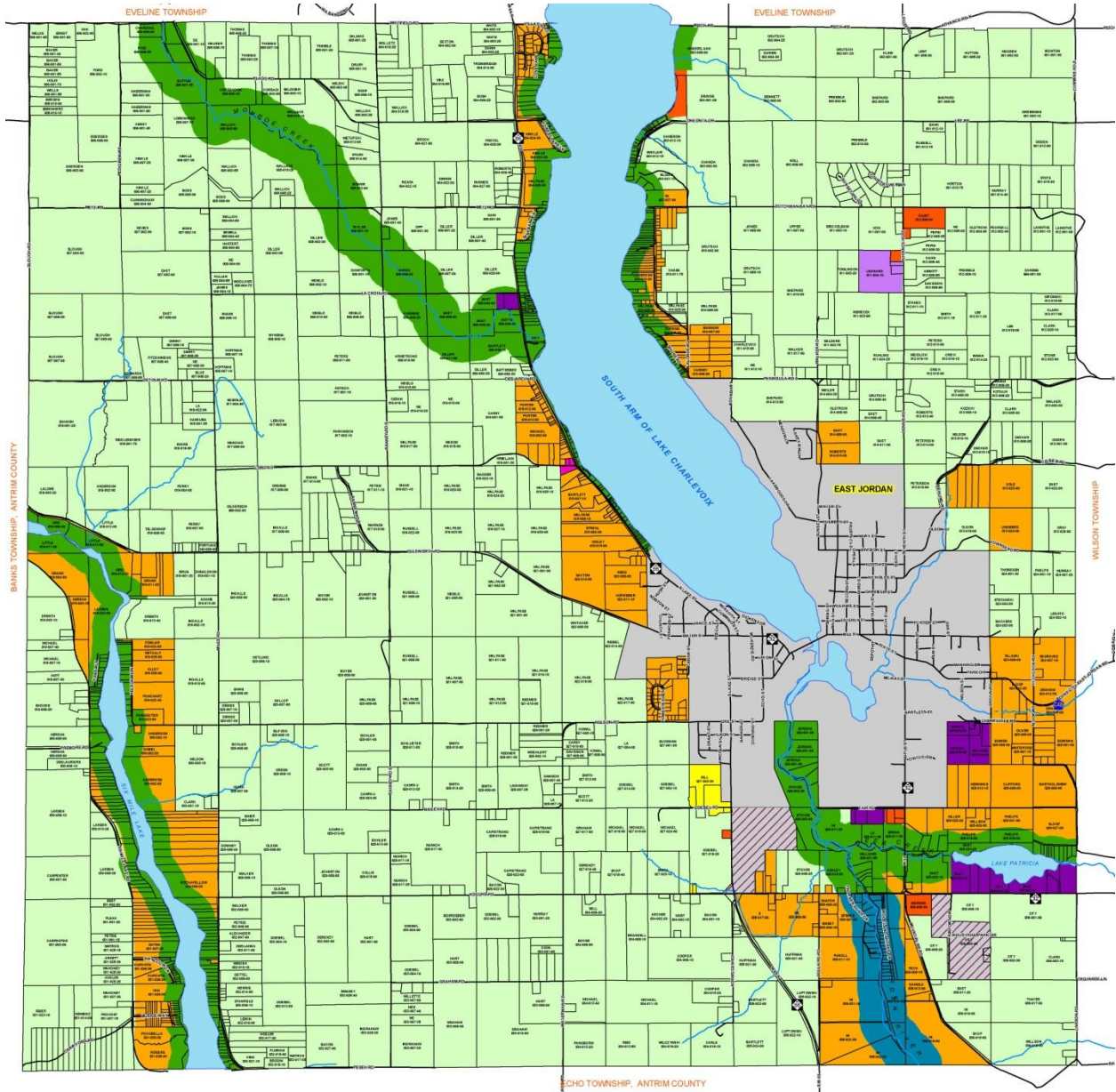


# SOUTH ARM TOWNSHIP ZONING ORDINANCE



**Adopted: October 8, 2014**

**Effective: January 1, 2015**

**South Arm Township Zoning Ordinance**  
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**Article I:  
Short Title and Purpose**

