

AS OF 11/01/2020

## **BETHEL TOWNSHIP**

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Branch County, Michigan

# Zoning Ordinance

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## **Article 1: Purpose and Introduction**

**T**his as amended, shall govern the unincorporated portions of the Township of Bethel, Branch County, Michigan, to regulate and restrict the location and use of buildings, structures and land for trade, industry, residence and for public and semi-public or other specific uses; and to regulate and limit height and bulk of buildings and other structures; to regulate and to determine the size of yards, courts, and open spaces; to regulate and limit density of population; providing for changes in the regulations, restrictions, and boundaries, defining certain terms used herein; providing for enforcement; establishing a Board of Appeals; and imposing penalties for the violation of this Ordinance.

## **Preamble**

Pursuant to the authority conferred by the Public Acts of the State of Michigan in such case, made and provided and for the purpose of promoting and protecting the public health, safety, convenience, and general welfare of the inhabitants of the Township of Bethel, provision is made herein for the conservation and protection of the land resource together with the full and equitable enjoyment of that resource, by securing the most appropriate use of land, by preventing undue crowding and congestion of the population, by supporting the economic need of the people of the township the adequate provision for the industrial enterprise, an by providing freedom and ease for the circulation of people and movement of goods throughout the Township as well as the access for public services to all citizens, all in accordance with a comprehensive plan; now therefore:

B E T H E L   T O W N S H I P

Sec. 1.01 Short Title

This Ordinance shall be known and may be cited as the "Bethel Township Zoning Ordinance" and may be referred to as "this Ordinance."

## Sec. 1.02 Purpose

This Zoning Ordinance is based on the adopted Bethel Township Master Plan, amendments to those plans and similar plans addressing future development patterns and development goals. This Ordinance is intended to implement the Master Plans by regulating the use of land, buildings and structures to promote the public health, safety and general welfare by accomplishing the following:

### 1.0201

Establishment of regulations applicable to the use of the land, and dimensions for building and site development with such minimum regulations as are deemed necessary to carry out the provisions of this Ordinance.

### 1.0202

Accommodate and promote land uses that are compatible with the Township's character and conserve the property values and long-term stability of prime farmlands, residential, commercial and industrial and natural resource areas.

### 1.0203

Encourage use of the lands and natural resources in accordance with their character and capability, thus preserving the important environmental features in the Township, such as wetlands, prime farmland, topography, open space, mature vegetation and wildlife habitat. The Ordinance acknowledges the importance of these features on the long-term economic climate for all in the Township and the overall quality of life for township residents.

### 1.0204

Limit or prohibit improper land use.

### 1.0205

Reduce hazards to life and property.

### 1.0206

Promote safe conditions for motorists, pedestrians and bicyclists, etc. within the Township.

### 1.0207

Provide property owners with reasonable, through not always direct, access to property.

### 1.0208

Facilitate adequate and cost effective infrastructure systems, and protect the public interest in those systems, including: transportation and a safe water supply.

1.0209

Promote the gradual elimination of uses, buildings, and structures, which do not conform to the regulations land standards of this Ordinance.

1.0210

Establish controls over potential conflicting land uses and uses which may need special regulations as Special Land Uses to be compatible with surrounding development patterns and zoning.

1.0211

Provide for administering this Ordinance, including resolving conflicts with other ordinances, collection fees, and procedures for petitions, hearings and appeals.

#### Sec. 1.03 Conflicting Regulations

1.0301

Except as otherwise be provided in this section, every building and structure erected; every use of lot, building or structure established; every structure alteration or relocation of an existing building or structure and every enlargement of, or addition to, an existing use, building or structure occurring after the effective date of this section shall be subject to all regulations of this section which are applicable in the zoning area in which such uses, building or structure is located.

1.0302

No setback area or lot existing at the time of adoption of this section shall be reduced in dimensions or area. Yards or lots created after the effective date of the section shall meet at least the minimum requirements established herein.

1.0303

This Ordinance shall not dissolve or cancel any easement, bylaw, master deed, deed restriction, covenant or private agreement, except that the regulations or provisions of this Ordinance shall govern if determined by the Board of Appeals to establish a higher standard.

1.0304

The regulations established shall be the minimum for promotion and protecting public health, safety and general welfare, any conflicting laws of a more restrictive nature shall supersede the appropriate provisions of this Ordinance.



Sec. 1.04 Validity and Severability Clause

1.0401

This Ordinance and the various components, articles, sections, subsections, sentences and phrases are declared severable. If any court or competent jurisdiction shall declare any part of this Ordinance to be unconstitutional or invalid, such ruling shall not affect any other provisions of this Ordinance not specifically included in such ruling.

Sec. 1.05 Construction Begun Prior to Effective Date

1.0501

Nothing in this Ordinance shall require any change in the plans, construction, or designated use of any building upon which actual construction was begun prior to the enactment of this Ordinance, provided construction has lawfully begun, is being diligently carried on, and shall be completed within one (1) year of the effective date of this Zoning Ordinance. The Board of Appeals may permit an extension of up to one (1) year.

1.0502

If the conditions of this section are not met, the standards and provisions of this Zoning Ordinance shall govern.

Sec. 1.06 Certification and Effective Date

1.0601

The Zoning Ordinance is hereby declared and certified to have been duly adopted by the Bethel Township Board, Branch County, State of Michigan, at a meeting of said board Duly called and held on \_\_\_\_\_, and published in the \_\_\_\_\_ as required by the Rural Township Zoning Act. The Zoning Ordinance became effective thirty (30) days from the date of publication.

## **Article 2: Definitions**

### **Sec. 2.01 Construction of Language**

The following rules of construction apply to the text of this Ordinance.

1. The particular shall govern the general.
2. In the case of any difference of meaning or implication between the text of this ordinance and any caption or illustration, the text shall control.
3. The word "shall" is always mandatory and not discretionary. The word "may" is permissive, with decision made by the Township Zoning Administrator, Planning commission, Township Board or Zoning Board of Appeals; as appropriate.
4. Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
5. A "building" or "structure" includes any part thereof.
6. The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," or "occupied for."
7. The term "including" means "including, but not limited to" and the term "such as" means "such as, but not limited to" unless otherwise noted.
8. The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity recognizable as a "person" under the laws of Michigan.

Unless the context clearly indicates the contrary, whereas a regulation involves two or more items, conditions, provisions or events connected by the conjunction "and," "or," "either...or," the conjunction shall be interpreted as follows:

1. "And" indicates that all the connected items, conditions, provisions or events shall apply.
2. "Or" indicates that the connected items, conditions provisions, or events may apply singly or in any combination (i.e. "or" also means "and/or")
3. "Either...or" indicates that the connected items, conditions provisions, or events shall apply singly but not in combination.
4. Terms not herein defined shall have the meaning customarily assigned to them.

**Access management:** A technique to improve traffic operations and safety along a major roadway through the control of driveway locations and design; consideration of the relationship of traffic activity for properties adjacent to, and across from, one another; and the promotion of alternatives to direct access.

**Accessory Structure:** A detached structure on the same lot with, and of a nature customarily incidental and subordinate to, a principal structure, and occupied or devoted exclusively to an accessory use.

**Accessory, Use:** A use, which is, clearly incidental to, customarily found in connection with and located on the same zoning lot, unless otherwise specified, as the principal use to which it is related.

When "accessory" is used in this Zoning Ordinance, it shall have the same meaning as accessory use.

An accessory use includes, but is not limited to, the following:

1. Domestic or agricultural storage in a barn, shed, stable, tool room, garage or similar accessory building or other structure.
2. Decks, whether attached or detached from a principal structure, porches, gazebos and playground equipment.
3. Residential accommodations for servants or caretakers, when exclusively permitted.
4. Swimming pools for the use by occupants of a residence, or their guests; and change rooms.
5. Uses customary and clearly incidental to a principal use such as, offices of a manufacturing or warehousing use contained in the same principal structure. Where two or more activities take place within a principal building, the accessory use shall generally be the use occupying the least square footage or generating the least amount of traffic or other external impacts. Interpretation of accessory v. principal use shall be made by the Board of Appeals.

**Adult Day Care:** A facility, which provides care for over twelve (4) adults for less than 17 hours.

**Adult care facilities:** A facility for the care of adults, over eighteen (18) years of age, as licensed and regulated by the State under Michigan Public Act 218 of 1979, and rules promulgated by the State Department of Social Services. Such organizations shall be defined as follows:

1. Adult foster care facility: means a governmental or nongovernmental establishment that provides foster care to adults. It includes facilities and foster care homes for adults who are aged, mentally ill, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. An adult foster care facility does not include nursing homes, homes for the aged, hospitals, alcohol or substance abuse rehabilitation center, or a residential center for persons released from or assigned to a correctional facility.

2. Adult foster care small group home: means a private home with the approved capacity to receive 12 or fewer adults who are provided supervision, personal care, and protection in addition to room and board, for 17 hours a day, 5 or more days a week, and for 2 or more consecutive weeks for compensation.
3. Adult foster care large group home: means a private home with approved capacity to receive at least 13 but not more than 20 adults to be provided supervision, personal care, and protection in addition to room and board, for 17 hours a day, 5 or more days a week, and for 2 or more consecutive weeks for compensation.
4. Adult foster care family home: means a private home with the approved capacity to receive 6 or fewer adults to be provided with foster care for 5 or more days a week and for 2 or more consecutive weeks. The adult foster care family home licensee must be a member of the household and an occupant of the residence.

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

**Animal Shelter:** A facility operated by a licensed individual, humane society, a society for the prevention of cruelty to animals or any other similar institutions. A facility where animals are housed for an extended period of time and are available for adoption/placement.

**Apartments:** A suite of rooms or a room in a multiple-family building arranged and intended for a place of residence of a single-family or a group of individuals living together as a single housekeeping unit.

**Apartments, Accessory:** (i.e. "mother-in-law apartment") a single apartment unit contained within a single family home, intended as a temporary unit for a family member.

**Arcade:** The use of a building or a portion of a building for the location, operation, and placement of five (5) or more mechanical amusement devices. Mechanical amusement devices shall mean any device, apparatus, mechanical equipment or machine operated as amusement for required compensation. The term does not include vending machines used to dispense foodstuffs, toys, or other products for use and consumption.

**As-built plans:** Revised construction plans in accordance with all approved field changes.

**Auto repair establishment, major:** An automotive repair establishment which may conduct in addition to activities defined below as "minor repairs" one or more of the following: general repair, engine rebuilding, rebuilding or reconditioning of motor vehicles, collision service, such as body, frame, or fender straightening and repair; overall painting and undercoating of automobiles, major overhauling of engine requiring removal of cylinder-head or crankcase pan, recapping or re-treading of tires, steam cleaning and similar activities.

**Automobile Body Repair Station:** includes buildings and premises where, along with the sale of engine fuels, the following services may be carried out: general repair, engine rebuilding, rebuilding or reconditioning of motor vehicles; collision service, such as body, frame or fender straightening and repair; overall painting and undercoating of automobiles.

**Automobile (Gasoline) Service Station:** includes buildings and premises for the primary purpose of the retail sales of gasoline (stored only in underground tanks), oil, grease, batteries, tires and other operational fluids and accessories for the automobile, and the installation of such commodities, and for other minor automobile repair not to include: auto refinishing, body work, dismantling of automobiles for the purpose of reuse or resale of parts, or storage of automobiles other than those in for immediate repair or service. Sales of convenience items shall be considered an accessory use when occupying no more than twenty-five percent (25%) of the gross floor area.

**Automobile Wash:** includes any building or structure or portion thereof containing facilities for washing motor vehicles using production line methods with a conveyor, blower, steam cleaning device or other mechanical washing devices; and shall also include coin and attendant operated drive-through, automatic self-serve, track mounted units and similar high volume washing establishments, but shall not include hand washing operations in an "Automobile service station."

**Bar/lounge/tavern:** A bar or lounge is a type of restaurant which is operated primarily for the dispensing of alcoholic beverages, although the sale of prepared food or snacks may also be permitted. If a bar or lounge is part of a larger dining facility, it shall be defined as that part of the structure so designated or operated.

**Basement:** "A basement shall not be counted as a story." The portion of a building which is partially or wholly below grade but so located that the vertical distance from the mean grade to the floor is greater than the vertical distance from the mean grade to the ceiling.

**Bed and Breakfast Inn:** Shall mean any dwelling in which overnight accommodations are provided or offered for transient guest for compensation, including provision for a morning meal only for the overnight guest only. A bed and breakfast is distinguished from a motel in that a bed and breakfast establishment shall have only one set of kitchen facilities, employ only those living in the house or up to one (1) additional employee, and have facade style consistent with surrounding homes.

**Board of Appeals:** (also referred to in this Zoning Ordinance as the Board of Zoning Appeals). The body established by the Township Board to exercise the authority granted by the Michigan Rural Zoning Act, Act 184 of 1943, as amended. The jurisdiction of the Board of Appeals is described in Article 17.

**Buffer Zone:** A strip of land with landscaping, berms or walls singularly or in combination required between certain zoning areas based on the landscaping standards of this zoning ordinance. The intent of the required buffer zones is to lessen visual and noise impacts.

**Building:** Any structure (excluding fences) either temporary or permanent, having a roof supported by columns or walls, and intended for the shelter, or enclosure of persons, animals, chattels, or property of any kind. A building shall include mobile homes, manufactured housing, tents, storage, sheds, garages, greenhouses, pole barns, semi-trailers, vehicles situated on a parcel and used for the purposes of a building and similar structures. A building shall not include such structures as signs, fences or smokestacks, but shall include structures such as storage tanks, produce silos, coal bunkers, oil cracking towers, or similar structures.

**Building envelope:** The ground area of a lot which is defined by the minimum setback and spacing requirements within which construction of a principal building and any attached accessory structures (such as a garage) is permitted by this Ordinance. For condominium developments, the building envelope shall be illustrated on a site plan.

**Building, Height of:** The vertical distance from the grade at the center of the front of the building to the highest point of the roof surface in a flat roof, to the deck line for mansard roofs, and to the beam height level between eaves and ridge for gable, hip and gambrel roofs.

**Building Line:** A horizontal line generally parallel to a front, side or rear lot line which is located at the point of principal building foundation nearest the front, side or rear lot line.

**Building Permit:** An authorization issued by the County Building Inspector to move, erect or alter a structure within the county.

**Building, Principal:** A building which houses the main use or uses of the lot on which said building is located.

**Caretaker (living quarters):** An independent residential dwelling unit or living area within a principal building designed for and occupied by no more than two (2) persons, where at least one (1) is employed to provide services or to look after goods, buildings, or property on the parcel on which the living quarters are located.

**Cemetery:** Land used or intended to be used for burial of the human dead and dedicated for such purposes. Cemeteries include accessory columbaria and mausoleums, but exclude crematories.

**Child care facility:** A facility for the care of children under eighteen (18) years of age, as licensed and regulated by the State under Michigan Public Act 116 of 1973 and the associated rules promulgated by the State Department of Social Services. Such organizations shall be further defined as follows:

1. Child care center: means a facility, other than a private residence, receiving more than six pre-school or school age children for group care for periods of less than 17 hours a day, and where the parents or guardians are not immediately available to the child. It includes a facility which provides care for not less than two consecutive weeks, regardless of the number of hours of care per day.
2. The facility is generally described as a childcare center, day care center, day nursery, nursery school, parent cooperative preschool,

- play group, or drop-in center. "Child care center" or "day care center" does not include a Sunday school conducted by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services.
3. Foster family home: is a private home in which one but not more than four minor children, who are not related to an adult member of the household by blood, marriage, or adoption, are given care and supervision for 17 hours a day, for four or more days a week, for two or more consecutive weeks, unattended by a parent or legal guardian.
  4. Foster family group home: means a private home in which more than four but less than seven children, who are not related to an adult member of the household by blood, marriage, or adoption, are provided care for 17 hours a day, for four or more days a week, for two or more consecutive weeks, unattended by a parent or legal guardian.
  5. Family day care home: means a private home in which up to six (6) minor children are received for care and supervision for periods of less than 17 hours a day, unattended by a parent or guardian, except children related to an adult member of the family by blood, marriage, or adoption. It includes a home that gives care to an unrelated child for more than four weeks during a calendar year.
  6. Group day care home means a private home in which more than six but not more than 12 children are given care and supervision for periods of less than 17 hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. In includes a home that gives care to an unrelated child for more than four weeks during a calendar year.

**Church or temple:** Any structure wherein persons regularly assemble for religious activity.

**Clear Vision Area:** An area of each lot near any street intersection or commercial driveway which shall remain clear of obstructions between a height of two (2) feet and six (6) feet to ensure safe sight distance for motorists.

