning Commission and in such case, the decision of the Township Board shall be final. In its discretion, however, the Township Board may refer any such proposed changes or additions to or departures from the special land use, to the Planning Commission, for the Commission's comment or report within a specified time.
  - (ii) The Township Board shall not approve any special land use for mineral mining unless the application sufficiently demonstrates that the proposed mineral mining operations and activities will not create any serious adverse consequences or serious environmental impact upon adjacent or nearby lands or other lands in the Township or the area.
- (10) Letter of Credit or Performance Bond. An applicant for a mineral removal special land use shall submit a letter of credit or performance bond, in the amount specified in the special land use, before commencing any operations. The letter of credit or performance bond shall name the

Township as the benefited party and shall be conditioned upon the timely and faithful performance by the applicant of all of the terms and conditions of the special land use.

The letter of credit or performance bond shall not be refunded, reduced or transferred until all mineral removal operations, site rehabilitation or restoration and all other required or permitted activities have received final inspection and approval by the Zoning Administrator and until the Township Board has determined that the applicant has fully complied with all of the terms and conditions of the special land use, including all required site rehabilitation.

(11) Renewal of Special Land Use. The special land use authorized by this section may be renewed in the discretion of the Township Board for a period of one year. Such renewal shall be subject to the terms of this subsection.

(i) The applicant or operator shall file an application for renewal of the special land use, prior to the expiration of the use, or prior to the expiration of any annual or other increment in which excavation and removal operations are permitted under the terms of the special land use.

(ii) Prior to consideration of an application for renewal, the Township Engineer or other designated Township official shall inspect the land, shall review the mineral mining activities to date and shall submit a report to the Township Board.

(iii) Upon receiving the completed application for renewal, including the report of the Township Engineer, the Township Board shall approve, disapprove or approve with conditions the requested renewal. In determining whether to approve a renewal, the Planning Commission may consider whether the applicant or other operator has complied with the terms and conditions of the special land use.

(iv) In approving a renewal of the special land use, the Township Board may include terms and conditions which are in addition to or different from those specified in the original special land use or in a previous renewal thereof.

(12) Enforcement.

(i) The enforcement of the terms of the special land use may be directed against the applicant, the property owner and all operators acting or purporting to act under the special land use, or any of them. Full and timely compliance with all of the terms of this

section and of the special land use is a condition for the continued effectiveness of the special land use or any renewal thereof.

- (ii) Enforcement measures may include but need not be limited to the revocation of the special land use by the Township Supervisor, where operations under the use do not comply with this section or the special land use.
- (iii) For purposes of determining compliance with this section and the special land use, the Zoning Administrator or other designated Township official shall be entitled to access to the lands subject to the special land use during reasonable business hours. The Zoning Administrator is authorized to demand compliance with the terms of this section and the special land use, and if such compliance is not obtained, the Zoning Administrator may issue an order directing the applicant and any operator to cease immediately all mineral excavation and removal activities.

The Zoning Administrator may also issue a civil infraction in accordance with Section 26.07 of this Ordinance except that the fine for each offense shall not be less than \$1000.00 in the first instance and \$5000.00 for each subsequent violation.

- (13) Transferability of Special Land Use. No special land use authorized by this section shall be transferred to a person or party other than the applicant to whom it was granted unless such transfer is approved by the Township Board. In considering a request for transfer of the special land use, the Township Board may consider, among other matters, whether the terms of the required letter of credit or performance bond remain sufficient to assure satisfactory compliance with the terms of the special land use.
- (14) Fee for Administration of Special Land Use. As a condition of any such special land use, the applicant shall pay to the Township such fee as determined by the Township Board, for the purpose of defraying the Township's cost of administration, surveillance and enforcement of the special land use, including but not limited to, consideration of applications and renewals, testing, monitoring, sampling, surveying, engineering fees, legal fees, studies, and other consultant fees and other related costs and expenses. Such fee shall be calculated and paid as required by resolution of the Township Board. In its discretion, the Board may provide for the advance payment into escrow, by the applicant, of all of the Township's costs and expenses with respect to the consideration of the special land use, in accordance with the Township Board resolution concerning such escrowed fees. In addition, the applicant shall pay such application fee or renewal fee as may be established by the Board.

- (15) **Reapplication.** No application for a special land use for a mineral mining project which has been denied by the Township Board shall be resubmitted within one year from the date of the denial except that the applicant may present new evidence or proof of changed conditions relating to the reasons for denial of the original application. If the Board finds this information to be valid it may allow a re-submittal of a new application before the one year period is over.
- (f) **Towers and Antennas Exceeding the Maximum Height Allowed as a Permitted Use (35' or 100', as specified in each zoning district)**
- (1) **Purpose.** It is the general purpose and intent of the Township to comply with the requirements of the Federal Telecommunications Act of 1996 by authorizing towers and antennas needed to operate wireless communication systems, and to further comply with the requirements of the Michigan Zoning Enabling Act regarding co-locating wireless communications equipment on an existing tower or other permissible wireless communications support structure. It is the further purpose and intent of the Township to provide for such authorization in a manner which will retain the integrity of neighborhoods and the character, property values, and quality of the Township.
- (2) **Application.** An application for special land use approval for such antenna or tower, where required by this Ordinance, shall include the following information, in addition to what is otherwise required by this Chapter:
- (i) A detailed site development plan depicting the nature, type, appearance and location of the antenna and tower, any buildings or other structures and all other external features of the special land use, including driveways, fencing, isolation distances, screening and landscaping and other matters. The plans for the tower shall be certified by a registered engineer.
  - (ii) A justification for the proposed height and location of the antenna and tower including efforts to co-locate the proposed antenna on existing towers in or adjacent to the Township.
  - (iii) A maintenance plan and any applicable maintenance agreement, prepared so as to ensure long-term, continuous maintenance of the antenna and tower and any supporting structures.
  - (iv) A map showing existing and known proposed telecommunications facilities or other structures within and surrounding the Township which could possibly be used by the applicant to co-locate the proposed antenna.

Note: Section 3514 of the Michigan Zoning Enabling Act, as amended by 2012 Public Act 143, requires a special land use application for this land use to be reviewed by the Zoning Administrator to determine whether it is administratively complete. The application shall be considered administratively complete 14 business days after receipt of the application, unless the Zoning Administrator determines the application is administratively complete within that 14 day period, or before expiration of that 14 day period notifies the applicant (in writing, or electronically) that the application is not administrative complete and specifies the information and/or application fee payment necessary to make the application administratively complete. The statute also requires the Planning Commission to approve or deny a special land use application for this land use not more than 90 days after the application is considered to be administratively complete.

(3) Co-location

- (i) It is the policy of the Township that all wireless communication providers co-locate on existing towers or structures capable of accommodating antennas to minimize the overall number of newly established towers within the Township and to encourage the use of existing towers and structures for new antennas.

Therefore, a proposed tower for commercial telecommunications services shall be required to be designed, constructed and placed so as to accommodate both the applicant's equipment and comparable equipment for at least three or more additional users. The Planning Commission may permit a tower design which would allow fewer than three other users if the Commission finds that three additional users would not be consistent with the intent and purposes of this section.

The Planning Commission may require that such towers be designed and constructed so as to allow for the future rearrangement of equipment upon the tower, and to accept equipment mounted at varying heights on the tower.

- (ii) Approval of co-located antenna or other wireless communications equipment. See Section 20.09(f)(7) below.

(4) Requirements and Standards. An antenna or tower shall comply with all of the following special land use approval standards/requirements:

- (i) The antenna or tower shall be permanently secured to a stable foundation.

- (ii) No part of the antenna or tower shall conduct or display any advertising, message or other graphic representation.
- (iii) An antenna or tower shall not be located in any required front yard setback and shall not be closer to a property line than its height.
- (iv) All antennas and towers must be grounded to protect against damage from lightning.
- (v) There shall be unobstructed access to the support structure, for operation, maintenance, repair and inspection purposes.
- (vi) The support system shall be constructed in accordance with all applicable building codes.
- (vii) The Planning Commission may require that telecommunications towers, or other related structures or buildings, be screened with landscaping, berms, walls or a combination of any of them. The Commission may require plantings to be placed on properties adjacent to the tower site in order to provide a more effective visual screen.
- (viii) Towers for commercial telecommunications services which are abandoned or unused shall be removed by the owner or operator along with any associated buildings, structures or equipment within 180 days of a written notice from the Township, unless a time extension is granted by the Zoning Administrator.

To ensure compliance with this requirement the applicant shall provide a bond, letter of credit or other surety acceptable to the Township to cover the cost of removing the tower. Failure to remove the tower within the time stipulated above shall cause the surety to be used by the Township to remove the tower.

- (ix) Tower lighting shall not be permitted unless required by federal or state agencies as an aircraft obstacle avoidance system. If tower lighting is required, such lighting shall be activated only by a radio determination (radar) frequency technology, unless the applicant documents the agency with jurisdiction will not approve a system with that activation control technology. In that event, the tower lighting shall use such other activation control technology as is approved by the agency for the tower installation. If no such technology is so approved, and in all other circumstances, including the above circumstances, the lighting shall be designed, installed, controlled, and maintained so as to meet the applicable requirements of the agency in a manner that is the least visually disruptive to dark skies, and the least detrimental to migratory birds.

- (x) Any ancillary building housing equipment needed for the operation of the antenna or tower, or any other appurtenance, shall be of a size, type, color and exterior materials which are aesthetically compatible with existing principal buildings within the surrounding area.

The equipment enclosure may be located within the principal building or may be an accessory building. If proposed as an accessory building, it shall conform with all district requirements for principal buildings, including yard setbacks.