**PREAMBLE**

This Ordinance is to provide for the establishment of zoning districts and regulations governing the unincorporated portions of South Arm Township, Charlevoix County, Michigan; to encourage and regulate the use of land and location of buildings and structures for residence, trade, industry or other purposes; to regulate dimensions of yards and other space; to provide for the administration, enforcement, penalties for violation and amendment to this Ordinance in accordance with the provisions of Michigan Zoning Enabling Act, Act 110 of 2006 as amended.

Be it Ordained by the Township Board of South Arm Township, Charlevoix County, State of Michigan, as follows:

**ARTICLE I –SHORT TITLE AND PURPOSE**

**Section 1.01 – Title**

This Ordinance shall be known as the “South Arm Township Zoning Ordinance,” and will be referred to herein as “this Ordinance”.

**Section 1.02 – Purpose of this Ordinance is:**

- A. To promote the public health, safety, and general welfare.
- B. To encourage the use of lands in accordance with their character and adaptability, and to limit the improper use of land.
- C. To conserve natural resources and energy.
- D. To meet the needs of the state’s residents for food, fiber, and other natural resources, places of residences, recreation, industry, trade, service, and other uses of land.
- E. To insure that uses of the land shall be situated in appropriate locations and relationships.
- F. To avoid the overcrowding of population.
- G. To provide adequate light and air.
- H. To lessen congestion on the public roads and streets
- I. To reduce hazards to life and property.
- J. To facilitate adequate provision for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation, and other public requirement.

- K. To conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources and properties.
- L. The Zoning Ordinance shall be made with reasonable consideration, among other things to the character of each district; its peculiar suitability for particular uses; the conservation of property values and natural resources; and the general and appropriate trend and character of land, building, and development.

**Section 1.03 –Authority**

This Ordinance is ordained and enacted into law pursuant to the provisions and in accordance with the Michigan Zoning Enabling Act, Act 110 of 2006, as amended.

## **Article II: Rules Applying to Text and Definitions**

### **Section 2.01 – Rules Applying to Text**

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

- A. The particular shall control the general.
- B. In case of any difference of meaning or implication between the text of this Ordinance and any caption, the text shall control.
- C. The word “shall” is always mandatory and not discretionary. The word “may” is permissive.
- D. 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.
- E. A “building” or “structure” includes any part thereof.
- F. The word “person” includes not only an individual, but a firm, corporation, association, partnership, limited liability company or any other legal entity.
- G. The words “used” or “occupied,” as applied to any land or building, shall be construed to include the words “intended”, “arranged”, or “designed” to be used or occupied.
- H. Any word or term not defined herein shall be used with a meaning of common or standard utilization.

### **Section 2.02 – Definitions**

For the purpose of this Ordinance, the following terms and words are defined as follows:

**ACCESSORY BUILDING OR STRUCTURE:** A separate subordinate structure devoted to an accessory use and located on the same premises with a main structure.

**ACCESSORY USE:** A use subordinate to the main use of a lot and used for purposes customarily incidental to those of the main use.

**ADULT ARCADE:** Any place to which the public is permitted or invited wherein coin-operated or token-operated or electronically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time and where the images so displayed are distinguished or characterized by depicting or describing Specified Sexual Activities or Specified Anatomical Areas.

**ADULT BOOKSTORE OR ADULT VIDEO STORE:** A commercial establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration one or more of the following:

- A. Books, magazines, periodicals or other printed matter or photographs, films, motion picture, video cassettes or video reproductions, slides or other visual representations or media which depict or describe Specified Sexual Activities or Specified Anatomical Areas; or
- B. Instruments, devices, or paraphernalia that are designed for use in connection with Specified Sexual Activities.