**Clinic, medical:** An establishment where human patients who are not lodged overnight are admitted for examination and treatment by a group of physicians, dentists, or similar professionals. A medical clinic may incorporate customary laboratories and pharmacies incidental to or necessary for its operation or to the service of its patients, but may not include facilities for overnight patient care or major surgery.

**Club or fraternal organization:** An organization of persons for special purposes or for the promulgation of sports, arts, sciences, literature, politics, or the like, but not operated for profit or to espouse beliefs or further activity that is not in conformance with the constitution of the United States or any laws or ordinances. The facilities owned or used by such organization may be referred to as a "club" in this ordinance.



**Commercial vehicle:** Any vehicle bearing or required to bear commercial license plates and which falls into one or more of the categories listed below:

1. Truck tractor;
2. Semi-trailer, which shall include flat beds, stake beds, roll-off containers, tanker bodies, dump bodies and full or partial box-type enclosures;
3. Vehicles of a type that are commonly used for the delivery of ice cream, milk, bread, fruit or similar vending supply or delivery trucks. This category shall include vehicles of a similar nature, which are also of a type commonly used by electrical, plumbing, heating and cooling, and other construction oriented contractors;
4. Tow trucks;
5. Commercial hauling trucks;
6. Vehicle repair service trucks;
7. Snow plowing trucks;
8. Any other vehicle with a commercial license plate having a gross vehicle weight in excess of ten thousand (10,000) pounds or a total length in excess of 22 feet.

**Condominium Act:** Michigan Act 59 of 1978, as amended.

**Condominium, Contractible:** A condominium project from which any portion of the submitted land or building may be withdrawn in pursuant to express provisions in the condominium documents and in accordance with the Bethel Township Code of Ordinances and the Condominium Act, Act 59 of the Public Acts of 1978, as amended.

**Condominium, General Common Element:** The common elements other than the limited common elements.

**Condominium, Limited Common Element:** A portion of the common elements reserved in the master deed for the exclusive use of less than all of the co-owners.

**Condominium, Master Deed:** The condominium document recording the condominium project as approved by the Zoning Administrator to which is attached as exhibits and incorporated by reference the approved bylaws for the project and the approved condominium subdivision plan for the project.

**Condominium Setbacks:** Shall be measured as follows:

1. Front Yard Setback - the distance between the public street right-of-way or private road easement line and the foundation of the unit site. Where there is not public right-of-way or access easement, the front yard setback shall be measured from the nearest pavement edge to the foundation of the unit site.

2. Side Yard Setback - the distance between the limits of the development and the side of a unit or the distance between the side boundary of a site condominium and the side of a unit or half the distance between the sides of any adjacent units where there are no condominium sites.
3. Rear Yard Setback - the distance between the limit of the development and the rear of the unit or the distance between the rear boundary of a site condominium and the rear of a unit or half the distance between the rear of any two adjacent units. Note: where the rear of a detached condominium faces the side of an adjacent condominium unit, the units shall be spaced a distance equal to the combined rear and side setbacks.

**Condominium Unit:** The portion of the condominium project designed and intended for separate ownership 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.

**Condominium Unit Site:** The area designating the perimeter within which the condo- minimum unit must be built. After construction of the condominium unit, the balance of the condominium unit site shall become a limited common element. The term "condominium unit site" shall be equivalent to the term "lot," for purposes of determining compliance of a site condominium subdivision with provisions of this Ordinance pertaining to minimum lot size, minimum lot width, maximum lot coverage and maximum floor area ratio.

**Conference Center:** is a multi-purpose facility whose primary purpose is to accommodate meetings, seminars, social and civic events, and conferences. Such a facility offers a total meeting environment which typically consists of meeting rooms, conference rooms, and catering uses that comprise continuous space. A conference center may include lodging facilities. A hotel/motel with at least 10,000 sq. ft of conference room facilities shall also be considered a conference center. Accessory uses may include dining areas, recreational facilities, specialty shops, that cater to conference center guests.

**Convalescent or Nursing Home:** A structure with sleeping rooms, where persons are housed or lodged and are furnished with meals, nursing and limited medical care.

**Date of Submission:** Is the date of the initial commission meeting that the proprietor or his agent presents his petition for consideration.

**Day:** A calendar day unless otherwise stated.

**Day Care Center, Commercial:** see "Child Care Institution".

**Day Care Home:** see "Child Care Organization"

**Density:** The number of dwelling units situated on or to be developed per net or gross acre of land. For purposes of calculating maximum density, only twenty five percent (25%) of the acreage comprised of open water, land within the 100 year floodplain elevation, and/or wetlands, shall be calculated toward the total site acreage.

**Development:** The proposed construction of a new building or other structure on a zoning lot, the relocation of an existing building on another zoning lot, or the use of open land for a new use. A development may include a site plan, a plot (building) plan, a condominium plan, a plat or a mobile home park.

**Drive-In Business:** A business establishment so developed that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle rather than within a building or structure, including customer communication facilities for banks or other uses. A drive-in restaurant is distinct from a drive-through restaurant in that the majority of drive-in patrons consume food and beverages while in the vehicle and parked on the premises.

**Drive-In Restaurant:** A restaurant so developed that its retail or service character is primarily dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle or to permit patrons to eat while in the motor vehicle, as well as within a building or structure, or Primarily to provide self-service for patrons and food carry-out.

**Drive Through Business:** A business establishment so developed that its retail or service character is wholly or partly dependent on providing a driveway approach and service windows or facilities for vehicles in order to serve patrons food and beverages in a ready-to-consume state from a drive-through window to patrons in motor vehicles. A drive-through restaurant may or may not also have indoor seating.

**Dwelling Unit:** A building or portion thereof, designed for occupancy by one (1) family for residential purposes and having cooking facilities and sanitary facilities.

**Dwelling Unit, Single Family:** A residential dwelling unit, designed for and occupied by one (1) family only.

**Dwelling, Two-Family:** A building designed exclusively for occupancy by two (2) families living independently of each other.

**Dwelling, Multiple-Family:** A building, or a portion thereof, designed exclusively for occupancy by three (3) or more families living independently of each other.

**Easement:** A right-of-way granted, but not dedicated, for limited use of private land for private, public or quasi-public purpose, such as for franchised utilities, a conservation easement or an access easement for a private road or service drive, and within which the owner of the property shall not erect any permanent structures.

**Excavation:** Any breaking of ground, except farming or common household gardening and ground care.

**Family:** means either of the following:

1. A domestic family which is one or more persons living together and related by the bonds of blood, marriage or adoption, together with

servants of the principal occupants and not more than one additional unrelated person, with all of such individuals being domiciled together as a single, domestic, housekeeping unit in a dwelling.

2. The functional equivalent of the domestic family which is persons living together in a dwelling unit whose relationship is of a permanent and distinct character and is the functional equivalent of a domestic family with a demonstrable and recognizable bond which constitutes the functional equivalent of the bonds which render the domestic family a cohesive unit. All persons of the functional equivalent of the domestic family must be cooking and otherwise operating as a single housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization or group where the common living arrangement and/or the basis for the establishment of the functional equivalency of the domestic family is likely or contemplated to exist for a limited or temporary duration. There shall be a rebuttable presumption enforceable by the Township Manager in the first instance that the number of persons who may reside as a functional equivalent family shall be limited to six (6). Such presumption may be rebutted by application for a special land use based upon the applicable standards in this Ordinance.

**Farm:** All of the neighboring or associated land, buildings, and machinery operated as a single unit on which the production of farm products is carried on directly by the owner- operator, manager or tenant farmer, by his own labor or with the assistance of members of his household or hired employees; provided, however, that a farm operation shall follow generally accepted agricultural and management practices as defined by the Michigan Commission of Agriculture for farming activities which include: 1) tree fruit production, 2) small fruit production, 3) field crop production, 4) forage and sod production, 5) livestock and poultry production, 6) fiber crop production, 7) apiary production, 8) maple syrup production, 9) mushroom production and 10) greenhouse production; but unless otherwise permitted, the following shall not be considered a farm: establishments involved in industrial like processing of agricultural products, keeping fur-bearing animals or game or operating as fish hatcheries, dog kennels, stockyards, slaughterhouses, stone quarries, gravel or sand pits or the removal and sale of topsoil, fertilizer works, bone yards or the reduction of animal matter, or for the disposal of garbage, sewage, rubbish, junk or offal.

**Fence:** A structure of definite height and location constructed of wood, masonry, stone, wire, metal, or any other material or combination of materials approved by the Building Department serving as a physical barrier, marker, or enclosure, but excluding solid masonry walls and low rise (less than four-foot high) decorative fences or railings (see also "Wall, obscuring").

**Filing Date:** The date of the initial Planning Commission meeting that the proprietor or his agent presents his petition for consideration.

**Floor Area, Residential:** For the purpose of computing the minimum allowable floor area in a residential dwelling unit, the sum of the horizontal areas of each story of the building shall be measured from the exterior faces of the exterior walls or from the centerline of walls separating two

dwellings. The floor area measurement is exclusive of areas of basements, unfinished attics, attached garages, breezeways, and enclosed and unenclosed porches.

**Floor Area, Usable:** (For the purposes of computing required parking) That area used for or intended to be used for the sale of merchandise or services' or for use to serve patrons, clients or customers. Such floor area, which is used or Intended to be used principally for the storage or processing of merchandise, hallways, or for utilities or sanitary facilities, shall be excluded from this computation of "Usable Floor Area." Measurement of usable floor area shall be the sum of the horizontal areas of the several floors of the building, measured from the interior faces of the exterior walls.

**Garage:** Part of a principal building or an accessory building or structure used primarily for the parking or storage of vehicles in connection with a permitted use of the principal building, where there is no vehicle serving or storage for compensation.

**Garden Center:** An establishment with retail sales of trees, fruits, vegetables, shrubbery, plants, landscaping supplies, lawn furniture, playground equipment and other home garden supplies and equipment.

**Grade, Mean:** The arithmetic average of the lowest and highest grade elevations in an area within five (5) feet of the foundation line of a building or structure, or in the area between the foundation line and the lot line, where the foundation line is less than five (5) feet from the lot line.

**Greenbelt:** A landscaped area along a street between the curb or road shoulder and the front yard building or parking setback line, this area is also referred to as the front yard parking lot setback area.

**Hazardous uses and materials:** Any use which involves the storage, sale, manufacture, or processing of materials which are dangerous, combustible and/or produce either poisonous fumes or explosions in the event of fire. These uses include all high hazard uses listed in Section 306 of the Basic Building Code/1990 edition, as amended or updated, prepared by the Building Officials & Code Administrators International, Inc.

**Hazardous or toxic waste:** Waste or a combination of waste and other discarded material (including but not limited to solid, liquid, semisolid, or contained gaseous material) which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to the following if improperly treated, stored, transported, disposed of, or otherwise managed: an increase in mortality, or an increase in serious irreversible illness, or serious incapacitating but reversible illness, or substantial present or potential hazard to human health or the environment.

**Hobby Farm:** A non-commercial farm on a parcel of land, under one ownership which is used for raising crops and/or livestock, but where such activity is not the primary source of income for the family.

**Home Occupation:** Means a use conducted entirely within an enclosed building employing only the inhabitants thereof, which is clearly incidental and

secondary to residential occupancy and does not change the character thereof. Specifically excluded as the storage and display of merchandise not produced by such home occupation, any activity involving any building alterations, window display, construction features, equipment, machinery or outdoor storage, any of which is visible from off the lot on which located.

**Hospital:** A facility offering primarily inpatient care, and services for observation, diagnosis, and active treatment of patients with a medical, surgical, obstetric, chronic, or rehabilitative condition requiring the daily care and supervision of a physician(s) and medical support staff. A hospital may or may not also have a clinic offering outpatient services.

**Hotel:** A building or part of a building, with a common entrance or entrances, in which the dwelling units or rooming units are used primarily for transient occupancy, and/or in which one or more of the following services are offered: maid service, furnishing of linen, telephone, secretarial or desk service, and bellboy service. A hotel may include a restaurant or cocktail lounge, public banquet halls, or meeting rooms.

**Housing for the elderly:** Housing constructed for the exclusive use of an individual fifty-five (55) years of age or older, or for a couple where at least one (1) of the individuals is over the age of fifty-five (55). Housing for the elderly may include the types of facilities listed below.

1. Senior apartments: multiple-family dwelling units where occupancy is restricted to persons 55 years of age or older.
2. Congregate or interim care housing: A semi-independent housing facility containing congregate kitchen, dining, and living areas, but with separate sleeping rooms. Such facilities typically provide special support services, such as transportation and limited medical care.
3. Dependent housing facilities: Facilities such as convalescent homes and nursing homes which are designed for older persons who need a wide range of health and support services, including personal nursing care.

**Impact assessment:** An assessment of the ecological, social, economic, and physical impacts of a project on and surrounding the development site.

**Improvements:** Any additions to the natural state of land, which increases its value, utility or habitability. Improvements include but are not limited to street pavements, with or without curbs and gutters, sidewalks, water mains, storm and sanitary sewers, trees and other appropriate and similar items.

**Intensive Livestock Operation:** An agricultural operation in which many livestock are bred and/or raised within a confined area, either inside or outside an enclosed building. While the density of confined livestock varies, it significantly exceeds that of traditional farming operations and includes both the number of confined livestock in the confined area and the amount of land which serves as the waste disposal receiving area.

**Junk Yard:** (see Salvage Yard).

**Kennel:** Any lot or premise on which more than three (3) cats and dogs, of more than six (6) months of age are either permanently or temporarily kept.

**Landscaping:** The treatment of the ground surface with live plant materials normally grown in Branch County such as, but not limited to, grass, ground cover, trees, shrubs, vines, and other live plant material. In addition, a landscape design may include other decorative natural or processed materials, such as wood chips, crushed stone, boulders or mulch. Structural features such as fountains, pools, statues, and benches shall also be considered a part of landscaping if provided in combination with live plant material. Various landscaping related terms are defined below.

1. Berm: A continuous, raised earthen mound comprised of non-toxic materials with a flattened top and sloped sides, capable of supporting live landscaping materials.
2. Buffer Zone: (see "Buffer Zone").
3. Grass: Any of a family of plants with narrow leaves normally grown as permanent lawns.
4. Greenbelt: A strip of land of definite width and location reserved for the planting of a combination of shrubs, trees, and ground cover to serve as an obscuring screen or buffer for noise or visual enhancement.
5. Ground Cover: Low-growing plants that form a dense, extensive growth after one complete growing season, and tend to prevent weeds and soil erosion.
6. Hedge: A two (2) to three (3) foot tall row of evergreen or deciduous shrubs that are planted close enough together to form a solid barrier.
7. Parking lot landscaping: Landscaped areas located in and around a parking lot in specified quantities to improve the safety of pedestrian and vehicular traffic, guide traffic movement, improve the environment and improve the appearance of the parking area and site.
8. Planting: A young tree, vine or shrub that would be placed on or in the ground.
9. Screen or screening: A wall, wood fencing or combination of plantings of sufficient height, length, and opacity to form a visual barrier. If the screen is composed of non-living material, such material shall be compatible with materials used in construction of the main building, but in no case shall include wire fencing.
10. Shrub: A self-supporting, deciduous or evergreen woody plant, normally branched near the base, bushy, and less than fifteen (15) feet in height.

11. **Tree:** A self-supporting woody, deciduous or evergreen plant with a well-defined central trunk or stem which normally grows to a mature height of at least fifteen (15) feet.

12. **Ornamental tree:** A deciduous tree which is typically grown because of its shape, flowering characteristics, or other attractive features, and which grows to a mature height of twenty five (25) feet or less.

**Livestock:** Any of various bird or animal breeds, long ago domesticated by man so as to live and breed in a tame, docile, tractable condition useful to man, including horses, ponies, mules, donkeys, cattle, sheep, goats, buffalos, llama, ostriches, chickens, ducks, geese turkeys and swine.

**Loading Space, Off-Street:** Space logically and conveniently located for bulk pick-ups and deliveries, designed to accommodate the maneuvering area needed by expected sizes of delivery vehicles when all off-street parking spaces are filled.

**Lot:** An undivided portion of land of at least sufficient size to meet minimum zoning requirements for use, buildings, structures, lot coverage, yards, and other open spaces as may be present or required under provisions of this Ordinance. Such lot shall have frontage on an improved public street, or on an approved private road, and may consist of either: a single lot of record, a portion of a lot of record, a combination of lots of record, or a parcel of land described by metes and bounds.

**Lot Area:** The total horizontal area within the lot lines of a lot. For purposes of calculation of minimum lot area, easements for overhead utilities and private access easements shall be excluded; areas within the 100 year floodplain elevation or determined to be MDNR regulated wetlands shall be included, except as noted under the definition of "density".