- (xi) The tower shall comply with the requirements of the Federal Aviation Administration, the Federal Communications Commission and the Michigan Aeronautics Commission.
  - (xii) The height of the tower shall not exceed 350 feet above grade.
  - (xiii) All towers shall be equipped with anti-climbing measures or devices.
  - (xiv) Minimum spacing between towers shall be two miles in order to prevent a concentration of towers in one area.
  - (xv) Towers may be located on parcels, whether owned or leased by the applicant, which do not have frontage on a public road.
  - (xvi) In its reasonable discretion, the Planning Commission may impose additional terms and conditions regulating the construction, installation, use, repair, maintenance and removal of an antenna or tower in order to achieve the intent and purposes of this section.
- (5) Amateur radio antennas operating under a license issued by the Federal Communications Commission shall be subject to the provisions of this section, unless such provisions would preclude or prevent the operation of the antenna, then such provisions shall not apply.
- (6) Approval Requirements. In addition to the standards for approval of all special land use permit applications contained in Section 20.04 and this section 20.09(f), the Planning Commission shall consider the following factors in determining whether to issue a special use permit:
- (i) Height of the proposed tower;
  - (ii) Proximity of the tower to residential structures and residential district boundaries;
  - (iii) Nature of uses on adjacent and nearby properties;

- (iv) Surrounding topography;
  - (v) Surrounding tree coverage and foliage;
  - (vi) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
  - (vii) Proposed ingress and egress; and
  - (viii) No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Planning Commission that no existing tower or structures can accommodate the applicant's proposed antenna.
- (7) Installation of Antenna or Other Wireless Communications Equipment on Existing Tower or in Existing Equipment Compound. The following provisions govern the installation of antenna apparatus and other wireless communications equipment on an existing communication tower or other wireless communications support structure or within an equipment compound on the site of an existing communication tower:
- (i) Where the existing tower has been granted special land use and site plan approvals, no further zoning approvals are required if the Zoning Administrator determines the proposed wireless communications equipment and, where applicable, proposed associated accessory buildings/structures, are in complete conformance with the underlying special land use permit and approved site plan for the tower with respect to the total approved number of antenna apparatus on the tower, the array of the antenna apparatus, and the number, size and location of associated accessory buildings/structures.
  - (ii) Where the existing tower has been granted special land use and site plan approvals, or has not been granted such approvals but is otherwise in compliance with the Zoning Ordinance, no further zoning approvals are required if the Zoning Administrator determines the proposed wireless communications equipment and/or associated accessory buildings/structures and/or proposed changes to the existing equipment compound comply with all of the following (as applicable):
    - a. The wireless communications equipment will be collocated on an existing wireless communications support structure or in an existing equipment compound.
    - b. The existing wireless communications support structure/

existing equipment compound is itself in compliance with the zoning ordinance.

- c. The wireless communications equipment will not increase the overall height of the existing support structure by the greater of 20 feet or 10% of its original height.
- d. The wireless communications equipment will not increase the width of the existing support structure by more than the minimum necessary to permit collocation.
- e. The wireless communications equipment will not increase the area of the existing equipment compound so as to be more than 2,500 square feet.
- f. The proposed change(s) will comply with the terms and conditions of any previous final approval of the existing support structure/compound.

A proposed change that does not comply with c, d, e, or f, but which otherwise is compliant with sub-part (ii) is subject to zoning approval pursuant to approval of an amended site plan by the Planning Commission in accordance with all applicable provisions of this Ordinance, but without further special land use approval.

- (iii) Where a proposed installation of wireless communications equipment on an existing wireless communications support structure is not subject to either subsections (i) or (ii) of this subpart (7), the installation shall be subject to special land use and site plan approvals in a zoning district where Wireless Communications Support Structure is designated as a special land use.

(g) **Salvage Yards**

- (1) The minimum lot area shall be 10 acres.
- (2) All vehicles, parts, material and equipment must be stored within enclosed buildings or within an area completely enclosed by a screening fence at least eight feet in height. The fence shall be located no closer than the minimum setback required for the material or equipment stored on site.
- (3) The setback from all property lines to the area upon which materials are stored and/or processed shall be not less than 100 feet.
- (4) All other requirements pertaining to the I Industrial District shall be met.
- (5) No items placed within the enclosed area shall exceed the height of the screening fence.

- (6) All flammable fluids shall be drained from vehicles or appliances in order to prevent such fluids from leaking into the groundwater and to minimize the possibility of fire hazards.
  - (7) One sign, not to exceed 50 square feet in area, is permitted subject to other provisions of this Ordinance.
- (h) **On-Farm Biofuel Production Facility (Type II or Type III)**
- (1) The facility has all of the characteristics for the term “On-Farm Biofuel Production Facility (Type II or Type III)” as defined in Section 2.02 of this Ordinance.
  - (2) The application for special land use approval included, in addition to the content required by any other provision of this Ordinance, all of the following:
    - (i) A description of the process to be used to produce biofuel.
    - (ii) The number of gallons of biofuel anticipated to be produced annually, and the designed annual biofuel production capacity (in gallons) of the facility.
    - (iii) An emergency access and fire protection plan that has been reviewed and approved by the Manistee County Sheriff's Department and the Arcadia Township Fire Department.
    - (iv) For an ethanol production facility that will produce more than 10,000 proof gallons (as defined in 27 Code of Federal Regulations 19.907) annually, completed United States Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau Forms 5000.29 (Environmental Information) and 5000.30 (Supplemental Information on Water Quality Considerations Under 33 USC 1341(a)), or successor forms, required to implement regulations under the National Environmental Policy Act of 1969, 42 USC 4321 to 4347, and the Federal Water Pollution Control Act, 33 USC 1251 to 1387.
    - (v) Information that demonstrates the biofuel production facility will comply with all of the special land use approval standards specified herein.
    - (vi) Any additional information requested by the Planning Commission relevant to compliance with any provision of this ordinance pertaining to special land use application, review, or approval, including any lawful conditions imposed on approval.
  - (3) (required condition on approval) Before the facility begins operation, all

buildings, facilities, and equipment used in the production or storage of biofuel shall comply with all applicable local, state and federal laws.

- (4) (required condition on approval) Before the facility begins operation, the owner or operator of the biofuel production facility has provided the Township with proof that all necessary approvals have been obtained from the Michigan Department of Environmental Quality (or a successor agency) and other state and federal agencies that are involved in permitting any of the following aspects of biofuel production:
  - (i) Air pollution emissions.
  - (ii) Transportation of biofuel or additional products resulting from biofuel production.
  - (iii) Use or reuse of additional products resulting from biofuel production.
  - (iv) Storage of raw materials, fuel, or additional products used in, or resulting from, biofuel production.
- (5) (required condition on approval) Before the facility begins operation, the biofuel production facility includes sufficient storage for raw materials, fuel, and additional products resulting from biofuel production or the capacity to dispose of additional products through land application, livestock consumption, sale, or other legal use.

Note: the Planning Commission is required to hold a hearing on an application for special land use approval of an On-Farm Biofuel Production Facility (Type II or Type III) not more than 60 days after a (complete) application is filed. *MCL 125.3513(4)*.

<p style="text-align: center;"><b>CHAPTER 21</b></p> <p style="text-align: center;"><b>SITE CONDOMINIUMS</b></p>
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**SECTION 21.01 REQUIREMENTS AND PROCEDURE**

Site condominiums to be developed in Arcadia Township shall comply with the requirements of the zoning district in which the project is to be located as well as all other applicable requirements of the Arcadia Township Zoning Ordinance. A site condominium development shall also comply with all other applicable ordinances of Arcadia Township.

**CHAPTER 22****SIGNS****SECTION 22.01 DESCRIPTION AND PURPOSE**

This chapter is intended to regulate the size, number, location and manner of display of signs in Arcadia Township in a manner consistent with the following purposes.

- (a) To protect and further the health, safety and welfare of residents, property owners and visitors.
- (b) To prevent traffic hazards and pedestrian accidents caused by signs which obstruct vision, distract or confuse drivers, or are improperly secured or constructed.
- (c) To conserve and enhance community character.
- (d) To promote uniformity in the size, number or placement of signs within districts.
- (e) To promote the economic viability of commercial areas by minimizing visual clutter, and allowing for proper placement of signs to safely direct motorists to their destination.
- (f) To balance the public's right to be informed and its desire to avoid visual pollution and hazardous conditions with the rights of businesses and other non-business uses to communication.
- (g) It is further recognized that special circumstances or events may create a need for portable signage for a limited and reasonable period of time.
- (h) The purpose of this ordinance does not include the regulation of the content or any information included on the sign.

**SECTION 22.02 DEFINITIONS**

- (a) Agricultural Industry Sign: A sign which identifies items, products, breeds of animals, poultry or fish, materials, or farming methods used on a farm and also including signs for farm organizations.
- (b) Business or Commercial Sign: A sign, including a sign on the wall of a building, on lettered, figured or pictorial messages which are displayed for advertising a business, service, entertainment, or other enterprises or commerce conducted on the land where the sign is located, or products primarily sold, manufactured, processed or fabricated on such land.

- (c) Community Special Event Sign: A portable sign which is erected for a limited time to call attention to special events of interest to the general public which are sponsored by governmental agencies, schools or other groups which are non-profit and whose purpose is charitable, philanthropic, religious or benevolence.
- (d) Construction Sign: A sign which identifies the owners, financiers, contractors, architects, and engineers of a project under construction.
- (e) Non-Commercial Sign - A sign either portable or non-portable not advertising commerce, trade, or location and not otherwise defined herein. A political sign is a non-commercial sign.
- (f) Off-premise Sign: A sign which advertises an establishment, product, service or activity not available or not conducted on the lot on which the sign is located. These signs include, but are not limited to, those signs and sign structures which are defined and regulated by the Michigan Department of Transportation pursuant to the Highway Advertising Act of 1972, Public Act 106 of 1972, as amended (MCL 252.301, et. seq.)."
- (g) Portable Sign: A sign that is not permanent or affixed to a building or structure and by its nature may be or is intended to be moved from one location to another such as □ frame signs or signs on moveable trailers whether rented or owned, devices such as banners, pennants, flags (not including flags of state or organizational flags when displayed in the manner prescribed by law), search lights, twirling or sandwich type signs, sidewalk or curb signs, and balloons or other air or gas filled figures.
- (h) Real Estate Sign: A temporary sign advertising the real estate upon which the sign is located as being for sale, rent, or lease.
- (i) Residential Subdivision Sign: A sign identifying or recognizing a platted subdivision, site condominium, multi-family or other residential development.
- (j) Sign: A device, structure, fixture, or placard which may or may not use graphics, symbols, and/or written copy designed specifically for the purpose of advertising or identifying an establishment, product, service, or activity or otherwise intended or used to advise or inform.
- (k) Wall Sign: A sign painted or attached directly to and parallel to the exterior wall of a building extending no greater than 12 inches from the exterior face of a wall to which it is attached.