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing Specified Sexual Activities or Specified Anatomical Areas and still be categorized as an Adult Bookstore or Adult Video Store. The sale of such material shall be deemed to constitute a principal business purpose of an establishment if it comprises thirty-five percent (35%) or more of sales volume or occupies thirty-five percent (35%) or more of the floor area or visible inventory within the establishment.

**ADULT CABARET:** A nightclub, bar, restaurant, or similar commercial establishment that regularly features:

- A. Persons who appear in a state of nudity;
- B. Live performances that are characterized by the exposure of Specified Anatomical Areas or by Specified Sexual Activities;
- C. Films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas; or
- D. Persons who engage in lewd, lascivious or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

**ADULT MOTEL:** A hotel, motel or similar commercial establishment that:

- A. Offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas and has a sign visible from the public right of way that advertises the availability of any of the above;
- B. Offers a sleeping room for rent for a period of time that is less than twelve (12) hours; or
- C. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than twelve (12) hours.

**ADULT MOTION PICTURE THEATER:** A commercial establishment which for any form of consideration, regularly and primarily shows films, motion pictures, video cassettes, slides, or



other photographic reproductions or visual media that are characterized by depiction or description of Specified Sexual Activities or Specified Anatomical Areas.

**ADULT THEATER:** A theater, concert hall, auditorium, or similar commercial establishment that regularly features a person or persons who appear in a state of nudity or live performances that are characterized by exposure of Specified Anatomical Areas or by Specified Sexual Activities.

**AGRICULTURE:** See Farm.

**APARTMENT:** A room or suite of rooms, including bath and culinary accommodations, intended or designed for use as a residence by a single family.

**AVERAGE:** For the purpose of this Ordinance, the term, "average" shall be an arithmetic mean.

**BASEMENT:** That portion of a building which is partly or wholly below finished grade but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling.

**BED AND BREAKFAST FACILITY:** Any family occupied dwelling used or designed in such a manner that certain rooms in excess of those used by the family are rented to the transient public for compensation. For the purpose of this Ordinance, the term tourist home also includes bed and breakfast facility.

**BILLBOARD:** A type of advertising sign, which is either erected on the ground or attached to, painted on, or supported by a building, directing attention to a business commodity, service, entertainment, or other activity conducted, sold or offered at a place other than on the premises on which the sign is located. May also be referred to as an off-premise sign.

**BOAT:** For purposes of this Ordinance, a boat shall include all motorized watercraft (or any moored or docked sailboat greater than twelve (12) feet in length). A boat shall not include windsurfers, inflatable craft (unless it is motorized), non-motorized canoes and kayaks. Further, a personal watercraft or "jet ski" shall be equal to ½ boat for the purpose of calculating number of boats.

**BUFFER STRIP:** A strip of land of definite width and location reserved for the planting of shrubs and/or trees to serve as an obscuring screen in carrying out the requirements of this Ordinance.

**BUILDING:** A structure, either temporary or permanent, having a roof supported by columns or walls and intended to be used for sheltering people, animals, property or business activity.

**BUILDING - HEIGHT OF:** The building height is the vertical distance measured from the established grade to the highest point of the roof surface. When the terrain is sloping the ground level is measured at the average grade line.

**BUILDING WIDTH:** The building width is the shorter of the plan view dimensions of the foundation for the structure

**BUILDING INSPECTOR:** The Administrator of the building, housing, plumbing, electrical or other codes that have been adopted or may be adopted in the future by the Township or the County.

**CABIN:** A detached building which is used for seasonal occupancy as a dwelling or sleeping quarters by owners, transients or tourists, possibly for a fee. Also refer to “Resort Cabin.”