**Lot, Corner:** A lot where the interior angle of two adjacent sides at the intersection of two streets is less than one hundred and thirty-five (135) degrees. A lot upon a curved street or streets shall be considered a corner lot for the purposes of this Ordinance if the arc is of less radius than one hundred fifty (150) feet and the tangents to the curve, at the two points where the lot lines meet the curve or the straight street line extended, form an interior angle of less than one hundred and thirty-five (135) degrees.

**Lot Coverage:** The part or percent of a lot occupied by buildings, structures and accessory buildings.

**Lot Coverage, Impervious Surface:** The part or percent of a lot occupied by building, structures, uses, accessory buildings, accessory structures and paved areas.

**Lot Depth:** The arithmetic mean of the shortest and longest distances from the front lot line to the rear lot line.

**Lot, Interior:** Any lot other than a corner lot.



**Lot Line:** The lines bounding a lot or parcel and listed below.

1. Front Lot Line (i.e. lot frontage): The lot line(s) of a public street or private road access easement that separates the lot from such right-of-way or easement; typically measured along the right-of-way line. Corner lots or through lots are considered to have two front lot lines and shall provide the minimum required front yard setback at both front lot lines. In the case of lots bordering on a lake, river or canal, the water or shoreline shall be designated as the rear of such lots.
2. Rear Lot Line: The lot line opposite and most distant from the front lot line. For an irregular or triangular shaped lot, a line at least ten (10) feet in length, entirely within the lot, parallel to and most distant from the front lot line. In the case of lots bordering on a lake, river, stream or channel, the shoreline shall be designated as the rear lot line for zoning purposes.
3. Side Lot Line: Any lot line not a front or rear lot line.
4. In the case where the above definitions are not sufficient to designate lot lines, the Zoning Administrator shall designate the front, rear and side lot lines in consideration of the orientation of the building(s) on the lot, the address of the lot, the orientation of other buildings along the block, and natural features affecting site design.

(Note: yards may not always equal required setbacks)

**Lot of Record:** A parcel of land, the dimensions of which are shown on a document or map on file with the County Register of Deeds or in common use by Municipal or County Officials, and which actually exists as so shown, or any part of such parcel held in a record ownership separate from that of the remainder thereof.

**Lot, Through:** Any interior lot having frontage on two more or less parallel streets as distinguished from a corner lot. In the case of a row of double frontage lots, all yards of said lots adjacent to streets shall be considered frontage, and front yard setbacks shall be provided as required.

**Lot, Width:** The horizontal distance between side lot lines measured parallel to the front lot line at the minimum required front setback. For irregularly shaped lots with access easements or "flag lots" connecting to a public street, the minimum lot width shall be measured at the point where the narrow access connects to the main section of the parcel. This determination shall be made by the Zoning Administrator. Figure 6 illustrates calculation of minimum lot width for lots along curvilinear streets.

**Lot, Zoning:** A single tract of land, located within a single block, which, at the time of filing for a building permit, is designated by its owner or developer as a tract to be used, developed, or built upon as a unit, under single ownership or control. A zoning lot shall satisfy this Ordinance with respect to area, size, dimensions and frontage as required in the area in which the zoning lot is located. A zoning lot, therefore, may not coincide

with a lot of record as filed with the County Register of Deeds, but may include one or more lots of record.

**Major Thoroughfare:** An arterial street, state trunk line, or roadway classified as a Primary Road by the Branch County Road Commission, which is intended to service as a large volume of traffic, generally within a right-of-way at least eighty six (86) feet wide.

**Manufactured Home:** A dwelling unit which is designed for long-term residential use and is wholly or substantially constructed at an off-site location.

**Master Plan:** The Comprehensive Community Plan, sub area plans or corridor plans including graphic and written proposals for future land use, zoning, site design, physical development and or capital improvements.

**Mezzanine:** An intermediate floor in any story occupying a maximum one-third (1/3) of the story's floor area.

**Mini or Self Storage Warehouse:** A building or group of buildings in a controlled-access and fenced compound that contains varying sizes of individual, compartmentalized, and controlled-access stalls or lockers for the storage of customer's goods or wares.

**Mobile Home:** A detached residential dwelling unit transportable in one or more sections built on a chassis and designed to be used with or without a permanent foundation.

**Mobile Home Park (i.e. Manufactured Housing Park):** A parcel or tract of land under the control of a person, group or firm upon which two (2) or more mobile homes are located on a continual non-recreational basis and which is offered to the public for that purpose regardless of compensation, including any building, structure, enclosure, street, drive, equipment or facility used or intended for use incidental to the occupancy. Mobile home parks are licensed and regulated by the Michigan Mobile Home Commission.

**Mobile Home or Manufactured Home Subdivision:** Individually owned lots subdivided according to the provisions of Act 288 of the Public Acts of Michigan of 1967 intended as a site for the placement for dwelling purposes of mobile or modular homes.

**Motel:** A series of attached, semidetached or detached rental units containing a bedroom, and sanitary facilities. Units shall provide for overnight lodging and are offered to the public for compensation, and shall cater primarily to the public traveling by motor vehicle.

**Non-conforming Building or Structure:** A building or structure portion thereof lawfully existing at the effective date of this Ordinance, or amendments thereto and that does not conform to the provisions of the Ordinance in the area in which it is located.

**Non-Conforming Lot:** A lot of record, lawfully in existence on the effective date of this Ordinance and any amendments thereto, which no longer meets the dimensional requirements of this Ordinance for the area in which it is located.

**Non-conforming Use:** A use which lawfully occupied a building or land at the effective date of this Ordinance, or amendments thereto, and that does not conform to the use regulations of the area in which it is located.

**Nursery, Plant Materials:** A space, building or structure, or combination thereof, for the storage of live trees, shrubs or plants offered for retail sale on the premises including products used for gardening or landscaping. The definition of nursery within the meaning of this Ordinance does not include any space, building or structure used for the sale of fruit, vegetables or Christmas trees.

**Nuisance Factors:** An offensive, annoying, unpleasant or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeating invasion of any physical characteristics of activity or use across a property line which can be perceived by or affects a human being, or the generation, of an excessive or concentrated movement of people or things, such as, but not limited to: (a) noise, (b) dust, (c) smoke, (d) odor, (e) glare, (f) fumes, (g) flashes, (h) vibration, (i) shock waves, (l) heat, (k) electronic or atomic radiation, (l) objectionable effluent, (m) noise of congregation of people, particularly at night, (n) passenger traffic.

**Offset:** The distance between the centerlines of driveways or streets across the street from one another.

**Off-Street Parking Lot:** A facility providing vehicular parking spaces along with adequate drives and aisles, for maneuvering, so as to provide access for entrance and exit for the parking of more than three (3) vehicles.

**Open air business:** Business and commercial uses conducted solely outside of any building unless otherwise specified herein. Examples of open air businesses include:

1. Retail sales of garden supplies and equipment, including but not limited to, trees, shrubbery, plants, flowers, seed, topsoil, trellises, and lawn furniture.
2. Roadside stands for the sale of agricultural products, including fruits, vegetables and Christmas trees.
3. Various outdoor recreation uses, including but not limited to: tennis courts, archery courts, shuffleboard, horseshoe courts, miniature golf, golf driving ranges, and amusement parks.
4. Outdoor display and sale of automobiles, recreational vehicles, garages, swimming pools, playground equipment, and similar goods.

**Open Front Store:** A business establishment so developed that service to the patron may be extended beyond the walls of the structure, not requiring the patron to enter the structure. The term " Open Front Store" shall not include automobile repair or gasoline service stations.

**Outdoor storage:** The keeping, in an unroofed area, of any goods, junks, material, merchandise or vehicles in the same place for more than twenty four hours.

**Parking Space:** An area of definite length and width, said area shall be exclusive of drives, aisles or entrances giving access thereto, and shall be fully accessible for the parking of permitted vehicles.

**Peak Hour:** A one hour period representing the highest hourly volume of traffic flow on the adjacent street system during the morning (a.m. peak hour), during the afternoon or evening (p.m. peak hour), or representing the hour of highest volume of traffic entering or exiting a site (peak hour of generator).

**Performance guarantee:** A financial guarantee to ensure that all improvements, facilities, or work required by this Ordinance will be completed in compliance with the ordinance, regulations and the approved plans and specifications of a development.

**Planned Unit Development:** An integrated and coordinated development of various residential land uses, and in some cases non-residential uses, comprehensively planned and approved as an entity via a unitary site plan which permits additional flexibility in building siting, usable open spaces and preservation of natural features meeting the intent of the Planned Unit Development section of this Ordinance.

**Planning Commission:** The Bethel Township Planning Commission as established by the Bethel Township Board of Trustees under provisions of the Township Rural Zoning Act 184, 1943 as amended.

**Principal Building, Structure or Use:** The main building, structure or use to which the premises are devoted and the principal purpose for which the premises exist. In cases where there is more than one use, the use comprising the greatest floor area shall generally be considered the Principal Use, except in cases where a use comprising a secondary amount of floor area is considered to have greater impact in terms of traffic generated, noise levels, disruption of views and similar impacts.

**Public Utility:** A person, firm or corporation, municipal department, board or commission duly authorized to furnish and furnishing under federal, state or township regulations to the public through transmission lines: gas, steam, electricity, sewage disposal, communication, telegraph, transportation or water.

**Reception Antenna:** An exterior apparatus capable of receiving communications for radio or television purposes including satellite dishes and other satellite reception antennae but excluding facilities considered to be essential public services or those preempted from township regulation by applicable state, Federal Communication Commission (FCC), or federal laws or regulations.

**Recognizable and substantial benefit:** A clear benefit, both to the ultimate users of the property in question and to the community, which would reasonably be expected to accrue, taking into consideration the reasonably foreseeable detriments of the proposed development and uses(s). Such benefits may include: long-term protection or preservation of natural resources and natural features, historical features, or architectural features; and elimination of or reduction in the degree of nonconformity of a nonconforming use or structure.

**Recreational Vehicle or Unit:** Includes a tent or vehicular-type structure designed primarily as temporary living quarters for recreational, camping or travel use, which either has its own motive power or is mounted on or drawn by another vehicle which is self-powered. Recreational units of this type shall include, but shall not be limited to, the following: travel trailers, camping trailers, tent trailers, motor homes and truck campers. Recreational units shall also include, but shall not be limited to, the following: boats, boat trailers, snowmobiles, snowmobile trailers, all terrain vehicles, dune buggies, horse trailers and similar equipment.

**Recycling Center:** A facility in which used material, such as paper, glass, plastic or motor oil, is separated and processed prior to shipment to other locations for processing or manufacturing into new products. A recycling center is distinct from a junkyard or salvage yard.

**Restaurants:** An establishment serving foods and/or beverages for consumption upon the premises within the structure serving such foods or beverages for remuneration.

**Road-Private:** A non-dedicated right-of-way, other than an alley which affords the principal means of access to property.

**Salvage Yard:** An area where waste, used or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled, or handled including but not limited to: scrap iron and other metals, paper, rags, rubber tires and bottles. A "Salvage Yard" includes junk yards and similar facilities including automobile wrecking yards and any open area of more than two hundred (200) square feet for storage, keeping or abandonment of junk.

**Service drive:** An access drive which parallels the public right-of-way in front of or behind a building or buildings, or may be aligned perpendicular to the street between buildings, which provides shared access between two or more lots or uses.

**Setback, Required:** The minimum horizontal distance between a front, rear or side lot line and the building line. Measured from the edge of the road right of way to the nearest line of any structure. Corner lot setback has same requirements, as any other residential except both road frontages shall be considered front yards. Procedures for measuring setbacks for site condominium projects are listed under the definition of condominium setback. (required setbacks are distinct from actual yard, see definitions for yards, setbacks measurements along curvilinear streets.

**Shopping Center:** A grouping of two (2) or more business establishments developed in accordance to an overall plan and designed and built as an interrelated project. Buildings constructed on outlots shall not be considered part of the shopping center unless access and parking easements are provided.

**Shoreline, Ordinary high water mark:** The line between upland and bottomland which persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil, the configuration of the soil surface and the vegetation.

**Sign:** Definitions for signs are listed separately in Article 18, Sign Standards.

**Site plan:** A plan, prepared to scale, showing accurately and with complete dimensions, the boundaries of a site and the location of all buildings, structures, uses, and principal site development features proposed for a specific parcel of land, and conforming to the standards of this Ordinance.

**Special land use:** A use of land for an activity which, under usual circumstances, could be detrimental to other land uses permitted within the same area but which may be permitted because of circumstances unique to the location of the particular use and which use can be conditionally permitted without jeopardy to uses permitted within such area. Such uses are defined as "Special Land Uses" in the Township Rural Zoning Act (Act 184 of 1943, as amended).(as amended 4/15/95)

**Stable, Commercial:** A facility for the rearing and housing of horses, mules and ponies or for riding and training academies. A commercial stable must have a minimum of ten (10) acres.

**Stable, Private:** A facility for the rearing and training of horses, ponies and mules which are owned by the occupant of the dwelling unit.

**Story:** That part of a building included between the surface of any floor and the surface of the floor, or roof, next above. When the distance from the average established grade to the ceiling of a story partly below such grade exceeds five (5) feet, then the basement or cellar constituting the story partially below grade shall be counted as a story.

**Story, Half:** An uppermost story lying under a sloping roof having an area of at least two hundred (200) square feet with a clear height of seven feet six inches (7' - 6"). For the Purposes of this Ordinance, the usable floor area is only that area having at least four (4) feet clear height between floor and ceiling.

**Street:** A dedicated public right-of-way, other than an alley, which affords the principal means of access to property.

**Structure:** Anything constructed or erected, the use of which requires location on ground or attachment to something having location on the ground. Structures include, but are not limited to, principal and accessory buildings, radio, television and cellular phone towers, decks, fences, privacy screens, walls, antennae, swimming pools, signs, gas or liquid storage facility, mobile homes, access drives, sidewalk, street directional or street name sign, billboards and landscape improvements. Essential public utility poles, regulatory signs, necessary drives, sidewalks, bike paths, permitted parking, permitted signs and landscaping are not considered structures within required setback open spaces.

**Substance abuse center or treatment facility:** A facility offering counseling, care and treatment for individuals addicted to drugs and alcohol licensed by the Michigan Department of Mental Health, Office of Substance Abuse Services. Such a facility may include or detoxification services. A generally recognized pharmacy or licensed hospital dispensing prescription medicines shall not be considered a substance abuse treatment facility.

**Swimming Pool:** Any artificially constructed portable or non-portable pool; capable of being used for swimming or bathing, having a depth of two (2) feet or more at any point and having a surface area of two hundred fifty (250) square feet or more.

**Townhouse:** A residential structure, or group or structures, each of which contains more than four (4) attached one family dwelling units with individual rear yards and/or front yards designed as an integral part of each one family dwelling unit.

**Traffic Impact Study:** The analysis of the potential traffic impacts generated by a proposed project. This type of study and level of analysis will vary dependent upon the type and size of the project.

1. Rezoning Traffic Impact Study: a traffic impact study which contrasts typical uses permitted under the current and requested zoning or land use classification. This study usually includes a trip generation analysis and a summary of potential impacts on the street system.
2. Traffic Impact Assessment: a traffic impact study for smaller projects which are not expected to have a significant impact on the overall transportation system but will have traffic impacts near the site. This type of study focuses on the expected impacts of a development at site access points and adjacent driveways.
3. Traffic Impact Statement: a traffic impact study that evaluates the expected impacts at site access points and intersections in the vicinity.
4. Regional Traffic Impact Study: a comprehensive traffic impact study for large projects expected to have a significant long-term impact on the street system. Such a study evaluates the impacts over a long period and may involve analyses of alternate routes. This type of study is typically prepared using a computer model that simulates traffic patterns.

**Trip (i.e., directional trip):** A single or one-direction vehicle movement with either the origin or the destination (exiting or entering) inside a study site.

**Tree, Measurement of Height:** Where a minimum height is specified for a deciduous or evergreen tree, the height shall be measured from the top of the tree to the surrounding ground elevation or top of the ball (location where fabric containing root system meets the exposed trunk).

**Use:** The principal purpose for which land or a building is arranged, designed or intended, or for which land or a building is or may be occupied.

**Variance:** An authorization by the Board of Appeals permitting modification to the regulations and standards of this Ordinance in situations where the literal enforcement would result in undue and unnecessary hardship not present on other properties typical of the zoning area.

**Veterinary clinic:** A facility providing diagnosis, treatment, surgery and similar veterinary care for small domestic animals with no overnight boarding and indoor boarding of a maximum three (3) animals at any one time.

**Veterinary hospital:** A facility which provides diagnosis, treatment, surgery and other veterinary care for domestic animals, horses and livestock. A veterinary hospital may include outdoor boarding incidental to treatment.