### **SECTION 22.03 SIGNS EXEMPTED**

The following signs shall be exempted from the provisions of this Ordinance except for the regulations of Section 22.05.

- (a) Official traffic signs erected by a government agency.

- (b) Government signs two square feet or less.
- (c) Non-commercial signs two square feet or less.
- (d) Window signs.
- (e) Memorial signs.
- (f) Murals of a non-commercial nature.
- (g) Signs not visible from any street.
- (h) Signs for essential services which are two square feet or less.
- (i) Placards.
- (j) Community service group or agency signs two square feet or less.
- (k) Nameplates two square feet or less.
- (l) Newspaper box signs.
- (m) Farm identification signs.
- (n) Incidental signs two square feet or less.
- (o) Flags or insignia of any nation, State, township, community organization or educational institution or flags of a non-commercial nature.

#### **SECTION 22.04 SIGN PERMITS AND APPLICATION**

- (a) Permits Required. A sign permit shall be required for the erection, use or construction of all signs which exceed 32 square feet.
- (b) Application. An application for a sign permit shall be made to the Township Zoning Administrator along with a fee as required by Township Board resolution. The application, at a minimum, shall include the following:
  - (1) Name, address, and telephone number of applicant and the person, firm or corporation erecting the sign.
  - (2) Address or permanent parcel number of the property where the sign will be located.
  - (3) A sketch showing the location of the building, structure, or lot upon which the sign is to be attached or erected, and showing the proposed sign in relation to buildings and structures along with setback from lot lines.

- (4) Two blueprints or drawings of the plans and specifications, method of construction and attachment to structures or ground, stress sheets and calculations showing that the structure is designed for dead load and wind pressure in any direction of not less than 30 pounds per square foot of area as certified by a registered engineer.
  - (5) Any required electrical permit shall be attached to the application.
  - (6) The zoning district in which the sign is to be located.
  - (7) Any other information which the Building Inspector/Zoning Administrator may require in order to demonstrate compliance with this Ordinance.
  - (8) Signature of applicant or person firm or corporation erecting the sign.
- (c) Electrical Signs. All signs requiring electrical service shall be reviewed for compliance with the National Electrical Code as administered by the State of Michigan. Approval of electrical signs shall be noted on or attached to the sign permit.
- (d) Issuance of Sign Permit. The Zoning Administrator shall issue a sign permit if all provisions of this Ordinance and other applicable Township ordinances are met. A sign authorized by a permit shall be installed or under construction within one year of the date of issuance of the sign permit or the permit shall expire. A new permit may be issued upon filing of a new application and fee.

#### **SECTION 22.05 DESIGN, CONSTRUCTION AND LOCATION STANDARDS**

- (a) All signs shall be properly maintained and shall not be allowed to become unsightly through disrepair or as a result of the weather.
- (b) Sign supports, braces, guys and anchors shall be maintained in such a manner as not to cause a hazard.
- (c) Signs shall be constructed to withstand all wind and vibration forces normally expected to occur in the vicinity.
- (d) Signs, may be internally or externally illuminated. The source of the light shall be enclosed and directed to prevent the source of light from shining directly onto traffic or residential property.
- (e) Signs shall not be placed in, upon or over any public right-of-way, or alley, except as may be otherwise permitted by the Manistee County Road Commission or Michigan Department of Transportation.
- (f) A light pole, or other support structure not specifically designed as sign support structure, may not be used for the placement of any sign unless specifically approved for such use.

- (g) A sign shall not be erected where by reason of its position, shape, color, or other characteristics, interfere with, obstruct or be confused with an official traffic sign, signal, or device.
- (h) A sign shall not contain flashing lights or moving parts except for automatic changeable copy signs or barber pole signs.
- (i) A wall sign shall not extend beyond the edge of the wall to which it is affixed or extend above the roof line of a building.
- (j) A sign and its supporting mechanism shall not extend beyond the lot lines of the property on which it is located.

### **SECTION 22.06 SIGN REGULATIONS APPLICABLE TO ALL DISTRICTS**

The following sign regulations are applicable to all zoning districts.

- (a) All signs shall be stationary and shall pertain only to the business or activity conducted on the premises except for off-premise, non-commercial signs, community special event signs and signs advertising farm products or operations as permitted herein.
- (b) Any pole sign, including awnings to which signs are affixed or displayed shall maintain a minimum clear space of eight feet from the bottom of the sign to the ground.
- (c) Real estate signs are permitted in any Zoning District. Such signs shall not exceed 32 square feet.
- (d) Community special event signs, including banner signs, are permitted in any District, subject to the following restrictions:
  - (1) Such signs may be located either on or off the lot on which the special event is held.
  - (2) Such signs shall have a maximum size of 32 square feet in area, and a maximum height above ground level of eight feet.
  - (3) Such signs shall be removed within seven days of the conclusion of the special event which is being advertised.
- (e) On-Site Directional signs are permitted in any District subject to the following restrictions:
  - (1) Such sign shall not exceed four square feet in area and three feet in height, and shall be setback at least five feet from any lot line.
  - (2) Directional signs shall be limited to traffic control functions only.

- (g) Non-commercial signs are permitted in all zoning districts subject to the following restrictions:
- (1) Such signs shall be subject to the regulations for signs contained in Section 22.05 herein.
  - (2) Non-commercial signs shall not exceed 32 square feet in size. More than one such sign is allowed per parcel.
  - (3) Non-commercial signs may remain until such signs are in disrepair and are deemed to no longer comply with Section 22.05 of this Ordinance except that if such sign pertains to an election, it shall be removed within seven days after such election.

#### **SECTION 22.07 NONCONFORMING SIGNS, ILLEGAL SIGNS, AND SIGNS ACCESSORY TO NONCONFORMING USES**

- (a) Every legal permanent sign which does not conform to the height, size, area or location requirements of this Chapter as of the date of the adoption of this Ordinance, is hereby deemed to be nonconforming.
- (b) Nonconforming signs may be maintained and repaired so as to continue the useful life of the sign but may not be expanded, enlarged, or extended.
- (c) A nonconforming sign may be diminished in size or dimension or the copy of the sign amended or changed without jeopardizing the privilege of nonconforming use.
- (d) A sign accessory to a nonconforming use may be erected in the Township in accordance with the sign regulations for the District in which the property is located.

#### **SECTION 22.08 MEASUREMENT OF SIGNS**

- (a) Unless otherwise specified within this ordinance for a particular type of sign, the area of a sign shall be measured as the area within a single, continuous perimeter composed of any straight line geometric figure which encloses the extreme limits of writing, representation, emblem, logo, or any other figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed, excluding only the structure necessary to support the sign.
- (b) The area of a freestanding or projecting sign that has two or more faces shall be measured by including the area of all sign faces, except if two such faces are placed back-to-back and are of equal size, and are no more than two feet apart at any point the area of the two back-to-back faces shall be counted as one face.

If the two back-to-back faces are of unequal size, the larger of the two sign faces shall be counted as the one face.

- c) The height of a sign shall be measured as the vertical distance from the highest point of the sign to the grade of the adjacent street or the average grade of the ground immediately beneath the sign, whichever is less except for billboards as specified herein.
- d) See end of chapter for illustrations of sign measurement.

### **SECTION 22.09 A, RA & RESIDENTIAL DISTRICTS**

The following signs are permitted in the A-Agricultural, RA Rural Agricultural, R-1, RC, PA, SP, R-2, and R-3 Districts:

- (a) **Wall Sign** - For permitted uses other than dwellings, one sign per street frontage is permitted. The sign shall be placed on that side of the building which directly faces the street. Each sign shall not exceed 100 square feet.
- (b) **Ground Sign** - For permitted uses other than dwellings.
  - (1) One per parcel not to exceed 32 square feet in area.
  - (2) The height of a ground sign shall not exceed six feet above grade.
  - (3) Ground signs shall be setback a minimum of 25 feet from the side lot lines.

### **SECTION 22.10 COMMERCIAL, COMMERCIAL OVERLAY AND INDUSTRIAL DISTRICTS**

The following signs are permitted in the C, CO and I Districts:

#### (a) **Wall Signs**

Each commercial establishment or business shall be permitted to have one wall sign. For each commercial establishment on a corner lot, one wall sign per public or private street frontage is permitted. Each commercial establishment shall have no more than one sign per wall. Wall signs shall not exceed 100 square feet in area for each sign.

#### (b) **Free Standing Sign** - One ground sign or pole sign per lot subject to the following regulations:

- (1) **Pole Sign** - A sign no more than 32 square feet shall be permitted for each lot and shall also be subject to the following:
  - (a) For those lots with more than one commercial establishment, the size of the pole sign may be increased to no more than 50 square feet.