**CHURCH:** See Place of Worship.

**CONDOMINIUM UNIT:** That portion of a condominium project or condominium subdivision designed and intended for separate ownership and use consistent with the provisions of the master deed. A condominium unit is not a lot or parcel as those terms are used in this Ordinance; however the building envelope for a site condominium must meet or exceed the minimum lot area and size requirements of the district in which it is located, unless developed as a Planned Unit Development.

**DISTRICTS:** “Districts” as used herein is synonymous with the word “Zones” or “Zoning Districts”.

**DOCK:** A structure extending from the land into the water for the purpose of access into the water.

**DOG KENNEL:** A lot or premise where more than three (3) dogs over six (6) months of age are kept either permanently or temporarily for the purpose of breeding, boarding, training, sale or transfer.

**DRIVE-THRU BUSINESS:** Any restaurant, bank or business with an auto service window.

**DWELLING - MULTIPLE:** A dwelling building containing three or more dwelling units designed for residential use.

**DWELLING, MANUFACTURED:** Factory-built single-family structure that is manufactured under the authority of 42 U.S.C., Sections 5401 to 5426 (National Manufactured Home Construction and Safety Standards Act 1974) as amended, is transportable in one or more sections, is built on a permanent chassis and does not have hitch, axles, or wheels permanently attached to the body frame. May also be referred to as a mobile home.

**DWELLINGS - SINGLE OR ONE-FAMILY:** A detached building containing not more than one dwelling unit designed for residential use.

**DWELLING - TEMPORARY:** A self contained travel trailer or motor home which is used for dwelling purposes while a main dwelling is being constructed or repaired and is on the same lot.

**DWELLING - TWO-FAMILY:** A building containing not more than two dwelling units designed for residential use.

**DWELLING UNIT:** A building or portion of a building, either site-built or pre-manufactured which has sleeping, living, food preparation area and sanitary facilities and can accommodate one family, either permanently or transiently. In the case of buildings which are occupied in part, the portion occupied shall be considered a dwelling unit, provided it is in conformance with the criteria for dwellings. In no case shall a travel trailer, truck, bus, motor home, tent or other such portable structures be considered a dwelling unit.

**EFFICIENCY UNIT:** A dwelling unit consisting of one room, exclusive of bathroom, hallway, closets, and the like providing not less than two hundred and forty (240) square feet of usable floor area.

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

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

**ESSENTIAL SERVICES BY PUBLIC UTILITIES AND OTHER AGENCIES:** This shall include the erection, construction alteration or maintenance by public utilities, municipal departments or other governmental agencies of underground or overhead gas, electrical, communication, steam or water transmission or distribution systems, or collection, supply or disposal systems; including poles, wires, main drains, sewer pipes, cables, towers, fire alarm boxes, poles or other call boxes, traffic signals, hydrants and other similar equipment and accessories in connection therewith reasonably necessary for furnishing adequate service by such utilities or agencies, or for the public health or safety or general welfare; but not including offices and buildings or yards used for bulk storage, fabrication or manufacturing of materials used by such utilities or municipal departments or other governmental agencies. Telecommunication towers or facilities, alternative tower structures, wireless communication antennas and wind turbine generators are not included within this definition.

**FAMILY:** One or two related persons or parents with their direct lineal descendants and adopted children, together with not more than three persons (including domestic employees) not so related, living together as a single housekeeping unit; or a collective number of individuals domiciled together in one (1) dwelling unit whose relationship is of a continuing, non-transient domestic character and who are cooking and living as a single nonprofit housekeeping unit. This definition does not include any society, club, fraternity, sorority, association, half-way house, lodge, coterie, organization, group of students or other individuals whose domestic relationship is of a transitory or seasonal nature, is for an anticipated limited duration of school term or during a period of rehabilitation or treatment or is otherwise not intended to be of a permanent nature.

**FARM:** All the contiguous neighboring or associated land operated as a single unit on which bona fide agriculture is carried on directly by the owner or by his agent or by a tenant farmer, by his own labor or with assistance of a member of his household or hired employees.

**FENCE:** Any permanent or temporary means, partition, structure or gate erected as a dividing structure, barrier, or enclosure.