**Wall, Obscuring:** A structure of definite height and location to serve as an opaque screen in carrying out the requirements of this Ordinance.

**Waste Receptacle (i.e. dumpster):** Any accessory exterior container used for the temporary storage of rubbish, pending collection, have capacity of at least one (1) cubic yard. Recycling stations and exterior compactors shall be considered to be waste receptacles.

**Watercourse:** Any natural or manmade body of water including but not limited to a lake, pond, river, canal, channel, swamp, creek, marsh, or outcropping of water.

**Wetland:** Land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support, wetland vegetation or aquatic life and is commonly referred to as a bog, swamp, or marsh, and which is any of the following:

1. Land, which the Michigan Department of Natural Resources (MDNR) determines that the protection of the area is essential to the preservation of the natural resources of the state from pollution, impairment, or destruction and the MDNR, has so notified the owner.

**Yard:** The open spaces on the same lot with a main building unoccupied and unobstructed from the ground upward except as otherwise provided in this Ordinance. A yard may be equal to the setback, but may also be larger, such as where a building is farther from the street than the required setback. Yards are defined as:

1. **Front Yard:** An open space extending the full width of the lot, the depth being the minimum horizontal distance between the front lot line or public street right-of-way line and the nearest point of building foundation. A front yard shall be maintained on each side of a corner lot through lot. For lots along a shoreline of a lake, river, stream or channel the yard facing a public street or private road shall be considered the front yard for zoning purposes.
2. **Rear Yard:** An open space extending the full width of the lot, the depth being minimum horizontal distance between the rear lot line and the nearest point of the principal building foundation. In the case of a corner lot the rear yard may be opposite either street frontage and there shall only be one (1) rear yard.
3. **Side Yard:** A yard between the foundation line of the principal building or structure and the side lot line extending from front yard to the rear yard, or, in the absence of any clearly defined



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rear lot line, to the point on the lot farthest from the intersection of the lot line involved with the public street.

4. **Zero Lot Line:** The location of a building on a lot in such a manner that one or more of the buildings sides rests directly on a lot line.

**Zoning Act:** The Rural Township Zoning Act, Act 184 of 1943 as amended.

### **Article 3: General Provisions**

#### **Sec. 3.01 General Application Procedures**

The process for application and review by the Township for site plan review, special land use permits, planned unit developments (PUD's), amendments to this Zoning Ordinance, rezoning of land, land divisions, appeals and variances. Submittal dates, application forms and information on fee requirements are available at the Township offices.

#### **Sec. 3.02 General: Voting Place**

The provisions of this Ordinance shall not be so construed as to interfere with the temporary use of any property as a voting place in connection with Township, school or other public election.

#### **Sec. 3.03 GENERAL: WITHHOLDING OF APPROVAL**

The Township Planning Commission, Board or Zoning Board of Appeals may withhold granting of approval of any use, site plan, Planned Unit Development Plan or other approval required by this Ordinance pending approvals which may be required by state, county or federal agencies or departments.

#### **Sec. 3.04 USE: TEMPORARY BUILDINGS AND STRUCTURES.**

Temporary buildings and structures, including trailers, incidental to construction work on a lot, may be placed on such lot subject to the restrictions of this section.

##### **3.0401**

Temporary buildings and structures may only be used for the storage of construction materials, tools, supplies and equipment. Temporary building or structure shall not be used as a dwelling unit.

#### **Sec. 3.05 ACCESSORY USES: HOME OCCUPATIONS**

##### **3.0501**

Only members of the family residing in the principal dwelling shall be engaged in the conduct of any home occupation with the exception of one (1) full time employee or (2) part time employees.

##### **3.0502**

The use of the dwelling for a home occupation must be clearly accessory, incidental, subordinate and attached to the permitted principal residential use, and shall utilize a maximum of twenty percent (20%) of the floor area of the principal building.

##### **3.0503**

There shall be no change in the outside appearance of the principal dwelling or any other visible evidence of the conduct of the home

occupation except for one (1) sign, not to exceeding one (15) square foot in area.

3.0504

Traffic generated by the combined home and home occupation shall be compatible with traffic normally expected in a residential district.

3.0505

No equipment or process shall be used in the home occupation which creates noise, vibration, glare, fumes, odors, interference with radio or television reception or fluctuation in line voltage detectable off the premises greater than is associated by residential dwelling unit as determined by the Zoning Administrator.

Sec. 3.06

Zoning districts are intended to provide an appropriate zoning classification for specific residential, agricultural, industrial and commercial activities where a zoning district is deemed appropriate. This is also intended to protect from the encroachment of certain other uses, and to insure compatibility with adjoining uses.

Any non-conforming industrial or commercial classification use, in an area not zoned for industrial or commercial use, shall remain in effect after the adoption of this zoning ordinance as permitted below. If any non-conforming industrial or commercial use is discontinued for a period of two years or more, the non-conforming use shall cease. Discontinuance shall be defined as a cessation of active use of the property for the non-conforming use, which was in existence at the adoption of the zoning ordinance. No non-conforming use, once terminated, shall be permitted to be reestablished without a special use permit granted under this ordinance.

Sec. 3.07 SITE: EXTERIOR LIGHTING

3.0701

All outdoor lighting in all use districts used to light the general area of a specific site shall be shielded to reduce glare and shall be arranged to reflect lights away from all adjacent residential districts or adjacent residences.

3.0702

Outdoor lighting in all zoning districts shall be directed toward and confined to the ground areas of lawns or parking lots except as noted elsewhere in this section. Lights shall be a "cut-off" fixture or similar design feature to shield the lighting

3.0703

All lighting in nonresidential districts used for external illumination of buildings to feature said buildings or to illuminate a permitted sign, shall be placed and shielded so not to interfere with the vision of persons on adjacent highways or adjacent property.

3.0704

Illumination of signs shall be directed or shaded downward so not to interfere with the vision of persons on the adjacent highways or adjacent property.

3.0705

All illumination of signs and any other outdoor feature shall not be a flashing, moving or intermittent type. Artificial light shall be maintained stationary and constant in intensity and color at all times when in use.

3.0706

Light fixtures shall have a maximum height of twenty-five (25) feet where adjacent to a residential district. Light fixtures shall have a maximum height of thirty-five (35) feet where adjacent to non-residential districts.

## **Article 4: Zoning - In General**

### **Sec. 4.01 Purpose**

### **Sec. 4.02 Dimensional Standards**

#### **GENERAL LISTING OF PERMITTED DIMENSIONAL STANDARDS**

A listing of the various permitted dimensional standards are contained in Table 4.3. The table is intended as a guide. The actual lists contained within the Article for each zoning section should be referenced for any standards and more detailed listing. Where inconsistencies occur, the lists of uses within each zoning section shall take precedence.

TABLE 4.3

Dimensional Standards for Principal Buildings and Parking Areas: Commercial and Industrial Areas

| Table 4.3 DIMENSIONAL STANDARDS         |                                     |                    |                                      |              |   |          |                 |                   |                      |   |
|---|-------------------------------------|--------------------|--------------------------------------|--------------|---|----------|-----------------|-------------------|----------------------|---|
| Purpose                                 | MINIMUM LOT SIZE OR MAXIMUM DENSITY |                    | MAXIMUM BUILDING HEIGHT <sup>7</sup> |              | PRINCIPAL STRUCTURE MINIMUM YARD SETBACK <sup>1</sup> |          |                 |                   | MAX LOT COVERAGE     | MIN (PER UNIT) LIVING AREA <sup>6</sup> |
|   | LOT AREA, MAX UNITS PER ACRE        | WIDTH <sup>2</sup> | STOR-IES                             | FEET         | FRONT <sup>5</sup>                                    | ONE SIDE | TOTAL (2) SIDES | REAR              |                      |   |
| <b>R1 Residential Dwelling</b>          | 1 acre<br>1 <sup>10</sup> unit      | 150 ft             | na                                   | 35           | 30  | 14       | 28              | 7/20 <sup>4</sup> | Governed by Setbacks | 980 SQ. FT. <sup>6</sup>                |
| <b>Agricultural Dwelling</b>            | 1 acre<br>1 <sup>10</sup> unit      | 150 ft             | na                                   | 35           | 30  | 14       | 28              | 7/20 <sup>4</sup> | Governed by Setbacks | 980 SQ. FT. <sup>6</sup>                |
| <b>Agricultural Accessory Buildings</b> | 1 <sup>8</sup> acre                 | 150 ft             | na                                   | <sup>9</sup> | 50  | 20       | 50              | 50                | Governed by Setbacks | na                                      |

B E T H E L   T O W N S H I P

|   |                                  |                                   | MINIMUM YARD SETBACKS                                 |  |  |                |                            |                        |
|---|----------------------------------|-----------------------------------|---|--|--|----------------|----------------------------|------------------------|
| Purpose   | MIN.<br>LOT<br>AREA <sup>1</sup> | MIN.<br>LOT<br>WIDTH <sup>2</sup> | FRONT<br>YARD   | SIDE YARD  | REAR YARD  | PARKING<br>LOT | MAX. LOT<br>COVERAGE       | MAX.<br>HEIGHT         |
| <b>R2<br/>Manufactured<br/>Housing<br/>Park</b> | 15<br>acres                      |                                   | 35 ft.  | 10 ft.   | 40 ft.   |                |                            | 25 ft.<br>one<br>story |
| <b>Commercial<br/>and Service</b>               | 1<br>Acre<br><br>1<br>unit       | 150<br>ft.                        | 30 ft.<br>if no<br>parking<br>in the<br>front<br>yard | 14 ft. each<br>side  | 40 ft.   |                | Governed<br>by<br>setbacks | 35 ft.<br>one<br>story |
| <b>Industrial<br/>(IND)</b>                     | 1<br>Acre<br><br>1<br>unit       | 150<br>ft.                        | 30 ft.<br>if no<br>parking<br>in the<br>front<br>yard | 25 ft.<br><br>50 ft. if<br>adjacent to<br>a<br>residential<br>area | 40 ft.<br><br>70 ft. if<br>adjacent to<br>a<br>residential<br>area |                | Governed<br>by<br>setbacks | 20 ft.                 |

FOOTNOTES :

1 = For property containing easements, floodplain or MDNR regulated wetlands refer to the definition of "lot area" in Article 2.

2 = Minimum lot width is measured at the required front yard setback distance from right-of-way except as follows: corner lots and double frontage lots are considered to have two front yard measurement for flag shaped lots shall be at the point where the narrow access strip joins the larger section of the lot, as determined by the Zoning Administrator. Lot must have minimum road frontage.

4 = 7' rear yard of any structure other than main dwelling from rear of property line, 20' setback on main dwelling from rear of property line.

5 = Measured from edge of road right of way to the nearest line of any structure. Corner lot setback has same requirements, as any other residential except both road frontages shall be considered front yards.

6 = Dwelling unit shall be a minimum of 14' from any elevation: front, rear or side.

7 = Maximum 35' height of residential accessory buildings and structures.

8 = Applies to parcels with no dwelling

9 = Usual and customary height.

10 = Lots with no more than two (2) dwellings prior to Zoning Adoption, may replace dwelling(s) conditional to all of the following: Prior approval of well and septic system from local Health Department. Replacement dwelling must meet “Min (per unit living area)” and meet all requirements under “Sec. 5.03 Specific Requirements” if it is a mobile home. Dwelling must meet minimum “Front” setback (footnote #5). Replacement of dwelling must be performed within twelve (12) months form cease of inhabitation, demolition, or natural disaster”.

#### Sec. 4.04 Non-Conforming Buildings or Structures

4.401 Non-conforming buildings or structures may not be repaired or added on to, if more than fifty (50) percent of the building or structure is to be repaired or replaced or the addition is more than fifty (50) percent larger in square foot area. Addition is not to exceed original height of current non-conforming building or structure.

4.402 No addition of any non-conforming building or structure may vary from the established setbacks in “Table 4.3”

## **Article 5: R1 Residential District**

### **Sec. 5.01 Statement of Purpose**

This zoning district is intended to provide for low density single and two family dwellings. The intent of this Article is to:

- Implement the development pattern proposed in the Township Master Plan;
- Discourage continuance of existing; nonconforming uses which detract from the long-term viability of residential properties;
- Accommodate two family dwellings in appropriate locations;
- Discourage any use of land, which may overburden public infrastructure and services, and the areas natural resources;
- Encourage wise use and development of lake shoreline in recognition of the existing small lot development patterns and the sensitive environmental ecosystem surrounding the lakes and the areas natural resources;
- To prohibit any land use that would substantially interfere with the development, utilization or continuation of single-family dwellings in the Township.

### **Sec. 5.02 Permitted Uses**

In the residential R1 district, land, buildings and structures shall be used for one or more of the following purposes.

- a. Single family detached dwellings
- b. Two family dwellings
- c. State licensed residential child and adult care facilities
- d. Accessory uses, buildings and structures customarily incidental to any of the above uses as defined in Article 3, General Provisions, Section 3.05.

### **Sec. 5.03 Specific Requirements**

#### **5.0301**

See Table 4.3 for specific permitted dimensional standards.

#### **5.0302**

All mobile homes shall be constructed after January 1, 1978 and be in compliance with current state and federal laws and regulations pertaining to mobile homes as well as local and state plumbing and fire codes.



5.0303

All mobile homes permitted under this section shall be firmly attached to their foundations in compliance with the provisions of the building code and state law.

5.0304

Appropriate skirting shall be required for mobile homes permitted under this section.

5.0305 Reserved

5.0306

The standards do not allow or permit the placement or construction of a home in those areas where deed restrictions or covenants prevent it.

## **Article 6: R2 Residential District MANUFACTURED HOUSING PARK DISTRICT**

### **Sec. 6.01 STATEMENT OF PURPOSE**

The purpose of the Manufactured Housing Park District is to provide an affordable housing alternative where appropriate and consistent with the general character of the Township. The standards of this district are intended to be consistent with the standards of other types of housing at similar densities. All manufactured housing park developments shall comply with Act 243 of Public Acts of the State of Michigan, 1959, as amended. However, some standards of this Ordinance are more stringent than the typical standards promoted by the Michigan Mobile Home Commission. These more stringent standards reflect the nature of Bethel Township in contrast with some other areas of Michigan where the universal rules of the Mobile Home Commission may be appropriate.

### **Sec. 6.02 PERMITTED USES**

In the Manufactured Housing Park District land, buildings and structures shall be used only for one or more of the following uses:

- a. Manufactured single-family dwellings.
- b. Accessory uses including utility/laundry buildings, auxiliary storage space for mobile home tenants, community buildings for use by the tenants of the park as well as recreation areas and playgrounds and one (1) office building exclusively for conducting the business operations of the mobile home park.

### **Sec. 6.03 SPECIAL LAND USES**

The following Special Land Uses may be permitted upon review and approval in accordance with the general and specific standards of Article 4, Special Land Uses, and require a Special Land Use Permit:

1. Mobile home sales facilities, when such facilities are clearly incidental to the occupancy of lots within the mobile home park.

### **Sec. 6.04 DIMENSIONAL STANDARDS FOR PARK DESIGN, UNITS AND UNIT PLACEMENT**

No mobile home shall be permitted to occupy any mobile home park site if the home is either longer or wider than would permit compliance with the following requirements:

1. Minimum park area: Mobile home parks shall be at least fifteen (15) acres in area.
2. Access requirements: All mobile home parks shall have direct access to a major thoroughfare or county primary road. This access shall have a right-of-way or easement at least eighty six (86) feet wide; one hundred (100) feet if the entrance includes a boulevard. All road accessing the mobile home park shall be paved, except for a emergency only access with a base approved by the fire department.
3. Minimum setbacks and buffer zone along the park perimeter: Mobile homes shall be setback at least fifty (50) feet from any public

street right-of-way line or thirty-five (35) feet to any mobile home park property line. Buffer zones shall be provided from adjacent zoning districts.