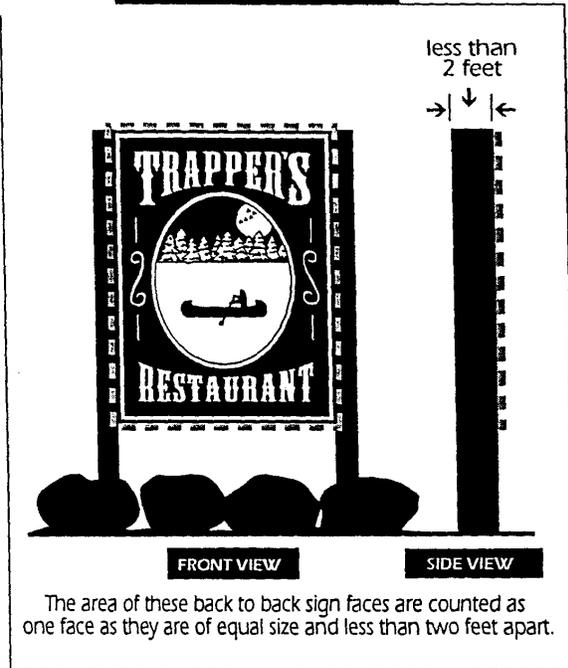
- (b) Pole signs shall not exceed 25 feet in height and shall have a minimum height between the bottom of the sign and the ground of eight feet.
- (2) **Ground Signs** - One sign of no more than 32 square feet shall be permitted for each lot and shall also be subject to the following:
  - (a) For those lots with more than one commercial establishment, the size of the ground sign may be increased to no more than 50 square feet.
  - (b) The height of a ground sign shall not exceed six feet above ground.
  - (c) Ground signs shall be setback a minimum of 25 feet from side lot lines.
- (c) **Industrial Park Identification Sign**- One sign may be erected at each industrial park entrance in accordance with the requirements for ground signs to identify the park and the industries within.
- (d) **Portable Signs**- Only one portable sign shall be permitted on a parcel at any one time for a period not to exceed a total of 120 days in any calendar year. A portable sign shall not exceed 32 square feet in area and shall be back lit only and not have any flashing, colored or glaring lights.

Such signs shall be placed outside of the public right-of-way and shall not hamper the visibility of a driver on or off the site. The Zoning Administrator shall be notified prior to placing a portable sign on any parcel.

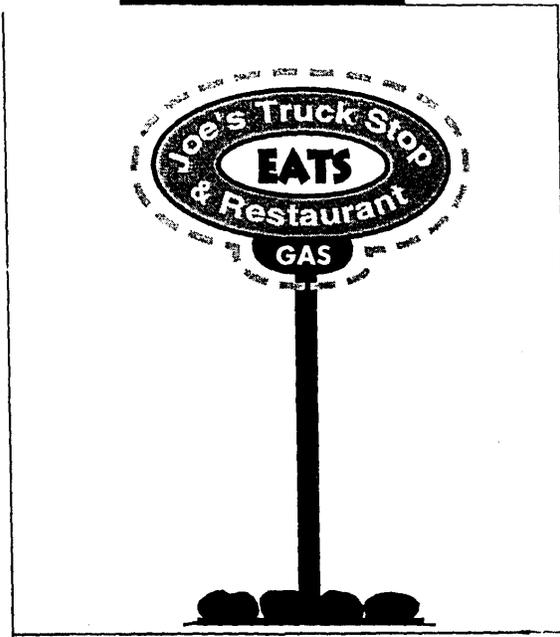
#### **SECTION 22.11 OFF PREMISE SIGNS**

- (a) One off premise sign is allowed per parcel.
- (b) Such signs shall not exceed 32 square feet in size and may be permanent or portable.
- (c) Such signs shall be subject to the regulations of the Zoning District in which it is located as well as the regulations for portable signs herein and the regulations of Section 22.05 herein.

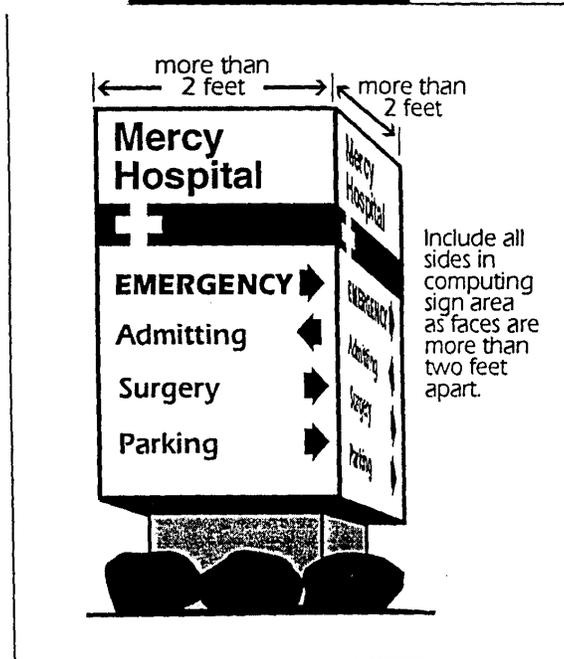
**Sign Measurement**



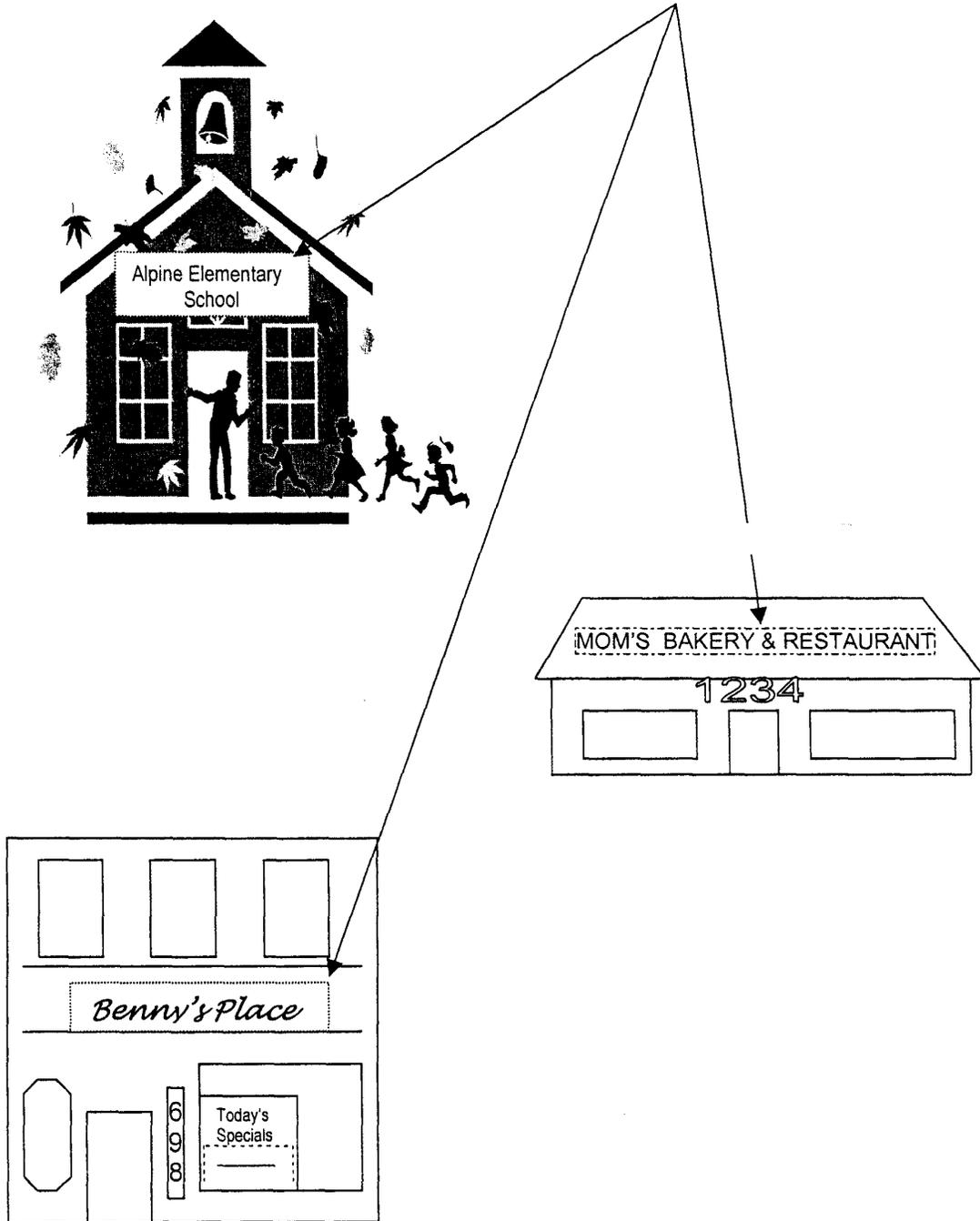
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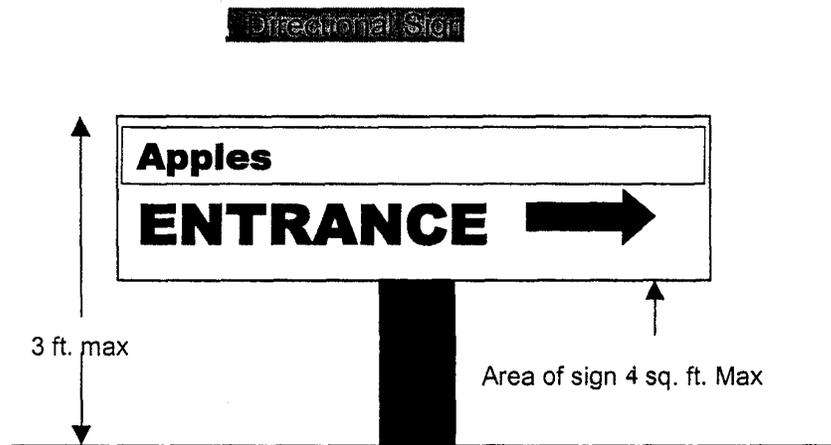
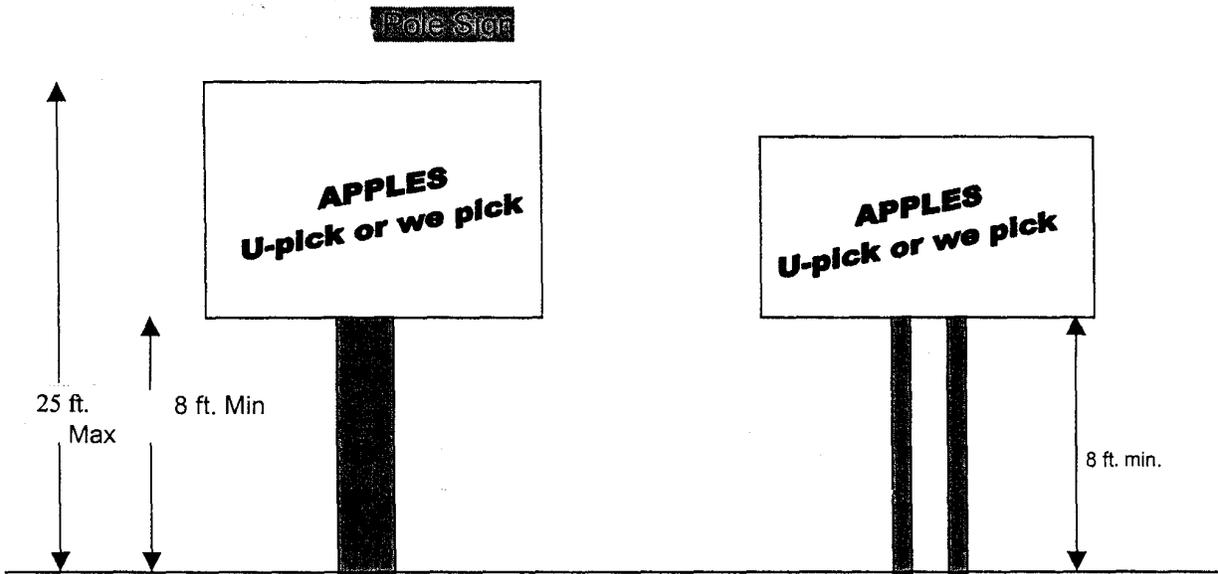


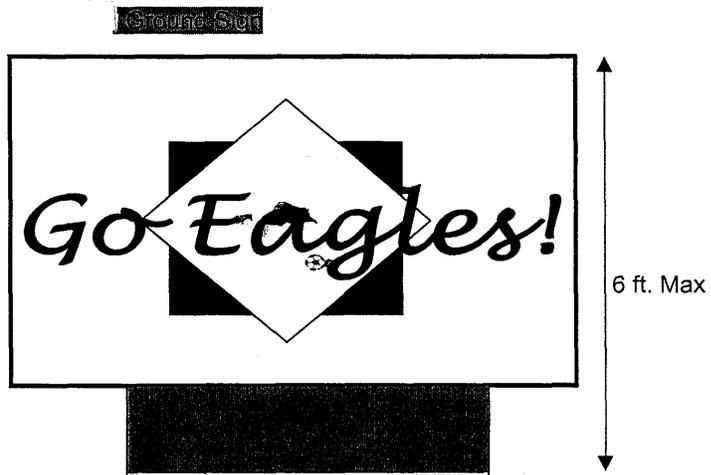
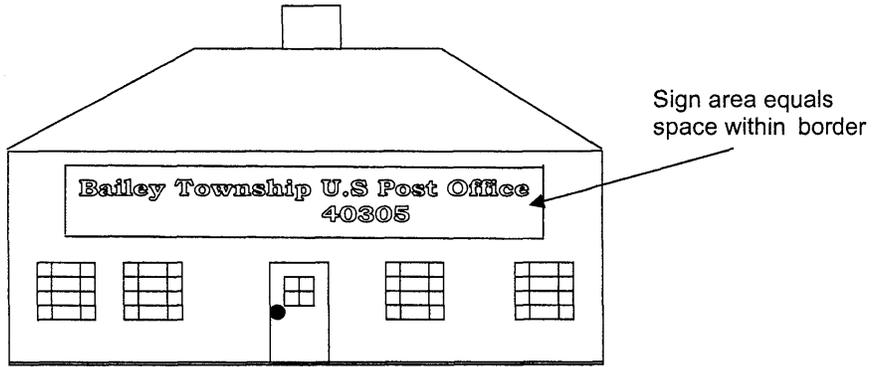
**Sign Measurement**



Sign area equals space within dotted lines







<p style="text-align: center;"><b>CHAPTER 23</b></p> <p style="text-align: center;"><b>OFF STREET PARKING</b></p>
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**SECTION 23.01 PURPOSE**

The purpose of this chapter is to prescribe regulations for off-street parking of motor vehicles in residential and nonresidential zoning districts, to ensure by the provision of these regulations that adequate parking and access is provided in a safe and convenient manner, and to afford reasonable protection to adjacent land uses from light, noise, air pollution, and other affects of parking areas.

**SECTION 23.02 SCOPE**

- a) At the time any building or structure is erected, enlarged, or increased in capacity, or uses established, off-street parking and loading spaces shall be provided in all zoning districts according to the requirements of this Article.
- b) No parking or loading area or space which exists at the time of the adoption of this Chapter shall thereafter be relinquished or reduced in any manner below the requirements established by this Article.
- c) Parking areas must be in the same zoning classification as the property it serves.

**SECTION 23.03 LOCATION OF PARKING AREAS**

- a) For all residential uses, the number of parking spaces required by this Chapter shall be located on the same lot or parcel as the dwelling units served.
- b) For all other uses, the number of parking spaces required by this Chapter shall be located on the same lot, or contiguous lots under the same ownership, within 300 feet of the building it is intended to serve, measured from the building to the nearest parking space.

Parking on lots under different ownership within 300 feet of the building it is intended to serve shall also be permitted if such arrangement does not result in a parking deficiency for the other use, and a legal agreement specifying the terms for the parking arrangement, signed by all involved parties is provided.

**SECTION 23.04 GENERAL REQUIREMENTS**

- a) Units of Measurement
  - 1) For requirements stated in terms of employees, the calculation shall be based upon the maximum number of employees likely to be on the premises during the largest shift.

- 2) When units of measurement determining the number of required parking spaces result in a requirement of a fractional space, that fraction shall be counted as a full parking space.
- b) Shared Parking and Mixed Occupancy
- 1) In the case of mixed uses in the same building or on the same lot or parcel, the total requirements for off-street parking and loading shall be the sum of the requirements for the individual uses computed separately.
  - 2) Joint or collective provision of off-street parking areas for buildings or uses on two or more properties shall not be less than the sum of the requirements for the participating individual uses computed separately except that the Planning Commission may approve a lesser parking requirement for such uses if evidence of a signed agreement between the owners of both properties agreeing to such joint use is provided to the Planning Commission.
- c) Parking Requirements for Uses Not Listed

The minimum parking space requirements for all uses shall be as listed in Section 23.07. For uses not specifically listed in Section 23.07, the Zoning Administrator may establish the parking requirement by making the determination that the proposed use is similar in parking requirements to a use which is listed in Section 23.07.

### **SECTION 23.05 DESIGN, LOCATION, AND CONSTRUCTION REQUIREMENTS**

The following regulations shall apply to all uses except one and two family dwellings and farm uses.

a) Parking Lot Surface and Drainage

Parking lot surfaces shall be surfaced with 22a compacted gravel or equivalent and shall be graded and drained to dispose of all surface water and prevent drainage onto abutting properties.

b) Lighting

Lighting fixtures used to illuminate off-street parking areas shall be equipped with cut-off fixtures and arranged as to direct light downward away from any adjoining properties or streets and highways. Lighting fixtures in required parking facilities for commercial or industrial districts or non-residential uses within 150 feet of a Residential Zoning District or an area recommended for such use in the Township Master Plan shall not exceed 23 feet in height. All other fixtures shall not exceed 35 feet in height. Light fixtures shall be designed to achieve total luminary cutoff.

## c) Greenbelts

Where off-street parking areas for non-residential uses abut or are across the street from property which is zoned or planned for residential use property, a greenbelt not less than 10 feet wide shall be provided adjacent to the parking area. The greenbelt shall be landscaped according to the landscape requirements of this Ordinance.

## d) Driveways

Driveways serving off-street parking areas shall be at least 20 feet from any residentially zoned property.

**SECTION 23.06 SIZE OF PARKING SPACE AND AISLE**

Off-street parking spaces and aisles for various parking angles shall be designed and constructed in accordance with the minimum standards provided in Table 23-1.

**TABLE 23-1  
MINIMUM STANDARDS FOR SIZE OF PARKING AISLES AND DRIVEWAYS**

Parking Angle	Maneuvering Aisle Width		Parking Stall Width	Parking Stall Length	Total Width of 2 Stalls of Parking Plus Maneuvering Aisle	
	One Way	Two Way			One Way	Two Way
0° parallel	12 feet	22 feet	8.5 feet	22 feet	29 feet	39 feet
Up to 53°	13 feet	22 feet	9.0 feet	18 feet	49 feet	58 feet
54° to 74°	23 feet	22 feet	9.0 feet	18 feet	52 feet	58 feet
75° to 90°	12 feet	24 feet	9.0 feet	18 feet	48 feet	60 feet

**SECTION 23.07 SCHEDULE OF OFF-STREET PARKING REQUIREMENTS**

Each use shall provide spaces in conformance with the following schedule of requirements:

<b>Use</b>	<b>Number of Motor Vehicle Parking Spaces Required per Unit of Measure</b>
<b>a) Residential</b>	
1) Single family, two family, or multiple family with three or more bedrooms.	Two for each dwelling unit.
2) Multiple family with one or two bedrooms.	Two for each two bedroom dwelling unit and 1.5 for each one bedroom dwelling unit.

3) Efficiencies	One for each dwelling unit.
4) Mobile Home Parks	Two for each mobile home or mobile home site.
5) Elderly housing or retirement communities.	For independent living units, one for each unit. For “interim” or “intermediate care” units, one for each two beds, plus one per employee. Should the units revert to another use, then the required parking shall be re-determined based on the new use.
6) Bed and breakfast, boarding houses.	One for each guest room plus two for the dwelling unit.
<b>b) Institutional/Public Assembly</b>	
1) Churches, temples, mosques, synagogues, or similar types of facilities.	One space per each four seats in the worship room.
2) Hospitals.	One for each two beds plus one for each staff doctor, plus one for each two employees other than doctors.
3) Outpatient care stations.	Two spaces per exam room/station or procedure/operating room, plus one space per laboratory or recovery room plus one per employee.
4) Child Care Centers.	One space for every eight children of licensed capacity, plus one space for each employee. A minimum of three employee spaces shall be required.
5) Elementary, junior high, middle schools.	Two spaces per classroom, plus one and space for each three seats of maximum seating capacity for that indoor place of assembly having the greatest seating capacity.