4. Sidewalks: Each site unit shall front on sidewalks at least four (4) feet in width, located parallel to the street. The Planning Commission may waive this requirement when there are not connecting sidewalks along public streets serving the manufactured housing park.
5. Street design: Streets or drives within the manufactured housing park shall be constructed to standards required for residential developments of similar density. Two way circulation shall be required, with a minimum width of twenty one (21) feet, measured from back of curb to back of curb where there is no on-street parking. Where parallel parking is provided on one side of the street, roadway width shall be twenty eight (28) feet, measured from back of curb to back of curb. Where parallel parking is provided on both sides of the street, roadway width shall be thirty two (32) feet, measured from back of curb to back of curb. All streets and drives shall be hard surfaced. Maximum cul-de-sac length shall be one thousand (1000) feet, provided no more than thirty five (35) units may be served by a single cul-de-sac. Each cul-de-sac shall terminate with a radius of fifty (50) feet or a hammer-head or "T" design acceptable to the fire department.
6. Street pavement: Street within the manufactured housing park shall be designed and constructed of materials suitable for sub grades and hard surface in accordance with the standards and specifications of the Mobile Home Commission based on the specifications of the American Association of State and Highway Transportation Officials (AASHTO).
7. Street Names/Signs: All roads shall be clearly marked with appropriate identification and traffic control signs. The name of all roads shall be approved by the Township.
8. Drainage: The manufactured home park shall provide sufficient storm water facilities, independent of sanitary sewers, to prevent flooding of streets, lots or recreation areas. On-site storm water detention facilities may be required, as deemed necessary by the Township Engineer.
9. Other Utilities: All utility connections shall be underground and shall comply with state and local codes.
10. Required recreation area: There shall be provided for each manufactured home park a recreational area equal in size to at least one hundred (100) square feet per manufactured home site. Said recreation area shall be no longer than one and one-half (1.5) times its width. At least half of such area shall be graded, developed, sodded and maintained by the management, to provide recreation and landscaping for the residents of the manufactured housing park.
11. Required storage area: There shall be provided a separate area either fenced, screened or enclosed, within the park for the storage

of tenants' camping trailers, boats, snowmobiles, and other similar recreational equipment. Such items shall not be stored in any other area of the park.

12. Waste receptacles: Dumpsters shall be provided within one hundred fifty (150) feet of each manufactured home, unless curb site pick-up is provided.
13. Recycling stations: A mobile home park shall provide a recycling station on-site for residents unless recycle pick-up service is available.
14. Minimum lot width and area per unit: All mobile home sites shall have a minimum lot width of fifty (50) feet and an average site area of five thousand five hundred (5,500) square feet. Parks designed to provide cluster arrangements utilizing common open space for recreation may reduce the area of lots adjoining the common open space by fifteen (15) percent provided that the common open space must be at least equal to the total area by which adjoining lots have been reduced.
15. Maximum height: The maximum height of a manufactured home shall be one (1) story or fourteen (14) feet. Maximum height of accessory buildings and structures shall be twenty five (25) feet.
16. Space between units: There shall be open space of at least twenty (20) feet between the sides, ends or side and end of any two (2) mobile homes, except that in the case of cluster arrangement of sites the required distance between mobile homes may be reduced by fifteen (15) feet at one end, provided that the average distance between homes is not less than twenty (20) feet.
17. Minimum setbacks from drives: No mobile home shall be located closer than twenty (20) feet to any vehicle drive within the park.
18. Spacing from accessory buildings: The minimum setback between any manufactured home or attached structure and a detached accessory structure shall be ten (10) feet. Accessory structures shall be set back at least fifteen (15) feet from the closest edge of any sidewalk or lot line, and twenty five (25) feet from the edge of any internal street or drive.
19. Mail boxes: Mailbox clusters shall be located and designed to minimize interference with traffic operations near the park entrance.

## **Article 7: Agricultural District**

### **Sec. 7.01 Statement of Purpose**

Agriculture is recognized for the contribution toward the Township's quality of life and economic diversity. Carefully managed agricultural uses continue the practice of utilizing the land through, soil, water and nutrient conservation. The intent is reflected in the Township's Master Plan to encourage the preservation of irreplaceable prime agricultural soils in the Township, while avoiding incompatible uses which could conflict with farm operations and further discourage agricultural production.

The principle use of the land is farming, including dairying and livestock enterprises. The intent is not to preserve perpetually, but to avoid premature loss of prime farmland allowing future generations to determine ultimate use at an appropriate time.

### **Sec. 7.02 Permitted Uses**

1. Farms: Both general and specialized farming.
2. Single-family dwellings.
3. Two family dwellings.
4. Accessory roadside stands.
5. State licensed residential child and adult care facilities.
6. Other accessory uses, buildings and structures customarily incidental to any of the above uses, as defined in Article 3, General Provisions, Section 3.05.

## **Article 8: Commercial and Service District**

### **Sec. 8.01 Statement of Purpose**

This Article is established to accommodate retail business and services to serve the needs of nearby residential neighborhoods, community at large, and bypass traffic.

### **Sec. 8.02 Commercial Activity will be Special Use**

The following Special Land Uses may be permitted upon review and approval according to the General and Specific Standards of Article 4, Special Land Uses. These uses require a Special Land Use Permit.

1. Retail establishments and shopping centers.
2. Animal Shelters
3. Auto sales, new and used.
4. Auto/gasoline service station with minor vehicle maintenance.
5. Auto repair establishment (maintenance and minor repair, including oil change, tire and brake service, and audio and alarm instillation).
6. Automobile wash, automatic or self serve.
7. Banks, savings and loan, credit unions and similar financial institutions with more than three (3) drive-through teller windows or automatic teller windows.
8. Bus passenger stations.
9. Carnivals, fairs, commercial cider mills and amusement parks.
10. Conference Centers.
11. Convenience stores with gasoline sales.
12. Kennels, commercial.
13. Laundromats.
14. Leasing and rental of vehicles, trailers and recreational equipment, including, but not limited to boats, canoes and jet skis.
15. Mini-storage warehouses.
16. Outdoor commercial display, sales or storage of items (as a principal or accessory use) such as: farmers market, flea market, new and used farm implements, lumber and building materials motor vehicles, motor homes, recreational vehicles and boats; provided there may be sale space for used mobile homes, recreational vehicles

and boats only if carried on in conjunction with a regularly authorized new mobile home, recreational vehicle or boat sales dealership on the same parcel of land.

17. Professional offices over 55,000 square feet of gross floor area and medical offices over 40,000 square feet of gross floor area.
18. Recreation (indoor) such as bowling alleys, skating rinks, arcades, archery indoor golf or softball.
19. Recreation (outdoor) commercial or private, recreation centers, including children's amusement parks miniature golf courses, batting cages, go-cart tracks and driving ranges.
20. Restaurants with drive-through, drive-in or outdoor seating.
21. Veterinary clinics, veterinary hospitals and related offices.
22. Similar uses of the same nature or class as those listed as either a Principal Use or Special Land Use in this district as determined by the Planning Commission.
23. Any accessory drive-through service.
24. Accessory uses, buildings and structures customarily incidental to any of the above uses except; accessory storage of hazardous materials shall require a separate Special Land Use permit.

## **Article 9: Industrial District**

### **Sec. 9.01 Statement of Purpose**

Industrial is intended to primarily accommodate research, wholesale and warehouse activities and light industrial operations whose external, physical effects are restricted to the immediate area and in no manner affect in a detrimental way any of the surrounding area. The Industrial provision is intended for the manufacturing, compounding, processing, packaging, assembly and/or treatment of finished or semi-finished products from previously prepared material. The processing of raw material for shipment in bulk form, to be used in an industrial operation at another location, shall not be permitted, except as provided for as Special Land Uses.

### **Sec. 9.02 Industrial Activity will be Special Use**

The Special Land Uses in the Industrial District are established to provide for industries that because of their size, their impact on surrounding areas and the demands they make on streets and highways, water and sewer services, solid waste disposal services or public utilities or the nature of their industrial process need to be separated from less intensive residential, commercial and light industrial uses. The following uses may be permitted by the Planning Commission based on the Standards of Article 4 and receipt of a Special Land Use Permit.

1. Any permitted use involving wet processes or the use of water in processing;
2. Any permitted use over 20,000 square feet of total floor area;
3. Animal Shelters
4. Automotive assembly or manufacturing;
5. Bottling and packaging except canning;
6. Personal service, retail and restaurants within office or industrial building provided the combined floor area is a minimum twenty-five percent (25%) of the building's gross floor area and all pedestrian access is from inside the building, and any exterior sign shall have a maximum size of ten (10) square feet;
7. Contractors yards with outdoor storage of equipment and machinery;
8. Urgent care, medical centers/clinics;
9. Towers: radio, TV, cellular phone towers;
10. Indoor commercial recreation (skating, bowling, arcades);
11. Commercial outdoor display, sales and storage of building/lumber supplies and similar materials;



12. Billboards in accordance with the Standards of Article 16;
13. Breweries and distilleries;
14. Central dry cleaning plants;
15. Contractors yards, outdoor equipment/material storage and all other open-air businesses
16. Electric power stations and heating plants;
17. Food processing including canning, meats, etc.;
18. Freezer locker plants and cold storage;
19. Lumber mills and planning;
20. Manufacturing (indoors) of products such as bakeries, cosmetics, pharmaceutical, toiletries, hardware, pottery, ceramics, electronics;
21. Petroleum plants;
22. Plastics manufacturing, molding and extrusion;
23. Retail sales of goods assembled, manufactured, compounded, processed, packaged or treated from previously prepared materials, or repaired or stored, on the premises, provided the building floor area devoted to retail sales comprises no more than 25 percent of principal building floor area and the outdoor sales area comprises no more than 25 percent of the minimum required lot area;
24. Child care centers, pre-school, commercial day care;
25. Salvage yard or junkyard;
26. Extractive uses, such as sand and gravel mining;
27. Truck terminals;
28. Similar uses of the same nature or class as those listed as either a Principal Use or Special Land Use in this district as determined by the Planning Commission.
29. Accessory uses, buildings and structures customarily incidental to any of the above uses, except accessory fuel storage use or storage of hazardous materials commercial outdoor display, sales or storage and open air business activities shall require a separate Special Land Use Permit.

## **Article 10: Special Land Uses**

### **Sec 10.01 STATEMENT OF PURPOSE**

This Article is intended to provide regulations for Special Land Uses which may be compatible with permitted uses in zoning district, under specific location and site criteria. This Article provides standards for the Planning Commission to determine the appropriateness of a given Special Land Use covering factors such as: compatibility with adjacent zoning, location, design, size, intensity of use, impact on traffic operations, potential impact on groundwater, demand on public facilities and services, equipment used and processes employed. Approval of any Special Land Use requires a Special Land Use Permit.

### **Sec 10.02 APPLICATION AND REVIEW PROCEDURES**

#### **10.0201**

Any person owning or having an interest in the subject property may file an application for one or more special land use permits as provided in this Ordinance.

#### **10.0202**

The following materials shall be submitted to the Zoning Administrator at least twenty-one (21) days prior to the meeting at which the Planning Commission first considers the special land use permit application:

1. Payment of the required fee.
2. Copy of completed application forms.
3. Copies of a site plan and Impact Assessment which meets the requirements of Article 11.

#### **10.0203**

The special land use application shall be reviewed by township staff and consultants for completeness and compliance with appropriate sections of this Ordinance. Technical reviews may be submitted to the Planning Commission.

#### **10.0204**

The request for special land use approval shall be reviewed as follows:

1. The special land use request and related documents shall be forwarded to the Planning Commission.
2. The Planning Commission shall review the Special Land Use application, the Impact Assessment, and the Site Plan in terms of the requirements of the Special Land Use (Sec. 10.25), and the standards of Article 4.
3. After completing initial review of the application, the Planning Commission shall hold a public hearing on the special land use

application in accordance with Act 184 of the Public Acts of 1943, as amended. One (1) notice of the hearing shall be published in a newspaper of general circulation in the township and sent by mail or personal delivery to the property owners and the occupants of all structures within three hundred (300) feet of the boundary of the property in question. The notice shall be given not less than five (5) or more than fifteen (15) days before the date of the hearing. The notice shall describe the nature of the special land use request, indicate the property in question, state the time and location of the hearing, and shall indicate the time and place where written comments will be received.

4. The Planning Commission shall recommend approval, approval with conditions or denial of the Special Land Use Request, Site Plan and Impact Assessment to the Township Board.
5. If the application is determined to be incomplete or more information is required, then the Planning Commission may either: 1) table the request and direct the applicant to prepare additional information or revise the plan; 2) return the request for additional staff review or analysis; or 3) recommend denial of the request. If the revised plans are determined to be significant by the Planning Commission, they may elect to conduct another public hearing.
  - a. For any use requiring special land use approval, the site plan for such use shall require Township Board approval, based upon a recommendation of the Planning Commission.

10.0205 Township Board Action: Following receipt of the Planning Commission's recommendation, the Township Board shall take one of the following actions on the Special Land Use, Site Plan and Impact Assessment.

1. Table: If the application is determined to be insufficient, does not fully respond to Planning Commission conditions or more information is required, then the request may be tabled. The Township Board shall direct the applicant to prepare additional information, revise the plan or direct the Township staff or consultant's to conduct additional analysis.
2. Reconsideration: If the Township Board believes there is new information which might modify the recommendation of the Planning Commission, the Board may return the application with the new information to the Planning Commission for reconsideration. The Planning Commission shall provide a recommendation within thirty (30) days.
3. Approval: Upon determination that a special land use and site plan proposal is in compliance with the standards and requirements of this Ordinance and other applicable ordinances and laws, the Township Board shall approve the application.
4. Conditional Approval: The Township Board may impose reasonable conditions with the approval of a special land use, to mitigate impacts associates with the proposed use or activity to ensure that public services and facilities affected by a proposed special land use or activity will be capable of accommodating increased service

and facility loads generated by the new development; protect the natural environment; ensure reasonable compatibility with adjacent uses of land and the overall character of the Township, to the extent practical for the use; ensure the standards of this Article and the Zoning Ordinance are met.

5. Denial of Special Land Use and Site Plan Application: Upon determination that a special land use or site plan proposal does not comply with standards and regulations set forth in this Ordinance, or requires extensive revision in order to comply with said standards and regulations, the Township Board shall deny the application. Resubmittal of an application, which was denied, shall be considered a new application.

6. For Special Land Uses which are temporary by nature, such as sand and gravel mining or carnivals, the Planning Commission shall also recommend time limits for the operation to the Township Board. The Township Board shall specify time limits with any approval and state procedures for renewal of the Special Use Permit, if applicable.

10.0206 Compliance with conditions: The applicant shall submit information and plans which demonstrate compliance with the conditions for administrative approval by the Zoning Administrator within sixty (60) days of the date of conditional approval and prior to issuance of a special land use or land use permit, or the submission shall be considered null and void. The Zoning Administrator may submit the revised site plan to the Planning Commission for comments or approval.

10.0207 Upon approval of an application for a special land use permit the Zoning Administrator shall issue a special land use permit. The Zoning Administrator shall be responsible for insuring that any conditions attached to the approval of the special land use permit are adhered to.

10.0208 Recording of decision: Records of the reasons for the actions of the Planning Commission and the Township Board, and any conditions attached approvals, shall be kept and made a part of the minutes of the Planning Commission and the Township Board. A record of conditions imposed shall be maintained. The conditions shall remain unchanged unless an amendment to the special land use permit is approved by the body which approved the original special land use permit.

10.0209 Conditions of any approval is attached to the land and will remain through subsequent owners, except an expiration date for the special land use may be specified if the special land use is considered to be temporary in nature.

10.0210 Inspections: The Zoning Administrator shall make periodic investigations of developments authorized by special land use permit to determine continued compliance with all requirements imposed by the Planning Commission or Township Board and this Ordinance. Non-compliance with the requirements and conditions approved for the special land use shall constitute grounds for the Township Board to terminate said approval following a public hearing. Such hearing shall be held in accordance with the procedures used for the original hearing and as required by this Ordinance.

Sec 10.03 - 10.07 RESERVED FOR FUTURE USE

Sec 10.08 REVIEW AND APPROVAL OF SPECIAL LAND USES: GENERAL REVIEW  
STANDARDS

10.0801

Prior to approving a special land use application the Planning Commission shall require the following general standards shall be satisfied for the use at the proposed location, in addition to specific standards for individual special land uses listed in Section 10.25. The proposed special land use shall:

1. Be compatible and in accordance with the goals, objectives and policies of the Bethel Township Comprehensive Plan and promote the Statement of Purpose of the zoning district in which the use is proposed;
2. Be designed, constructed, operated and maintained to be compatible with, and not significantly alter, the existing or intended character of the general vicinity;
3. Be served adequately by essential public facilities and services such as: highways, streets, police and fire protection, drainage structures, water and sewage facilities, refuse disposal and schools;
4. Not involve uses, activities, processes, or materials detrimental to the natural environment, public health, safety or welfare by reason of excessive production of traffic, noise, vibration, smoke, fumes, odors, glare or other such nuisance.
5. Provide mitigation necessary to minimize or prevent negative impacts.

Sec. 10.10 VARIANCES

The Zoning Board of Appeals shall not have the authority to grant a variance to allow a special land use which was denied by the Township Board. If dimensional or site design variances are requested for a special land use, the request shall first be reviewed by the Planning Commission which shall provide a recommendation to the Zoning Board of Appeals. Any variances shall be approved by the Zoning Board of Appeals prior to Planning Commission action on the site plan or special land use, as applicable. The Zoning Board of Appeals may deny a variance upon a finding, with a recommendation from the Planning Commission, that the variance could be contrary to the Special Land Use standards of this Article.