6) High schools.	Eight spaces per classroom, or one space per each four seats of maximum seating capacity for that indoor place of assembly having the greatest capacity, whichever is greater.
7) Private club and lodges.	One space per 2.5 persons allowed within the maximum occupancy load as established by the appropriate fire, health, or building code.
8) Auditoriums (non-school), stadiums, and sports arenas.	One space per each three seats.
9) Conference rooms, exhibit halls, halls, ballrooms, civic clubs, or similar places of assembly without fixed seats whether public or private.	One space per each four persons allowed within the banquet maximum occupancy load as determined by the Township building or fire codes.
10) Libraries, museums, and non-commercial art galleries.	One parking space per 400 square feet of gross floor area.
<b>c) Offices</b>	
1) Medical/dental clinics or offices.	Four spaces per 1,000 square feet of gross floor area. A minimum of six spaces shall be required.
2) General office buildings.	One space per 300 square feet of gross floor area. A minimum of four spaces shall be required.
3) Banks, credit unions, or savings and loans.	Six spaces per 1,000 square feet of gross floor area, plus two spaces per each non-drive-through automatic teller plus four on-site waiting spaces for each drive up window or drive through automatic teller.
<b>d) Retail and Service Uses</b>	

1) Retail shopping centers, discount stores, and department stores.	Four spaces per 1,000 square feet of stores, and usable floor area.
2) Other retail uses not otherwise specified herein.	One space per 200 square feet of usable floor area plus one per employee.
3) Supermarkets and grocery stores.	One space per 200 square feet of usable floor area.
4) Personal service establishments not otherwise provided herein.	One space per each 300 square feet of usable floor area plus one per employee.
5) Appliance stores.	Four spaces per 1,000 square feet of gross floor area. A minimum of six spaces shall be required.
6) Automobile service stations.	Two parking spaces per each service bay, plus one per each per each employee, plus one per each 200 square feet of retail area. A service bay and the area on each side of a gas pump may count as a parking space.
7) Automobile wash establishments (automatic).	One parking space per each employee, plus fifteen on-site waiting spaces at each wash-bay entrance, plus two drying spaces at the exit.
8) Automobile wash establishments (self-service).	One parking space per each employee, plus three on-site waiting spaces at each wash-bay entrance.
9) Barber shops, beauty salons.	Two for each barber or beauty operator chair/station plus one for every two employees.
10) Building supply store, home improvement store, paint and hardware store containing up to 25,000 square feet of gross floor area.	One space per 200 square feet of usable floor area plus one for each employee.
11) Building supply store, home	Three and one-half spaces per 1,000

improvement store, paint and hardware store with more than 25,000 square feet of gross floor area.	square feet of usable floor area plus one for each employee.
12) Convenience stores.	Four spaces per 1,000 square feet of gross floor area. A minimum of six spaces shall be required.
13) Dry cleaners.	Two spaces per 1,000 square feet of gross floor area. A minimum of four spaces shall be required.
14) Funeral homes and mortuaries.	One space per 50 square feet of parlor and chapel areas.
15) Furniture, carpet, and home furnishing stores.	One space per 800 square feet of usable floor area.
16) Hotel, motel, or other commercial lodging establishment.	One space for each guest room, plus one for each two employees, plus amount required for accessory uses provided at the rate of fifty percent of the requirements for such uses as specified herein.
17) Laundromats.	One space per each three washing machines.
18) Mini-storage houses/warehouses.	Six spaces.
19) Motor vehicle dealerships.	One space per 5,000 square feet of outdoor sales area, plus one space per sales desk/office, plus three spaces per service bay. A minimum of six spaces shall be required.
20) Quick oil change establishments.	Two spaces per bay plus one per each employee.
21) Recreational vehicle and boat dealerships.	One space per 800 square feet of gross floor area, plus two spaces per each vehicle service bay. A minimum of six

	spaces shall be required.
22) Restaurants that serve non-fast food and have no drive-through window.	Twelve spaces per 1,000 square feet of gross floor area, or 0.4 spaces per seat, whichever is greater.
23) Restaurants that serve mostly take out, with six or less booths or tables.	Six spaces plus one for each employee.
24) Restaurants that serve fast food and have no drive through window.	Seven spaces per 1,000 square feet of gross floor area.
25) Restaurants that serve fast food and have a drive through window and indoor seating.	Fifteen spaces per 1,000 square feet of gross floor area, plus three designated drive through, short term waiting spaces plus 10 on site waiting spaces.
26) Restaurants that serve fast food and have a drive through window, but no indoor seating.	Fifteen spaces.
27) Video rental stores.	One space per each 100 square feet of gross floor area plus one per each employee.
28) Service companies doing repair.	Two spaces per 1,000 square feet of electrical and plumbing work gross floor area. A minimum of five spaces shall be required.
<b>e) Recreational Entertainment</b>	
1) Arcades.	One space for every 70 square feet of gross floor area. A minimum of six spaces shall be required.
2) Batting cage facilities.	Three spaces per cage.
3) Bowling centers.	Five spaces per bowling lane plus 50 percent of the spaces otherwise required

	for accessory uses such as restaurants, bars, banquet facilities, etc.
4) Golf driving ranges.	One and one-half spaces per tee.
5) Golf courses, miniature.	One and one-half spaces per each hole.
6) Golf courses, par-three.	Three spaces per hole.
7) Golf courses.	Five spaces per hole.
8) Health fitness centers.	Five spaces per 1,000 square feet of gross floor area.
9) Movie theaters.	One space per each four seats, plus four spaces per screen.
10) Racquetball and tennis centers.	Five spaces per 1,000 square feet of gross floor area or six spaces per court, whichever is greater.
11) Public recreation centers.	Five spaces per 1,000 square feet of gross floor area.
12) Roller/ice skating rink.	Six spaces per 1,000 square feet of gross floor area.
<b>f) Industrial Uses</b>	
1) Manufacturing, light industrial, and research establishment.	One and one-half parking spaces per 1,000 square feet of gross floor area.
2) Wholesale, warehouses, or distribution facilities, and trucking terminals.	One parking space per each 1,500 square feet of gross floor area or one per employee whichever is greater.

### g) Deferred Parking Construction

In order to avoid excessive amounts of impervious surface, the Planning Commission may approve a development which provides less than the minimum number of parking spaces required herein if the applicant provides evidence to the Planning Commission that the parking proposed on the site for the use is sufficient to meet the parking needs of those who will patronize the use as well as the parking needs for employees during the largest working shift.

Such evidence may consist of: arrangements for nearby shared parking; evidence that the proposed use will also be patronized by; evidence from the parking history of the proposed use or a use similar to the proposed use at other locations or; that there is sufficient space on the site for the required parking to be provided if it becomes necessary at a later time.

### **SECTION 23.08 BARRIER FREE PARKING AND DESIGN REQUIREMENTS**

- a) Barrier free parking shall be provided as follows:

<u>Total Parking in Lot</u>	<u>Minimum Number of Accessible Spaces Required</u>
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	8
301 to 400	12

- b) Requirements for barrier free parking spaces, curb, ramps, and signs shall be as required by the Township Building Code and the Michigan Barrier Free Rules.

### **SECTION 23.09 OFF-STREET LOADING REQUIREMENTS**

- a) Off-street loading spaces shall be provided in size and quantity sufficient to prevent interference with adjacent streets or required off-street parking areas.
- b) Required loading spaces shall not be included in the count of off-street parking spaces.
- c) Loading spaces shall not use any portion of any public right-of-way.
- d) Maneuvering space for trucks using the loading spaces shall be provided on-premise, and shall not necessitate the use of public right-of-way.
- e) The design, location, and screening of off-street loading areas shall be reviewed at the time of site-plan approval to ensure adequate protection is afforded adjacent properties, especially residential districts.
- f) Off-street loading spaces shall be no closer than 50 feet to any Residential District unless such space is wholly within a completely enclosed building or enclosed on all sides by a wall or a uniformly painted solid board or masonry fence of uniform appearance not less than six feet in height.

<p style="text-align: center;"><b>CHAPTER 24</b></p> <p style="text-align: center;"><b>ZONING BOARD OF APPEALS</b></p>
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**SECTION 24.01 CREATION, MEMBERSHIP, AND TERM OF OFFICE**

There is hereby created and/or continued a Township Zoning Board of Appeals (ZBA) of three members, appointed by the Township Board. The first member of the ZBA shall be a member of the Planning Commission. One member of the ZBA may be a member of the Township Board. The remaining member(s) of the ZBA shall be selected from the electors/residents of the Township. The members of the ZBA shall be representative of the population distribution and of the various interests present in the Township. An employee or contractor of the Township Board shall not serve as a member of the ZBA. A member of the Township Board shall not serve as chairman of the ZBA.

The term of each member of the ZBA shall be for three years, except for members serving because of their membership on the Planning Commission or Township Board, whose terms shall be limited to any such lesser time they are members of those bodies. A successor shall be appointed not more than one month after the term of the preceding member has expired. Vacancies for unexpired terms shall be filled for the remainder of the term.

**SECTION 24.02 RULES OF PROCEDURE**

The Zoning Board of Appeals may adopt those rules of procedure it deems necessary to assist it in the performance of its duties.

**SECTION 24.03 POWERS AND DUTIES**

- (a) The Zoning Board of Appeals shall act upon all questions as they arise in the administration of this Ordinance, unless otherwise specified herein, including the interpretation of zoning maps. It shall hear and decide appeals from and review any order, requirement, decision, or determination made by an administrative official charged with the enforcement of this Ordinance.
- (b) It shall also hear and decide all matters referred to it or upon which it is required to pass under the terms of this Ordinance. An appeal may be taken by any person aggrieved, or may be taken by any officer, department, board, or bureau of the Township, county, or state. The grounds for every such determination of the Zoning Board of Appeals shall be stated as a public record.
- (c) The Zoning Board of Appeals shall have no jurisdiction or authority over or with regard to any aspect or part of an application for approval for a special land use or planned unit development, and shall have no jurisdiction or authority to hear an appeal from any aspect or part of a determination or decision made with regard to a special land use or planned unit development.