Sec. 10.14 VALIDITY OF PERMIT

10.1402

Where actual physical construction of a substantial nature of structures authorized by a special land use permit has not commenced within one (1) year of issuance, and a written application for extension of the approval

has not been filed as provided below, the permit shall become null and void and all rights thereunder shall terminate.

10.1403

Upon written application filed prior to the termination of the one (1) year period as provided above, the Township Board may authorize a single extension of the time limit for a further period of not more than one (1) year. Such extension shall be granted only based on evidence from the applicant that the development has a reasonable likelihood of commencing construction within the one (1) year extension. The Township Board may require compliance with any amendments to the Zoning Ordinance since the special land use was originally approved.

10.1404

Any use for which a special land use permit may be granted shall be deemed a use permitted in the district in which it is located and is not to be considered a non-conforming use.

Any use for which a special land use permit has been granted and which ceases to continuously operate for a six (6) month period shall be considered abandoned, and the special land use permit shall become null and void.

Sec. 10.16 AMENDMENTS, EXPANSIONS OR CHANGE IN USE

10.1601

Major Amendments: Any person or agency who has been granted a special land use permit shall notify the Zoning Administrator of any proposed amendment to the approved site plan of the special land use permit. A major amendment to a special land use permit shall require submittal of a new application for special land use and follow the review procedures contained in this Article. The Zoning Administrator shall determine whether the proposed amendment constitutes a minor or major amendment based on the following standards:

1. Changes increase the buildings usable floor area by more than twenty five percent (25%) or two-thousand (2,000) square feet, whichever is less;
2. Parking lots are expanded by more than twenty five percent (25%) or five-thousand (5,000) square feet of pavement area, whichever is less; or,
3. The occupancy, capacity or membership of the use is increased by more than twenty five percent (25%);
4. The use is expanded to occupy an additional twenty five percent (25%) or more land area;
5. The expansion will result in a twenty five percent (25%) or more increase in the demand for public water or sewer; or,

6. Other similar types of changes deemed by the Zoning Administrator to be "major."

10.1602

Minor Amendment: Minor amendment to an approved special land use does not require submittal of a new application for a special land use, but shall require submittal of a site plan following the requirements of Article 10.

10.1603

Change in Use: Change to another special land use shall require submittal of a new application for special land use and follow the review procedures contained in this Article.

10.1604

A separate Special Land Use Permit shall be required for each use which requires special Land Use review on a lot.

10.1605

If a use regulated as a Special Land Use ceases operations for more than twelve (12) months, a new special Land Use permit shall be required.

#### Sec. 10.25 SPECIAL LAND USE SPECIFIC STANDARDS

The special land use general standards of Section 10.08 are basic to all uses authorized by special land use approval. The following sections identify specific requirements which shall be complied with by individual special land uses, as determined by the Township Board, in addition to the general standards of Section 10.08.

Listing: Special Land Uses with specific site and/or use standards described on the following pages:

10.2501 Accessory fuel services and storage

10.2502 Accessory use or storage of hazardous materials

10.2503 Accessory commercial outdoor sales or storage

10.2504 Airports, landing strips, heliports and related

10.2505 Adult entertainment, bookstore, movie, etc. (requires Township Board approval)

10.2506 Adult foster care large group home or small group home

10.2507 Automobile service stations and maintenance establishments, including accessory gas pumps

10.2508 Animal Shelters

10.2509 Automobile washes, automatic or self-service

B E T H E L   T O W N S H I P

10.2510 Banks, credit unions, savings and loan institutions with over three drive-through lanes

10.2511 Bed and breakfast inns

10.2512 Carnivals, fairs, commercial cider mills and amusement parks (including temporary uses)

10.2513 Cemeteries

10.2514 Churches, temples and similar places of worship and related facilities

10.2515 Commercial outdoor display, sales or storage (as permitted or accessory use)

10.2516 Composting operations and centers

10.2517 Conference centers

10.2518 Convenience stores

10.2519 Public service buildings, structures and storage yards

10.2520 Extractive uses such as sand and gravel mining

10.2521 Foster care group homes (Adult)

10.2522 Funeral homes

10.2523 Group day care homes

10.2524 Hospitals

10.2525 Industrial use involving wet processes or the use of water in processing

10.2526 Kennels, commercial

10.2527 Landfills (requires Township Board approval)

10.2528 Mini- or self storage warehouses

10.2529 Open air business - sales and storage

10.2530 Open front restaurant (window service) and outdoor cafes)

10.2531 Public and Private Water Towers

10.2532 Radio, television and cellular phone towers

10.2533 Recreation: Campgrounds

10.2534 Recreation: Commercial outdoor establishments excluding golf related uses



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10.2535 Recreation: Golf courses and par three golf courses

10.2536 Recreation: Golf driving ranges, miniature golf courses

10.2537 Recreation: Indoor establishments (bowling alleys, ice areas, skating rinks, etc.)

10.2538 Recreation: Off-road vehicle courses and trails, gun/archery ranges

10.2539 Recreation: Private, non-commercial institutional or community recreation facilities

10.2540 Recycling Centers

10.2541 Retail stores and home improvement centers (over specified size)

10.2542 Restaurants and other establishments with drive-in or drive-thru facilities

10.2543 Salvage Yard

10.2544 Stables

10.2545 Veterinary (animal) hospitals and Clinics

10.2546 Accessory use or storage of hazardous materials

In addition to the information required by the Impact Statement, the applicant shall provide documentation for the following, with appropriate correspondence from the Michigan Department of Natural Resources, Michigan State Police Fire Marshall, local fire department, and Branch County Health Department:

1. Description of any discharge of any type of wastewater to a storm sewer, drain, lake, stream, wetland, other surface water body or into the groundwater;
2. Description of any potentially hazardous materials including common name, name of chemical components, location, maximum quantity expected on hand at any time, type of storage containers or base material, and anticipated procedure for use and handling;
3. Description of any transportation, on-site treatment, storage or disposal of hazardous waste generated in quantities of 250 gallons or 2200 pounds per month;
4. Description of any secondary containment measures proposed including design, construction materials and specifications, volume and security measures;
5. Name and phone number(s) of person(s) responsible for materials and available 17 hours, in case of detected spill.

10.2547 Landfills

The use of land for the dumping or disposal of scrap iron, junk, garbage, rubbish, or other refuse, or of ashes, slag, or other industrial wastes or by-products is not permitted in any district, except under a Temporary Special Land Use Permit from the Township Board. A request for a landfill shall be accompanied by a suitable agreement and bond that such dumping or disposal will not pollute the waters of the Township or cause stagnant water to collect, or leave the surface of the land, at the expiration of such permit, in an unstable condition or unfit for the growing of turf or for other land uses permitted in the district provided the surface of such material is graded within a reasonable time in a manner preventing the collection of stagnant water which leaves the ground surface in a condition suitable for growing of turf or for other land uses permitted in the district.

10.2548 Radio, Television and Cellular Phone Towers

1. Height: Towers for radio, television, cellular phones and other transmitting and relay antenna towers shall be located so any setback equals the height from any residential district. The setback in all other districts shall be at least one-half ( $\frac{1}{2}$ ) the height of the tower, provided the applicant provides engineering information the tower is self-collapsing. The setback area shall remain clear of any building or structure except an accessory utility building or other towers.
2. Lighting: The Planning Commission shall approve any lighting on the tower.
3. No signs or logo shall be permitted on the tower.
4. The Planning Commission may require a security fence to enclose access to the tower.
5. The applicant shall demonstrate that there are no existing towers that can accommodate, or be modified to accommodate, the communication equipment planned for the proposed tower.
6. The structure shall be constructed to accommodate the maximum number of foreseeable users technically practicable. The applicant shall provide the Township with a letter of intent to lease excess space on the tower and commit the tower owner and successors to:
  - a. Respond to any requests for information from another potential shared use applicants
  - b. Negotiate in good faith and allow for leased shared use if an applicant demonstrates that it is technically practicable.
  - c. Make no more than a reasonable charge for a shared use lease.
7. The maximum permitted height of a tower and any mounted antenna shall be 199 feet. The Planning Commission may permit a greater height based upon documentation by the applicant that a taller tower is necessary.

## **Article 11: Site Plan Review**

### **Sec. 11.01 Statement of Purpose**

This Article is intended to insure a thorough evaluation of a site and the potential impacts on public health, safety and welfare in relationship to the Township Master Plan, drainage, utilities, natural resources, traffic patterns, adjacent parcels, landscaping and the character of future development.

The site plan review standards and procedures provide an opportunity for the Planning Commission to review a proposed use in terms of site preparation and grading, building footprint, service areas, easements, access points, vehicular and pedestrian traffic flow, adequacy of utilities, preservation of significant natural features and aesthetics. This article is also intended to assist the Township in ensuring that buildings, structures, and uses are in conformity with the provisions of this zoning ordinance, other ordinances of the Township, and state, county, or federal statutes.

### **Sec. 11.02 Uses Requiring Site Plan Review**

1. Prior to the issuance of a permit for any major construction, reconstruction, erection, and/or expansion of any building or structure.
2. Any change of use in land or building to a different class or type or to a more intensive use, as determined by the Zoning Administrator, that may involve substantial change in such features as traffic flow, structural amenities, hours of operation, public service, drainage provisions or that may entail substantial alteration of and important physical aspect of the site.
3. Preliminary plat application:
4. Any building containing three (3) or more dwelling units:
5. Any lot or parcel containing two (2) or more uses.
6. Any use having ingress from or egress upon a major thoroughfare
7. Public and essential buildings and structures including: Public utility buildings and structures, telephone exchange buildings, electric transformer stations and substations, gas regulator stations, natural gas distribution or storage facilities, landfills and transmission towers.

## Sec. 11.03 Site Plan Review Procedures

### 11.0301 Application:

Any person with legal interest in a lot or parcel may apply for review of a site plan by filing completed application forms, review fee and twelve (12) copies of the required site plan contents with the Township Clerk at least twenty-one (21) days prior to the Planning Commission meeting at which the site plan is to be considered.

### 11.0302

The Township Clerk shall transmit the site plan to the Planning Commission at least one (1) week prior to the next regular meeting.

### 11.0303

The Planning Commission shall review the site plan for compliance with the standards of this ordinance and other appropriate ordinances and statutes, and shall within thirty (30) days following the applicant's submittal either:

1. Approve the site plan.
2. Approve the site plan with conditions which the Planning Commission determines are reasonable and necessary to ensure conformance with applicable ordinances and statutes. These conditions shall be listed in the motion and noted on the site plan, with the Planning Commission Chairperson signature. The applicant shall submit a revised site plan to the Township within thirty (30) days to incorporate the conditions implied by the planning commission. The Zoning Administrator shall have the authority to sign the final site plan as approved upon determination that the conditions have been met. If the Zoning Administrator determines that the conditions have not been met, the site plan shall be referred back to the Planning commission.
3. Upon determining that the site plan does not meet the standards, spirit and intent of this zoning ordinance and other appropriate ordinances and statutes, the Planning Commission shall deny the site plan or table the action and direct the applicant to make modifications and resubmit the site plan. The applicant shall be required to prepare revised plans accompanied by a complete list of all changes with a certification, by the applicants design professional that no other changes have been made.
4. Implementation: The adopted minutes of the Planning Commissions shall serve as the official record of the planning Commission's decision on a site plan, including conditions of approval. The applicant shall be responsible for obtaining a copy of the adopted minutes, and submittal of revised plans and documents that demonstrate compliance with any conditions. Any question on the decision should be made in writing to the Planning Commission prior to adoption of the minutes.

5. The Zoning Administrator may make periodic investigations of developments for which site plans have been approved. Non-compliance with the requirements and conditions of the approved site plan shall constitute grounds for the Planning Commission to terminate said approval following a public hearing.

#### 11.0304 Sketch Plans:

A sketch plan shall be allowable for minor and/or typical construction, reconstruction, erection, and/or expansion of any building or structure. More extensive construction may require a site plan.

### Sec. 11.04 Required Site Plan Content

Each Site Plan submitted to the Township Planning Commission shall be in accordance with the provisions of this Ordinance. No site plan shall be considered until reviewed by the Zoning Administrator. The following information shall be included in the site plan submittal packet:

#### 11.0401

Application form and fee: A completed application form and payment of a non-refundable application fee. A separate escrow deposit may be required for administrative charges to review the site plan submittal.

#### 11.0402 Applicant information:

The name and address of the property owner and applicant, interest of the applicant in the property, the name and address of developer, and current proof of ownership of the land to be utilized or evidence of a contractual ability to acquire such land, such as an option or purchase agreement.

#### 11.0403 Scale:

The site plan shall be drawn at an engineers scale on sheets measuring 17 x 36 inches at the scale noted below:

##### Acreage Scale

160 or more 1" = 200'

5 - 159.9 1" = 100'

2 - 4.99 1" = 50'

1 - 1.99 1" = 30'

0 - .99 1" = 20'

#### 11.0405 Cover Sheet containing:

1. The name and address of the project.

2. The name, address and professional seal of the architect, engineer, surveyor or landscape architect responsible for preparation of the site plan.
3. A complete and current legal description and size of property in acres and square feet. Where a metes and bounds description is used, lot line angles or bearings shall be indicated on the plan. Lot line dimensions and angles or bearings shall be based upon a boundary survey prepared by a registered surveyor and shall correlate with the legal description.
4. A small location sketch of sufficient size and scale to locate the property within the Township.
5. Title block with north arrow, date of preparation and any revisions.

11.0406 Existing Conditions Sheet(s) illustrating:

- a. All existing lot lines and dimensions, including setback lines and existing or proposed easements.
- b. Existing natural features such as streams, marshes, ponds; wetlands labeled with size and type (upland, emergent, etc.).
- c. Soil characteristics of the parcel to at least the detail as provided by the Soil Conservation Service Soil Survey of Branch County. A separate map or overlay at the same scale as the site plan map may be used.
- d. Indication of existing drainage patterns, surface or water bodies.
- e. The limits of any wetland regulated by the MDNR, including attachment of any MDNR approved wetland determination or documentation that an application for MDNR review has been submitted. If an MDNR regulated wetland is to be impacted, an indication of the status of application for an MDNR wetland permit or copy of such a permit including description of any wetland mitigation required, shall be attached.

11.0407 Proposed Project Information:

- a. Base information: The location of all existing buildings, structures, street names and existing right-of-way, utility poles, towers, drainage ditches, culverts, pavement, sidewalks, parking areas and driveways on the property and within one-hundred (100) feet of the subject property (including driveways on the opposite side of any street). Notes shall be provided indicating those which will remain and those which are to be removed.
- b. Building information: Footprints, dimensions, setbacks, typical floor plans and a sketch of any rooftop or ground mounted equipment to scale.

- c. Building elevations: Elevations drawings shall be submitted illustrating the building design and height, and describing construction materials for all proposed structures. Elevations shall be provided for all sides visible from an existing or proposed public street or visible to a residential property. The Planning Commission may require color renderings of the building.
  - d. For residential developments: number of residential units for each project phase divided by acreage exclusive of any public right-of-way or private road access easement; lot area for each lot; and a description of the number of each unit by size and number of bedrooms; if a multi-phase development is proposed, identification of the areas included in each phase.
- 2. For commercial and office uses: The Gross Floor Area and Useable Floor Area of each use or lease space. For industrial uses: The floor area devoted to industrial uses and the area intended for accessory office use.
  - 3. Streets, driveways and circulation: The layout and dimensions of proposed lots, streets and drives (including grades, existing or proposed right-of-way or easement and pavement width, number of lanes and typical cross section showing surface and sub base materials and dimensions, grades of all entrances and exits, location and typical detail of curbs, intersection radii), access points (including deceleration or passing lanes, distance from adjacent driveways or street intersection), sidewalks (width, pavement type and distance from street) and recreation areas. Written verification of any access easements or agreements for shared access or driveway curb return extending beyond the property line shall be required.
  - 4. Utilities: Existing and proposed locations of utility services (with sizes), degrees of slope of sides of retention/detention ponds; calculations for size of storm drainage facilities; location of electricity and telephone poles and wires; location and size of surface mounted equipment for electricity and telephone services; location and size of underground tanks where applicable; location and size of outdoor incinerators; location and size of wells, septic tanks and drain fields; location of manholes, catch basins and fire hydrants; location, size, and inverts for storm and sanitary sewers, any public or private easements; notes shall be provided clearly indicating which existing services will remain and which will be removed.

11.0408

The applicant shall erect flagged stakes at the perimeter points of the property to assist Township officials and staff in reviewing the site.

Sec. 11.05 - 11.08 OPEN FOR FUTURE USE

Sec. 11.09 Validity OF Approved Final Site Plan

1. Approval of the final site plan and Impact Assessment is valid for a period of twelve (12) months. If actual physical construction of a substantial nature of the improvements included in the approved site plan has not commenced and proceeded meaningfully toward completion within twelve (12) months following approval, and if a written request for extension of the approval has not been submitted by the applicant, the approval of the final site plan shall be deemed null and void.
2. Upon written application, filed prior to the termination of the twelve (12) month review period, the Planning Commission, for the site plan, may authorize a single extension of the time limit for approval of a final site plan for a further period of not more than one (1) year. Such extension shall only be granted based on written evidence from the applicant that construction of the project has been delayed by factors beyond the reasonable control of the applicant and that construction of the project is likely to proceed within the extension period. The Planning Commission may require changes to the site plan to comply with any zoning ordinance amendments adopted, since the site plan was approved.

Sec. 11.10 - 11.11 OPEN FOR FUTURE USE

Sec. 11.12 APPEALS OF FINAL SITE PLAN

1. Any person aggrieved by the decision of the Planning Commissions denial of a site plan approval shall have the right to appeal the decision to the Zoning Board of Appeals. The appeal shall be filed with the Township Clerk within five business days of the final decision by the Planning Commission or Township Board. The appeal shall state the aggrieved parties' grounds for appeal.
2. The filing of an appeal of a decision of the Planning Commission concerning a site plan shall act to stay any building permit issued for improvements on the property, which is the subject of the appeal.
3. On hearing such appeal, the Zoning Board of Appeals shall review the record before the Planning Commission or Township Board and shall determine whether or not there was support on the record for the original decision. The appellant shall not have the right to present new evidence. The Zoning Board of Appeals shall approve the site plan if the requirements of this zoning ordinance, other applicable Township ordinances and applicable state and federal statutes are met, and prepare written findings on its decision on the appeal.
4. An appeal of a Zoning Board of Appeals decision concerning a site plan shall be to the Circuit Court of Branch County.



Sec. 11.13 PROPERTY MAINTENANCE AFTER APPROVAL

It shall be the responsibility of the owner of a property for which site plan approval has been granted to maintain the property in accordance with the approved site design on a continuing basis until the property is razed, or until new zoning regulations supersede the regulations upon which site plan approval was based, or until a new site design is approved. Any property owner who fails to so maintain an approved site design shall be deemed in violation of the use provisions of this Ordinance and shall be subject to the same penalties appropriate for a violation.

## **Article 12: SOLAR ENERGY CONVERSION SYSTEMS**

### **Sec. 12.01 Solar Energy Conversion Systems Statement of Purpose**

Bethel Township promotes the effective and efficient use of solar energy collection systems. It is the intent of the Township to permit these systems by regulating the siting, design, and installation of such systems to protect the public health, safety, and welfare, and to ensure compatibility of land uses in the vicinity of solar energy collectors, as defined in this Ordinance, shall comply with the provisions of this Section.

### **Sec. 12.02 Solar Energy Definitions**

#### **12.201 Solar Energy System**

1. A single resident or small business-scale solar energy conversion system consisting of building-mounted panels, ground-mounted solar arrays, or other solar energy fixtures, and associated control or conversion electronics that will be used to produce utility power primarily for on-site use.

#### **12.202 Solar Farm System**

2. A utility-scaled commercial facility that converts sunlight into electricity, whether by photovoltaics, concentrating solar thermal devices or any other various experimental solar technologies for the primary purpose of wholesale or retail sales of generated electricity off-site.

#### **12.203 Solar Storage Battery**

3. A device that stores energy from the sun and makes it available in an electrical form.

### **Sec. 12.03 Building Mounted Solar Energy Systems**

Rooftop and building mounted solar energy systems may be permitted by the Planning Commission in all zoning districts, subject to the following regulations:

- 12.301 Roof mounted systems shall not extend more than five (5) feet above the highest point of the roof but, shall not exceed the maximum building height limitation for the zoning district in which it is located, and a shall not project beyond the eaves of the roof.
- 12.302 Solar-energy collectors that are wall-mounted shall not exceed the height of the building wall to which they are attached. Wall mounted collector(s) will adhere to a minimum setback of seven (7') feet to the property line. A maximum of a three (3') foot encroachment will be allowed to the bottom of the collector(s) to allow for a degree of tilt of the panels.
- 12.303 A building permit shall be required for installation of rooftop and building mounted systems.

#### Sec. 12.04 Ground Mounted Solar Energy Systems

Ground mounted and freestanding solar energy systems may be permitted by the Planning Commission in all zoning districts, subject to the following regulations:

- 12.401 All small solar energy systems shall maintain a minimum setback of twenty (20) feet from all property lines.
- 12.402 The height of the solar energy system and any mounts shall not exceed 8 feet, measured from grade to the top of the panel(s).
- 12.403 Panels shall be screened from residential districts and public rights-of-way by greenbelt landscaping or privacy fencing that is sufficient to buffer the equipment from view from nearby dwelling units or streets but that will not obstruct the energy collecting surface from solar energy shall be provided.
- 12.404 A building permit shall be required for any ground mounted solar energy system.
- 12.405 No more than 15% of the total lot area may be covered by a ground mounted solar energy system and shall not be installed on parcels less than one (1) acre.
- 12.406 When batteries are included as part of the solar collector system, they must be placed in a secure container or enclosure when in use, and when no longer used shall be disposed of in accordance with applicable laws and regulations.
- 12.407 If a solar energy system ceases to perform its intended function for more than 12 consecutive months, the property owner shall remove the collector, mount, and associated equipment and facilities no later than 90 days after the end of the 12 month period.

#### Sec. 12.05 Solar Farm System

Solar Farm Systems are permitted in all zoning districts, subject to the following regulations:

12.501 Solar Farm Special Use Site Plan Review Required

12.502 Solar farms shall be approved only as a special land use.

1. The applicant seeking approval for a solar farm shall also provide the following application materials:

- a. Site Plan: A site plan must include the proposed number, location and spacing of solar panels; proposed height of panels; location of access road roads; planned location of underground or overhead electric lines connecting the Farm to the substation or other electric load; proposed storm water management facilities; proposed erosion and sediment control measures; and other related facilities or appurtenances.

2. Landowner Authorization: The applicant shall provide the following information with respect to the Site:

- a. A legal description of the Participating Property(ies) on which the Solar Farm will be located.

- b. The name, address and phone number of the applicant, including the name of the authorized representative of the applicant, the owner of all equipment proposed to be installed, and the owner(s) of the Participating Property(ies).

- c. Written authorization from the Participating Property owners to seek land use approval for the Solar Farm.

- d. A copy of the applicant's letter of intent with any Participating Property owner.

- e. Liability Insurance: The applicant shall maintain a current general liability policy covering bodily injury and property damage with limits of at least \$1 million per occurrence and \$1 million in the aggregate, and provide proof that it meets the insurance requirement to the Planning Commission prior to approval.

- f. Review Expenses: In addition to any application fees, an escrow fee may be requested by the Zoning Administrator, Planning Commission or Township Board. The amount of the escrow fee shall be based on an estimate of the Township's expenses, and shall be maintained or reestablished until all expenses have been paid in full. The applicant shall be entitled to a refund of any unused escrow fees and shall pay any balances due which exceed the escrow fees.

12.503 In addition to the applicable information required by a site plan application, the site plan shall include but not be limited to the following:

1. Identify the type, size, rated power output, performance, safety and noise characteristics of the proposed system including the transmission line/grid connection for the project.

2. The estimated construction timeline.
  3. A graphical demonstration of the visual impact of the project using photos or renditions of the project with consideration given to setbacks and proposed landscaping.
  4. Details of the access road to the solar farm including dimensions, composition and maintenance.
  5. Planned security measures to prevent unauthorized trespass and access.
  6. An environmental analysis identifying any impacts on the surrounding environment. Including the identification of any solid or hazardous waste generated by the project.
  7. Identify potential hazards to adjacent properties, public roadways and to the general public that may be created. Include emergency and normal shutdown procedures.
  8. Identify noise levels at the property lines of the project when completed and operational.
  9. Identify any electromagnetic interference that may be generated by the project.
  10. A copy of the manufacturer's installation instructions shall be provided. Included as part of or as an attachment to the installation instructions shall be standard drawings of the structural components of the solar farm, including base and footings provided along with engineering data and calculations to demonstrate compliance with the structural design provisions of the County Building Code; drawings and engineering calculations shall be certified by a registered engineer licensed to practice in the State of Michigan.
  11. A detailed description of the complaint resolution process developed by the applicant to resolve complaints from nearby residents concerning the construction or operation of the solar farm. The process shall not preclude the Township from acting on the complaint. During construction the applicant shall maintain and make available to nearby residents a telephone number where the project representative can be reached during normal business hours.
- 12.504 The solar farm application shall contain a Decommissioning Plan to ensure it is properly decommissioned upon the end of project life, inoperability of the solar farm, or facility abandonment.
1. Decommissioning shall include the removal of all structures, fencing and equipment, foundations, footings and debris to a depth of four (4) feet, as well as restoration of the soil and vegetation.
  2. The decommissioning including restoration shall be completed within one (1) year of the end of project life, inoperability of the solar farm or facility abandonment, at the owners or operators expense. Extensions may be granted upon written request to the Planning

Commission prior to expiration of the one (1) year decommissioning period.

3. The site shall be restored to as natural condition as possible within six (6) months of the removal.
4. A site will be considered decommissioned when, after inspection and approval by the Township, all structures and equipment are removed and the site is in natural condition. The Decommissioning Plan shall state:
  - a. How the facility will be decommissioned
  - b. The Professional Engineer's estimated cost of decommissioning.
  - c. The financial resources to be used to accomplish decommissioning.

12.505 The financial resources for decommissioning shall be in the form of a surety bond or letter of credit, which shall be deposited in an escrow account with an escrow agent acceptable to the Township.

12.506 The Township shall have access to the escrow account funds for the express purpose of completing the decommissioning, if decommissioning is not completed by the applicant within one (1) year of the end of project life, inoperability of the solar farm, or facility abandonment, or upon expiration of any extension granted by the Planning Commission. Escrow funds may be used for administrative fees and costs associated with decommissioning.

12.507 The Township and/or County is granted the right of entry onto the site, pursuant to reasonable notice, to effect or complete decommissioning as necessary.

12.508 The Township and/or County is also granted the right to seek and obtain injunctive relief to effect or complete decommissioning, as well as the right to collect reimbursement from applicant or applicant's successor for decommissioning costs in excess of the amount deposited in escrow and to file a lien against any real estate owned by applicant or applicant's successor, or in which they have an interest, for the amount of the excess costs, and to take all steps allowed by law to enforce the lien.

12.509 All photovoltaic panels and support structures located in a solar farm shall be restricted to a maximum height of twenty (20) feet when oriented at maximum tilt.

12.510 All photovoltaic solar panels and support structures excluding perimeter fencing and landscaping associated with a solar farm shall be setback a minimum of fifty (50) feet from right-of-way and twenty-five (25) feet from adjacent property lines.

1. Exception: To deviate from "adjacent property line" setbacks, all requirements listed below must be fulfilled in their entirety.

- a. Contiguous properties are to be under contract from the same owner(s) and/or operator(s) of all equipment proposed to be installed and operated.
- b. Contiguous properties to be under contract with same starting and ending date of contract terms and conditions.
- c. In the unforeseen event that one property is released from contract before maturity, the contiguous property will be required to adhere to the original setbacks and adjust equipment location(s) to comply. The owners and/or operators will have (90) ninety days to conform from contract termination date.
- d. The minimum setback of fifty (50) feet from right-of-way will not be deviated from.

12.511 Solar farms are exempt from the maximum lot coverage requirements of the ordinance.

12.512 A security chain-link fence of eight (8) feet in height shall be placed around the perimeter of the solar farm and electrical equipment. Additionally, a sign shall be posted at the entrance containing the following information: emergency contact, emergency phone number, and emergency shutdown procedures.

12.513 Noise emanating from the solar farm shall not exceed 50 dB(A) (not calculated as an average) at the property line.

12.514 A ten (10) foot area clear of trees, bushes, or brush is required surrounding all ground-mounted photovoltaic arrays. Vegetation in the area must be kept trimmed to less than 18 inches.

12.515 Solar farms shall be sited so that concentrated solar glare shall not be directed toward or onto nearby properties or roadways at any time of day.

12.516 Solar farms shall include a landscaping and screening buffering plan. The plan will be reviewed through the approval process to assure that the proposed solar farm is appropriately landscaped in relation to adjacent land uses and road right-of-ways. The use of berms and evergreen plantings along property lines adjacent to residential land uses is strongly encouraged. Exceptions to landscaping requirement may be granted by the planning commission on a case by case basis if there is perceived environmental or contamination issues on the land.

12.517 The solar farm shall comply with all applicable state construction and electrical codes including local building permit requirements. The interconnection of the solar farm with the utility company shall adhere to the State and Local Electrical Code as adopted by the County.

12.518 An approved special use permit for a solar farm project shall expire if construction of the solar farm has not commenced within twenty-four (24) months from the date of issuance. An applicant may request an extension of the approval of the special use permit by letter addressed to the Zoning Administrator. The Zoning Administrator may grant or deny an extension of

up to twenty-four (24) months for the construction to commence provided the written request to extend the special use permit is submitted prior to the expiration of the special use permit and provided that the proposed use continues to satisfy the applicable standards set forth within the ordinance.

12.519 An approved special use permit for a solar farm shall constitute approval to operate and use the solar farm twenty-four (24) hours per day.

12.520 The Township hereby reserves the right upon issuing any solar farm special land use permit to inspect the premises on which the solar farm is located. If a solar farm is not maintained in operational condition and poses a potential safety hazard, the owner shall take expeditious action to correct the situation.



## **Article 13 – WIND ENERGY CONVERSION SYSTEMS**

### **Sec. 13.01 Wind Energy Statement of Purpose**

It is the purpose of this Article to promote the safe, effective, and efficient use of wind energy systems to reduce or replace on-site consumption of utility supplied electricity. It is the purpose of this Section to standardize and streamline the review and permitting process for small wind energy systems.

### **Sec. 13.02 Wind Energy Definitions**

The terms used in this section have the following meanings:

#### **13.201 Height**

1. The vertical distance from grade level adjacent to the base of the structure to the center of the hub for a horizontal axis wind turbine or the highest point of a vertical-axis wind turbine

#### **13.202 Small Wind Energy System**

1. A wind energy conversion system consisting of a wind turbine, tower or axis, blades or blade system, and associated control or conversion electronics primarily intended to reduce on-site consumption of utility power.

#### **13.203 Utility Wind Energy System**

1. A wind energy conversion system consisting of a wind turbine, tower or axis, blades or blade system, and associated control or conversion electronics primarily intended to provide wholesale or retail energy to the electric utility grid.

#### **13.204 Tower Mounted Wind Energy System**

1. A wind energy conversion system that is mounted on a freestanding or guyed tower attached to the ground, and not attached to any other permanent or temporary structure.

#### **13.205 Roof-Mounted Energy System**

1. A type of small wind energy conversion system that is mounted on a roof with a height not greater than 15 feet above the ridgeline of a pitched roof or parapet of a flat roof.

#### **13.206 Wind Energy System**

1. Any wind energy conversion device including all associated control or conversion electronics.

Sec. 13.03 Where Permitted

1. Small Wind Energy Systems may be permitted as a special land use in any zoning district, provided that all of the requirements are met.
2. Utility Wind Energy Systems may be permitted as a special land use in any zoning district, provided that all the requirements are met.

13.304 General Standards

The following requirements are applicable to all wind energy systems.

1. A wind energy system shall not generate a noise level of 55 dB(A), measured at the property line, for more than three minutes in any hour of the day. EXCEPTION: if the constant ambient sound pressure level exceeds 55 dB(A), measured at the base of the wind energy system, a decibel level of the ambient dB(A) plus 5 dB(A) shall not be exceeded for more than three minutes in any hour of the day.
2. Shadow flicker is a term used to describe what happens when rotating wind turbine blades pass between the viewer and the sun, causing an intermittent shadow. The application for a wind energy system shall include a shadow flicker analysis demonstrating locations where shadow flicker will occur at sunrise and sunset, along with measures the applicant will take to eliminate or mitigate the effects of shadow flicker on adjacent or nearby affected properties.
3. No wind energy system shall be artificially lighted unless required by the Federal Aviation Administration.
4. The wind energy system shall be maintained in the color or finish that was originally applied by the manufacturer, unless otherwise approved in the building permit. All wind energy systems shall be finished in a non-reflective matte finished color.
5. All signs other than the manufacturer or installer's identification, appropriate warning signs, or owner identification signs are prohibited.
6. All electrical wires associated with a wind energy system other than wire necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and grounding wires shall be located underground.
7. Building permit applications for wind energy systems shall be accompanied by line drawings of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code, State and Local Codes.
8. The tower shall be designed and installed such that step bolts, ladders, or other means of access readily accessible to the public are located at least 8 feet above grade level.