- (d) The Zoning Board of Appeals shall not grant a variance to permit a use in any District in which such use is otherwise not permitted by this Ordinance.
- (e) Subject to applicable provisions of law and this Ordinance, the ZBA shall have jurisdiction to hear requests for a nonuse variance relating to the construction, structural changes, or alteration of buildings or structures related to dimensional requirements of the Zoning Ordinance, or to any other nonuse-related requirement in this Ordinance, if there are practical difficulties in the way of carrying out the strict letter of the Zoning Ordinance, so that the spirit of this Ordinance is observed, public safety secured, and substantial justice done.
- (f) The Zoning Board of Appeals shall classify a use which is not specifically mentioned as part of the use regulations of any zoning district so that it conforms to a comparable permitted or prohibited use, in accordance with the purpose and intent of each district.

#### **SECTION 24.04 VARIANCES**

If an applicant seeks a variance from the provisions or requirements of this Ordinance the applicant must demonstrate, and the Board must make findings based upon competent, material and substantial evidence on the whole record that all of the following exist:

- (a) That compliance with the strict letter of the restrictions governing area, set backs, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.
- (b) That special conditions or circumstances exist which are peculiar to the land, structures or buildings involved and which are not applicable to other lands, structures or buildings in the same zoning district.
- (c) That the special conditions or circumstances do not result from the actions of the applicant.
- (d) That the authorizing of such variance will not be of substantial detriment to the neighboring properties and will not be contrary to the spirit and purpose of this Ordinance.
- (e) No nonconforming use of nearby lands, structures, or buildings shall in itself be considered grounds for the issuance of a variance.
- (f) That a lesser variance than that applied for would not give substantial relief to the owner of the property involved and would not be more consistent with justice to other property owners.

- (g) That specific conditions relating to the property are not so general or recurrent in nature as to make the formulation of a general regulation for such conditions reasonably practical.
- (h) The variance relates only to property that is under control of the applicant and the lot or parcel is a legal lot or parcel of record or has been legally established.

#### **SECTION 24.05 MEETINGS and RECORDS**

Meetings of the Zoning Board of Appeals shall be held at the call of the Chairperson and at such other times as the Board in rules of procedure may specify. All meetings of the Zoning Board of Appeals shall be open to the public. The Board shall maintain a record of its proceedings which shall be filed in the office of the Township Clerk and shall be a public record.

#### **SECTION 24.06 PROCEDURE**

- (a) The presence of two members shall constitute a quorum. The Board shall not conduct business unless a quorum is present. The concurring vote of a majority of the members shall be necessary to reverse any order, requirement, decision, or determination of any administrative official or to decide on any matter upon which it is required to pass under this Ordinance or to effect any variation in said Ordinance. A member shall disqualify himself or herself from a vote in which there is a conflict of interest. Failure of a member to disqualify him or herself from a vote in which there is a conflict of interest shall constitute misconduct in office.
- (b) Applications to the Board of Appeals shall be filed with the Township Clerk or an agent of the Clerk. Each appeal or application for variance shall be accompanied by a filing fee to be determined by resolution of the Township Board.
- (c) Upon the filing of any appeal or other matter over which the Zoning Board of Appeals has jurisdiction, the Zoning Board of Appeals shall hold a public hearing on such matter preceded by notice as required by applicable laws.
- (d) At the hearing, any party may be heard in person or by agent.
- (e) The Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination as in its opinion ought to be made in the premises and to that end shall have all the powers of the officer from whom the appeal was taken and may issue or direct the issuance of a permit.

#### **SECTION 24.07 IMPOSITION OF CONDITIONS**

The Board of Appeals may impose conditions with an affirmative decision. Conditions may include those necessary to: ensure that public services and facilities will be capable of accommodating increased service and facility loads caused by the proposed

land use or activity; protect the natural environment and conserve natural resources and energy; ensure compatibility with adjacent uses of land; promote the use of land in a socially and economically desirable manner; and be necessary to meet the intent and purpose of the zoning ordinance; be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.

#### **SECTION 24.08 STAY OF PROCEEDINGS**

An appeal to the Zoning Board of Appeals stays all proceedings in furtherance of the action appealed from unless the body or officer from whom the appeal is taken certifies to the ZBA after the notice of appeal is filed that by reason of facts stated in the certificate a stay would in the opinion of the body or officer cause imminent peril to life or property in which case proceedings may be stayed by a restraining order issued by the ZBA or a circuit court.

#### **SECTION 24.09 DECISIONS OF THE BOARD**

The Board of Appeals shall decide all applications and appeals within 30 days after the final hearing thereon. A copy of the decision shall be transmitted to the applicant or appellant and to the Zoning Administrator. Such decision shall be binding upon the Zoning Administrator and the terms and conditions of the same shall be incorporated in the permit to the applicant or appellant whenever a permit is authorized by the Board of Appeals.

The decision of the Zoning Board of Appeals rendered pursuant shall be final. However, a person having an interest affected by the zoning ordinance may appeal to the Circuit Court as provided by law.

No application for a variance which has been denied wholly or in part by the Board shall be resubmitted for a period of one year from the date of the last denial, except on the grounds of newly discovered evidence or proof of changed conditions found upon inspection by the Board to be valid.

#### **SECTION 24.10 TIME LIMITATIONS ON VARIANCES**

Any variance granted by the Board shall not be valid after a period of 12 months from the date granted unless the owner shall have taken substantial steps, as determined by the Board, in implementing the variance granted by the Board, provided that the owner, upon application filed prior to the expiration of the variance, may obtain an extension of the variance for an additional period of 12 months upon showing that the expiration of the variance will cause an undue hardship to the owner.

## **SECTION 24.11 ALTERNATE MEMBERS**

As provided by law, the Township Board may appoint two alternate members to the Zoning Board of Appeals. Whenever a regular member is not available or will abstain from participating by reason of conflict of interest and is replaced by an alternate member, the regular member shall not be included for purposes of determining a quorum or majority of the members of the Board, but the alternate member shall be included.

Whenever an alternate member is called to serve because a regular member will abstain by reason of conflict of interest, the alternate member shall serve only to hear and decide the matter within which the conflict of interest arises, and shall not hear or decide any other matters, unless authorized to hear such other matters upon any of the other grounds stated in this section.

**CHAPTER 25**  
**NONCONFORMING USES,**  
**NONCONFORMING**  
**BUILDINGS/STRUCTURES,**  
**AND NONCONFORMING LOTS**

### **SECTION 25.01 SCOPE OF REGULATIONS**

This chapter establishes the rules governing the continuation, repair, maintenance, reconstruction, restoration, expansion, extension, enlargement, alteration, substitution, reestablishment, and discontinuation of lawfully established nonconforming uses and buildings and structures, and the use of nonconforming lots. See Section 2.02 for the definitions of “nonconforming use”, “nonconforming building or structure”, and “nonconforming lot of record”. Nothing herein shall be interpreted as authorization for or approval of the initiation, continuance or reestablishment of a use, building/structure or lot that is not legal under federal or state law.

### **SECTION 25.02 CONTINUATION OF NONCONFORMING USES, NONCONFORMING BUILDINGS/STRUCTURES, AND NONCONFORMING LOTS; EVENTUAL TERMINATION**

1. Subject to the provisions of this chapter, a use, building/structure, or lot, which is existing and lawful on the effective date of this Ordinance, or in the case of an amendment of this Ordinance (text or map) then on the effective date of such amendment, may be continued even though such use, building/structure, or lot does not conform with the provisions of this Ordinance or applicable amendment thereof.
2. A change in the ownership, tenancy or occupancy of a nonconforming use, a nonconforming building/structure, or a nonconforming lot does not affect the right to continue such use, building/structure, or lot pursuant to this chapter.
3. If a nonconforming building/structure is moved for any reason the right to continue such building/structure as a nonconforming building/structure is lost, and such building/structure shall conform to the regulations for the zoning district in which it is located after being moved.
4. As a matter of policy of the State of Michigan, and of Arcadia Township, all nonconforming uses and nonconforming buildings/structures are intended to eventually terminate, to facilitate the use of property and the development of buildings/structures thereon that fully conform to the requirements of this Ordinance.

**SECTION 25.03 REPAIR AND MAINTENANCE OF NONCONFORMING USE OR NONCONFORMING BUILDING/STRUCTURE**

Such ordinary repairs and maintenance work as may be necessary to keep a nonconforming use or nonconforming building/structure in sound condition may be made, provided that no such work shall include structural alterations which are likely to extend the reasonably anticipated useful life of a nonconforming building/structure.

**SECTION 25.04 RECONSTRUCTION/RESTORATION OF NONCONFORMING USE OR NONCONFORMING BUILDING/STRUCTURE**

If a nonconforming use or nonconforming building/structure is damaged or destroyed by fire, flood, wind, or other calamity to the extent of 50% or more of its fair market value at the time of such damage or destruction, the use/building/structure shall not be repaired or otherwise reconstructed or restored except in conformity with this Ordinance. Where such damage or destruction is less than 50% of the fair market value of the use/building/structure at the time of such damage or destruction, the use/building/structure may be repaired or otherwise reconstructed or restored so as to be not more nonconforming than at the time of the damage or destruction. Any such reconstruction/restoration right shall be considered terminated by abandonment if reconstruction/restoration is not started within six months from the time of the damage or destruction. For purposes of this provision there shall be a rebuttable presumption that the "fair market value" of a building/structure is the same as the "true cash value" for that building/structure according to the most recent property tax assessing records of the municipality with assessing jurisdiction over the subject real property on which such building/structure is located.