9. The Township makes no assurance of wind access other than the provisions of this Section.

13.305 Tower-Mounted Small Wind Energy Systems. In addition to the General Standards, the following standards are also applicable to tower-mounted small wind energy systems:

1. The minimum parcel area - one (1) acre.
2. The maximum height is 60 feet all zoning districts.
3. The minimum tower setback from any property line, overhead utility right-of-way or easement, or other small wind energy system tower shall be 1.2 times the height of the wind turbine.
4. Tower-mounted wind energy systems may not be located in the front yard of any lot unless the principal building is set back 200 feet or more. In such a case, a tower-mounted system may be located in the front yard provided that a minimum front yard setback between the tower and the front property line is maintained.

13.306 Roof-Mounted Small Wind Energy Systems. In addition to the General Standards, the following standards are also applicable to roof-mounted small wind energy systems:

1. Minimum Parcel Area. No minimum parcel area.
2. Maximum Height. The maximum height is 10 feet above the highest point of the roof.
3. Roof-mounted wind energy systems shall be set back a minimum of 20 feet from the property line.

#### **Article 14: Open for Future Use**

## **Article 15: Administration & Enforcement**

### **Sec. 15.01 Duties of Zoning Administrator**

#### **15.0101**

Except where herein otherwise stated, the provisions of this Ordinance shall be administered by the Zoning Administrator or such other official or officials as may be designated by the Township Board; provided, that Special Use Permits and Mining Permits shall be issued by the Township Clerk, by direction of the Township Board, and further provided that site review shall be carried out by the Township Planning Commission, and shall precede an issuance of permits.

#### **15.0102**

The Zoning Administrator shall have the power to grant zoning compliance and occupancy permits, to make inspection of buildings or premises necessary to carry out his or her duties in the enforcement of this Ordinance.

#### **15.0103**

The Zoning Administrator shall record all nonconforming uses existing at the effective date of this Ordinance.

#### **15.0104**

Under no circumstances is the Zoning Administrator permitted to make changes to this Ordinance nor to vary the terms of this Ordinance in carrying out his duties as Zoning Administrator.

#### **15.0105**

The Zoning Administrator shall not refuse to issue a permit when conditions imposed by this Ordinance are complied with by the applicant despite violations of contracts, such as covenants or private agreements, which may occur upon the granting of said permit.

#### **15.0106**

The Zoning Administrator shall order discontinuance of illegal uses of land, buildings or structures, removal of illegal buildings or structures, discontinuance of any illegal construction, or shall take any other lawful action authorized by this Ordinance to ensure compliance with, or prevent violations of its provisions.

### **Sec. 15.02 REQUIREMENT FOR PERMIT**

#### **15.0201 Building Permits:**

No application shall be made to the Branch County Building Department or Department of Health for appropriate permits until a Site Plan Permit has been secured.

15.0202 Permits for New Use of Land:

No land heretofore vacant shall hereafter be used or an existing or occupied by a use of a different class or type unless a certificate of occupancy is first obtained for the new or different use.

15.0203 Permits Required:

No building or structure, or part thereof, shall be hereafter erected or altered unless a building permit shall have been first issued for such work, except for minor repairs or changes.

Sec. 15.07 VIOLATIONS AND PENALTIES

15.0701 Violation a Nuisance:

Any building erected, altered, moved, razed, or converted, or any use of land or premises carried on in violation of any provision of this Ordinance is declared to be a nuisance per se, and may be abated by order of any court of competent jurisdiction.

15.0702 Inspection of Violation:

The Zoning Administrator shall inspect each alleged violation and shall order correction, in writing, of all conditions found to be in violation of this Ordinance. The order to correct a violation shall be issued by serving personally, or by sending, by registered mail, return receipt requested, such order to the last known address of the owner of the property upon which the violation occurs, or when applicable, the violator. A party who has failed to accept such registered mail shall be deemed to have been served.

15.0703 Correction Period:

All violations shall be corrected within a period of ten (10) days after the order to correct is served unless, in the opinion of the Zoning Administrator, a lesser time period is required because of imminent danger to the health, safety or welfare of the inhabitants of the Township. A violation not corrected within the required time period shall be reported to the Township Attorney, who shall initiate prosecution procedures. Legal proceedings may be stayed during any period that such violation is pending review by the Township Zoning Board of Appeals.

15.0704 Penalties:

Every person, corporation or firm who violates, disobeys, or omits, neglects or refuses to comply with any provision of this Ordinance or any permit, license or exception granted hereunder, or any lawful order of the Zoning Administrator, Board of Appeals or Township Board issued in pursuance of this Ordinance shall be guilty of a misdemeanor. The owner of record or tenant of any building, structure premises, or part thereof, and any architect, builder, contractor, agent or person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense. Upon conviction thereof before any court of competent jurisdiction, he shall be subject to punishment by a fine of not to exceed One Hundred Dollars (\$100.00), or by imprisonment not to exceed

ninety (90) days, or both, and, in addition, shall pay all costs of prosecution. Each day during which a violation continues shall be deemed to be a separate offense. The imposition of any fine, jail sentence, or both, shall not exempt the violator from compliance with the provisions of this Ordinance.

15.0705 Remedies:

The Zoning Administrator, the Township Board, the Planning Commission, the Zoning Board of Appeals or the Township Attorney, or any interested party, may institute injunction, mandamus, abatement or other appropriate proceedings to prevent, enjoin, abate or remove any unlawful erection, alteration, maintenance or use. The rights and remedies herein provided are civil in nature and in addition to criminal remedies.

15.0706 Scope of Remedies:

The rights and remedies provided in this Ordinance are cumulative and are in addition to all other remedies provided by law. All monies received from penalties assessed shall be paid into the Township treasury on or before the first Monday of the month next following receipt thereof by the court of jurisdiction. All fines collected shall belong to the Township and shall be deposited in the general fund.

## **Article 16: Ordinance Amendments**

### **Sec. 16.01 INITIATION OF AMENDMENTS**

The Township Board may, from time to time, amend, modify, supplement or revise the provisions of this Ordinance. Amendments to the provisions of this Ordinance may be initiated by the Township Board, the Planning Commission, or by petition of one or more residents or property owners of the Township. All proposed amendments to the provisions of this Ordinance shall be referred to the Planning Commission for public hearing and recommendation to the Township Board, prior to consideration thereof by the Township Board.

### **Sec. 16.02 APPLICATION PROCEDURE**

#### **16.0201**

An amendment to this Ordinance, except those initiated by the Township Board or Planning Commission, shall be initiated by submission of a completed application on a form supplied by the Township, including an application fee, which shall be established from time to time by resolution of the Township Board.

#### **16.0202**

In the case of an amendment to this Ordinance, a general description of the proposed amendment shall accompany the application form.

### **Sec. 16.03 AMENDMENT PROCEDURE; PUBLIC HEARING AND NOTICE**

#### **16.0301**

Upon initiation of an amendment, a public hearing on the proposed amendment shall be scheduled before the Planning Commission. Notice of the hearing shall be given by two (2) publications in a newspaper of general circulation in the Township, the first to be printed not more than thirty (30) days nor less than twenty (20) days before the date of the hearing, and the second not more than eight (8) days before the date of the hearing. The notice shall be delivered in accordance with the provisions of Michigan Public Act 184 of 1943, as amended.

#### **16.0302**

Following the public hearing, the Planning Commission shall identify and evaluate all factors relevant to the petition and shall report its findings and recommendation to the Township Board.

#### **16.0303**

Following receipt of the findings and recommendation of the Planning Commission, the Township Board shall consider the proposed amendment. In the case of an amendment to the text of this Ordinance, the Township Board may modify or revise the proposed amendment as recommended by the Planning Commission, prior to enactment.

Sec. 16.06 AMENDMENTS REQUIRED TO CONFORM TO COURT DECREE

Any amendment for the purpose of conforming to a decree of a court of competent jurisdiction shall be adopted by the Township Board and published, without necessity of a public hearing or referral thereof to any other board or agency.



## **Article 17: Board of Appeals**

### **Sec. 17.01 CREATION AND MEMBERSHIP**

There is hereby established a Board of Zoning Appeals, herein referred to as the "Board of Appeals", which shall perform its duties and exercise its powers as provided in Act 184 of the Public Acts of 1943, as amended, in such a way that the objectives of this Ordinance shall be observed, public safety secured, and substantial justice done. The Board of Appeals shall consist of five (5) members, as follows:

1. The first member shall be a member of the Township Planning Commission.
2. The remaining members shall be selected and appointed by the Township Board from among the electors residing in the unincorporated area of the Township.
3. The first member of the Board of Appeals shall serve during his tenure of office on the Planning Commission. The second and third members shall serve for an initial period of three (3) years. The fourth and fifth members shall serve for an initial period of two (2) years. Upon reappointment the terms of offices for the fourth and fifth members shall be for three (3) years.
4. One member may be a member of the Township Board and his membership term shall be limited to the time he is a member of the Township Board. An elected officer of the Township shall not serve as chairperson of the Board of Appeals. An employee or contractor employed by the Township Board may not serve as a member or an employee of the Board of Appeals.
5. Members of the Board of Appeals shall be removable by the Township Board for non-performance of duty or misconduct in office, upon filing of written charges and after public hearing before the Township Board. Any vacancy for an un-expired term shall be filled within one month after the vacancy occurred and the new appointee shall fill out the remainder of the un-expired term.

### **Sec. 17.02 JURISDICTION**

The Board of Appeals shall have all jurisdiction and powers granted by the Zoning Act, all jurisdiction and powers prescribed in other Articles of this Ordinance and the following specific jurisdiction and powers:

1. To hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by any administrative official in carrying out or enforcing any provisions of this Ordinance.
2. To hear and decide in accordance with the provisions of this Ordinance, requests for exceptions, and for decisions on special approval situations on which this Ordinance specifically authorizes the Board of Appeals to pass.

3. To authorize, upon an appeal, a variance from the strict application of the provisions of this Ordinance where by reason of exceptional narrowness, shallowness, shape or area of a specific piece of property at the time of enactment of this Ordinance or by reason of exceptional topographic conditions or other extraordinary or exceptional conditions of such property, the strict application of the regulations enacted would result in peculiar or exceptional practical difficulties to, or exceptional undue hardship upon the owner of such property, provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this Ordinance.
4. The Board of Appeals shall not have the power to alter or change the zoning classification of any property, nor to make any change in the terms of this Ordinance nor to permit any use in an area in which it is not permitted.

#### Sec. 17.03 MEETINGS

##### 17.0301

All meetings of the Board of Appeals shall be held at the call of the Chairman, and at such times as the Board of Appeals may determine. The Board of Appeals shall not conduct business unless three (3) members of the Board of Appeals are present. All meetings of the Board of Appeals shall be open to the public. The Board of Appeals shall keep minutes of its proceedings, showing the vote of each member on each question, or if absent or failing to vote, indicating such fact, and shall keep records of its findings, proceedings at hearings, and other official actions, all of which shall be immediately filed in the office of the Township Clerk and shall be a public record.

##### 17.0302

The Chairman of the Board of Appeals or in his absence the Acting Chairman shall have the power to compel the attendance of witnesses and administer oaths.

#### Sec. 17.04 APPEAL PROCEDURE

##### 17.0401

An appeal may be taken to the Board of Appeals by any person, firm or corporation, or by any officer, department, board or bureau affected by a decision of the Zoning Administrator. Such appeals shall be taken within such time as shall be prescribed by the Board of Appeals by general rule, by filing with the Zoning Administrator a notice of appeal, specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board of Appeals all of the papers constituting the record upon which the action appealed from was taken. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board of Appeals after notice of appeal has been filed with him that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case the proceedings shall not be stayed, otherwise than by a restraining order, which may be granted by a court of record.

17.0402

The Township Board may from time to time prescribe and amend by resolution a reasonable schedule of fees to be charged to applicants for appeals to the Board of Appeals. At the time the notice for appeal is filed said fee shall be paid to the Township Treasurer.

17.0403

The Board of Appeals shall make no recommendation except in a specific case and after a public hearing conducted. It shall by general rule or in specific cases, determine the interested parties who, in the opinion of the Board of Appeals, may be affected by any matter brought before it, which shall in all cases include all owners of record of property and the occupants of all single-family and two-family dwellings within three hundred (300) feet of the premises in question, such notices to be delivered personally or by mail addressed to the respective owners at the address given in the last assessment roll. If the tenant's name is not known, the term occupant may be used. The Board of Appeals may give such notice to other interested parties as it shall prescribe.

17.0404

The Board of Appeals shall select a reasonable time and place for the hearing of the appeal and give due notice thereof to the parties and shall render a decision on the appeal without unreasonable delay. Any person may appear and testify at the hearing, either in person or by duly authorized agent or attorney.

17.0405

The majority vote of three (3) members of the Board of Appeals shall be necessary to reverse any order, requirements, decision, or determination of the Zoning Administrator, or to decide in favor of the applicant any matter upon which it is authorized by this Ordinance to render a decision. Nothing herein contained shall be construed to give or grant to the Board of Appeals the power or authority to alter or change this Ordinance, such power and authority being reserved to the Township Board of the Township of Bethel, in the manner provided by law.

#### Sec. 17.05 GRANTING OF VARIANCES

17.0501

No variance in the provisions or requirements of this Ordinance shall be authorized by the Board of Appeals unless it is found from the evidence that all of the following conditions exist:

1. There are exceptional or extraordinary circumstances or conditions applying to the property in question which are different from other properties in the same zoning area or the variance would make the property consistent with the majority of other properties in the vicinity;
2. The variance is necessary for the preservation and enjoyment of a substantial property right;

3. Granting the variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, comfort, morals or welfare of the inhabitants of the Township of Bethel.

17.0502

In granting a variance, the Board of Appeals may attach thereto such conditions regarding the location, character, and other features of the proposed uses as it may deem reasonable in furtherance of the purpose of this Ordinance.

#### Sec. 17.06 OFFICIAL RECORD; FINDINGS OF FACT

17.0601

Minutes shall be kept of each meeting. The Board of Appeals shall record into the minutes all relevant findings, conditions, facts and other relevant factors, including the vote of each member upon each question, or if absent or failing to vote, and all of its official actions. To this end the Board of Appeals shall prepare an official record for all appeals and shall base its decision on this record. The official record shall, at a minimum, include the following items:

1. The relevant administrative records and orders issued relating to the appeal;
2. The notice of the appeal;
3. Such documents, exhibits, photographs or written reports as may be submitted to the Board of Appeals for its consideration.
4. The findings of the Board of Appeals, stating the facts of the appeal, the decision, any conditions of the decision and the reasons for reaching such a decision.

#### Sec. 17.07 ORDERS

17.0701

In exercising the above powers, the Board of Appeals may reverse or affirm wholly or partly, or may modify the orders, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the Zoning Administrator from whom the appeal is taken.

#### Sec. 17.08 MISCELLANEOUS

17.0801

Decisions and orders of the Board of Appeals shall become effective five (5) days after the decision is reached, unless the Board of Appeals shall find immediate effect is necessary to preserve a substantial property right and shall so certify in the record.

17.0802

No order of the Board of Appeals permitting the erection of a building shall be valid for a period longer than six (6) months, unless a building permit for such erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.

17.0803

No order of the Board of Appeals permitting a use of a building or premises shall be valid for a period longer than six (6) months unless such use is established within such period; provided, however, that where such use permitted is dependent upon the erection or alteration of a building such order shall continue in force and effect if a building permit for said erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.

17.0804

No application for a variance which has been denied wholly or in part by the Board of Appeals shall be resubmitted within one (1) year from the date of the original filing of an application for the variance, except on grounds of new evidence or proof of changed conditions relating to the reasons for the denial of the original appeal found by the Board of Appeals to be valid.

17.0805

The decision of the Board of Appeals shall be final. Appeals from decisions of the Board of Appeals shall be to the Circuit Court, as provided by law.

#### Sec. 17.09 Changes and Additions

17.0901

1. October 2007, Table 4.3 Dimensional Standards, Footnote #10.
2. April 2010, Sec 4.04 Non-Conforming Buildings and Structures.
3. October 2020, Article 12 Solar Energy Conversion Systems, Article 13 Wind Energy Conversion systems.
4. October 2020, Amendment to 12.510, Article 12 Solar Energy Conversion Systems.

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