**SECTION 25.05 EXPANSION OF NONCONFORMING USE OR NONCONFORMING BUILDING/STRUCTURE**

1. A nonconforming use or nonconforming building/structure shall not be expanded, extended, enlarged, or otherwise altered, unless:
  - A. Such expansion, extension, enlargement or alteration is, by itself, in conformity with the applicable provisions of this Ordinance pertaining to setback, height, building square footage or other dimensional requirement, and parking, and does not aggravate the existing nonconforming condition; or,
  - B. Such expansion, extension, enlargement or alternation is authorized by subsection 2 of this section as it pertains to a specific class of nonconforming use; or
  - C. Such expansion, extension, enlargement or alteration is authorized by the Planning Commission pursuant to Chapter 20 as an overlay special land use upon a finding that:

- (1) the requested expansion, extension, enlargement or alteration will not substantially extend the otherwise reasonably anticipated useful life of the nonconforming use or nonconforming building/structure; and
  - (2) all of the standards for special land use approval specified in Section 20.04 of this Ordinance are met.
2. The Planning Commission is authorized to approve a proposed expansion, extension, enlargement or alteration of automotive/truck repair and/or body shop facilities and/or Resort existing as a lawful nonconforming use in the RA Rural Agricultural District or RR Resort Residential District upon a finding that all of the standards for special land use approval specified in Section 20.04 of this Ordinance are met.

#### **SECTION 25.06 SUBSTITUTION OF NONCONFORMING USE**

1. A nonconforming use shall not be substituted for or changed to any other nonconforming use, except as may be authorized by the Planning Commission pursuant to Chapter 20 as an overlay special land use upon a finding that:
  - A. The proposed new use will substantially decrease the degree of nonconformity.
  - B. The proposed new use will be more compatible with adjacent uses than the prior nonconforming use.
  - C. No structural alterations are required to accommodate the proposed new nonconforming use.
  - D. All of the standards for special land use approval specified in Section 20.04 of this Ordinance are met.

#### **SECTION 25.07 REESTABLISHMENT/DISCONTINUATION OF NONCONFORMING USE OR NONCONFORMING BUILDING/STRUCTURE**

1. A nonconforming use shall not be reestablished after it has been changed to a conforming use or a more restrictive use. A nonconforming building/structure shall not be reestablished after it has been changed to a conforming or less nonconforming building/structure.
2. A nonconforming use or nonconforming building/structure shall not be reestablished after being discontinued, vacant, not conducted or abandoned, without an intention to resume same. Such an intention shall be presumed after discontinuation, etc. for a period of one year.

**SECTION 25.08 NONCONFORMITY DUE TO REZONING OR TEXT AMENDMENT;  
NONCONFORMITY DUE TO SPECIAL LAND USE APPROVAL  
REQUIREMENT**

1. The provisions of this chapter shall also apply to uses, buildings/structures, and lots which hereafter become nonconforming due to any rezoning or a change in the text provisions of this Ordinance.
2. A land use designated as a special land use by any provision of this Ordinance applicable to the district in which the land use is located, but in existence before the special land use approval requirement was in effect, may be continued pursuant to Section 25.02 herein but shall be subject to the other provisions of this chapter unless/until special land use approval has been granted for the land use pursuant to Chapter 20.

**SECTION 25.09 EXISTING NONCONFORMING LOTS; COMBINATION OF  
NONCONFORMING LOTS UNDER SINGLE OWNERSHIP  
(ZONING LOTS)**

1. Subject to subsections 2 and 3 of this section, any lot of record created prior to the effective date of this Ordinance that fails to comply with the minimum lot area and/or frontage/width requirements of the district in which the lot is located may be developed for a lawful conforming use if the lot conforms in all respects to the zoning requirements in effect as of the date of such recording, and complies with all other current requirements of this Ordinance, including all applicable front, rear, and side yard/setback requirements. A nonconforming lot shall otherwise be buildable only pursuant to a variance approved by the Zoning Board of Appeals.
2. Any lot of record created prior to the effective date of this Ordinance that has less than 90% of the minimum lot frontage/width requirement of the district in which the lot is located may be developed for a lawful conforming use with the required side yard/setback reduced by the same percentage that the frontage/width of such lot bears to the minimum frontage/width requirement of the district, as determined by the Zoning Administrator, but in no event less than five feet, if the development of the lot for a lawful conforming use complies with all other current requirements of this Ordinance, including all applicable front and rear yard setback requirements and off-street parking requirements.
3. Notwithstanding the foregoing subsections 1 and 2, where two or more contiguous lots or portions of lots are in single ownership, and such lots/portions of lots do not individually comply with the minimum requirements for the district in which they are located, such lots/portions of lots shall be combined for zoning purposes sufficient to create a single conforming buildable "zoning lot" (or, as applicable, a single less nonconforming zoning lot).

<p style="text-align:center"><b>CHAPTER 26</b></p> <p style="text-align:center"><b>ADMINISTRATION</b></p>
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**SECTION 26.01    ORDINANCE ADMINISTRATION**

Except as otherwise provided, the provisions of this Ordinance shall be administered and enforced by a Zoning Administrator or any other employee as designated by the Township Board.

**SECTION 26.02    ZONING PERMIT**

- (a) It shall be unlawful for any person to commence excavation for, or construction of, any building or structure, parking area or to make structural alterations in any existing building or structure, without first obtaining a Zoning Permit from the Township Zoning Administrator as hereinafter provided.
- (b) The application for a Zoning Permit shall designate the existing or intended use of the structure or premises, or part thereof which is proposed to be altered, erected, or extended, and the number of dwelling units, if any, to occupy it. The application shall be accompanied by two ink or blueprint copies of drawings, drawn to scale, showing the actual lines, angles and dimensions of the lot to be built upon or used, and the exact size and location on the lot of all existing and proposed structures and uses, and other information necessary to demonstrate compliance with the Ordinance.

The Zoning Administrator may waive or vary portions of the foregoing requirements not necessary for determination of compliance with this Ordinance, or require the submission of additional information which is necessary to make such a determination. The Zoning Administrator shall make every effort to issue a Zoning Permit in a timely manner.

- (c) One copy of the plans and specifications shall be retained by the Office of the Zoning Administrator, and another shall be delivered to the applicant when the Zoning Administrator has approved the application and issued the permit and a copy of the permit shall also be kept in the Township offices.
- (d) The Zoning Permit shall be voided if construction has not commenced within one year of the date of issuance. The Zoning Administrator may renew the permit for a period of one year.
- (e) The Zoning Administrator shall have the authority to revoke the Zoning Permit if the use, building or structure authorized by the Permit does not conform to the provisions of this Ordinance.

**SECTION 26.03 OCCUPANCY**

It shall be unlawful to use or permit the use of a non-residential building or structure or a multi-family dwelling, until the Zoning Administrator shall have made an inspection of the premises and shall have approved the same for occupancy in writing. The Building Official shall not issue a Certificate of Occupancy until it has been ascertained that there has been compliance with all of the requirements of this Ordinance.

**SECTION 26.04 FILING FEES**

All applicants for special land use, rezoning, site condominiums, variances, site plan approval, and other land use review or approval required by this Ordinance, shall pay the fee and any escrow established by resolution of the Township Board.

**SECTION 26.05 AMENDMENTS**

Amendments and supplements to this Ordinance may be initiated by the Township Board upon its own motion, by the Planning Commission, or may be proposed for consideration by the owner or owners or real property within the Township. All amendments to this Ordinance, with reference to both the text thereof and the zoning of land, shall be made in accordance with applicable laws.

**SECTION 26.06 PERFORMANCE GUARANTEES**

- (a) The Planning Commission, Zoning Board of Appeals, and Township Board are empowered to require, as a condition of land use approval, that the applicant give financial security to ensure that all roads, landscaping, public utilities, and other improvements associated with a development are made in full compliance with all Township ordinances and conditions placed upon such land use approval. The amount of such security may be up to the full amount of the estimated cost of the improvements.
- (a) Security shall be in the form of a cashier's check payable to Arcadia Township, or by establishment of a performance bond or letter of credit in favor of the Township. Any performance bond or letter of credit shall, at a minimum: be issued by a financial institution or insurer satisfactory to the Township; continue until the project is completed; and allow full or partial draws upon certification by the Township Zoning Administrator that improvements have not been completed as required.
- (c) The security shall be used by the Township only for the purpose of completing improvements if a developer fails to do so, including payment of engineering, legal, and other professional services associated with such default. In no event shall the Township be under any obligation to complete improvements on behalf of a developer.

Upon certification by the Zoning Administrator that all improvements have been fully completed, the Zoning Administrator shall authorize the return of all cashier's checks, or give notice that security may be terminated. A partial rebate

in the amount of security will be made as improvements are completed. The Zoning Administrator may retain up to 125% of the estimated cost of remaining improvements.

- (d) Upon premature termination or expiration of a bond or letter of credit posted as security, all work on a development shall be stopped until appropriate security is reestablished.

#### **SECTION 26.07 VIOLATIONS AND PENALTIES**

Any land use commenced or conducted, or any building or structure which is erected, moved, placed, reconstructed, razed, extended, enlarged, altered, maintained or changed in violation of any provision of this Ordinance is hereby declared to be a nuisance per se. A violation of this Ordinance is a municipal civil infraction, for which the fine shall be not less than \$100 nor more than \$1,000 for the first offense and not less than \$500 nor more than \$5,000 for subsequent offenses, in the discretion of the Court, and in addition to all other costs, damages, expenses, and other remedies provided by law. For purposes of this section, "subsequent offense" means a violation of the provisions of this Ordinance committed by the same person within 12 months of a previous violation of the same provision of this Ordinance for which said person admitted responsibility or was adjudicated to be responsible; provided, however, that offenses committed on subsequent days within a period of one week following the issuance of a citation for a first offense shall all be considered separate first offenses. Each day during which any violation continues shall be deemed a separate offense.

#### **SECTION 26.08 REPEAL/EFFECTIVE DATE**

This Ordinance shall take effect on June 23, 2005. The prior Arcadia Township Zoning Ordinance is hereby repealed, effective as of the time this Township Zoning Ordinance takes effect.