**FENCE HEIGHT:** The vertical distance from the lowest part of the fence structure to the highest part of the fence structure. When all or part of a fence is installed on wooden, concrete, stone, asphalt, earthen or masonry walls, berms, paving, driveway, or fill materials that are used for the purpose of enclosure, dividing structure, or barrier, the height of such items shall be included in the measurement of fence height when such items rise higher than the preexisting ground level (i.e., the level of the ground as it existed immediately before such items were deposited or erected).

**FLASHING SIGN:** Any sign having a conspicuous and intermittent variation in the illumination of the sign.

**FLOOR AREA:** The square footage of all floors computed by measuring the dimensions of the outside wall of a building. Porches, patios, terraces, breezeways, carports, verandas, garages, unfinished attics, attic floor areas with less than five (5) vertical feet from floor to finished ceiling, all basements, not including walkout basements, are excluded.

**FLOOR AREA, USABLE (FOR COMPUTING PARKING):** The area used for, or intended to be used for, the sale of merchandise or services, or for use to serve patrons, clients, or customers. Floor area used, or intended to be used, for the storage or processing of merchandise, hallways, or for utilities or sanitary facilities, shall be excluded for the computation of "Usable Floor Area". All floor levels shall be counted.

**GARAGES – PRIVATE:** A building used primarily for the storage of vehicles for the use of the occupants of a lot on which such building is located.

**GARAGE – PUBLIC:** A building, other than a private garage, used for the sale, repair, or equipment of automobiles, motorcycles, snowmobiles, boats and other similar vehicles or where such vehicles are parked or stored for remuneration, hire or sale.

**GAS AND OIL PROCESSING FACILITIES:** Any facility and/or structure used for, or in connection with, the production, processing or transmitting of natural gas, oil, or allied products or substances, and the injection of same into the ground for storage or disposal, not under the exclusive jurisdiction or control of the Geological Survey Division, Department of Environmental Quality or Public Service Commission; not including industrial facilities such as cracking plants, large oil storage facilities and heavy industrial operations and facilities.

**GASOLINE SERVICE STATION:** A structure or structures and space combined, used solely for servicing motor vehicles with the usual operating commodities such as gasoline, fuel oil, grease, water, batteries, tires and other minor accessories, or services such as washing, waxing and lubricating and in connection with which there is no repair or refinishing of motor vehicles, except that the repair of tires, lights, changing of batteries or engine repairs and adjustments when conducted within an enclosed building shall not be excluded.

**GRADE:** An average level of the finished surface of the ground adjacent to the exterior walls of the building or structure.

**GREENBELT:** A strip of land from the water's edge to a line fifty (50) landward from the ordinary high water line parallel to the bank of a stream or lake which is to be maintained in its existing vegetation or trees and shrubs.

**HEAVY INDUSTRY:** Manufacturing, fabricating activities or other large scale specialized industrial operations having external effects which will be felt to some degree on surrounding properties.

**HOME BASED BUSINESS:** A business carried on as a subordinate use by a member of a family residing on the premises and which is clearly incidental and secondary to the use of the parcel of land for residential purposes.

**HOME OCCUPATION:** An occupation or profession carried on within a dwelling as a subordinate use by a member of a family residing in the dwelling. The use must be clearly incidental and secondary to the use of the parcel of land for residential purposes.

**HOTEL or MOTEL:** A building occupied or used as a predominantly temporary abiding place by individuals or groups of individuals, with or without meals, and in which building there are more than five (5) sleeping rooms.

**INDUSTRIAL PARK:** A special or exclusive type of planned industrial area designed and equipped to accommodate a community of industries, providing them with necessary facilities and services in attractive surroundings among compatible neighbors.

**INSTITUTIONAL OR PUBLIC USES:** Churches and places of worship, schools teaching academic subjects, hospitals, convalescent and nursing homes, parks, civic centers, libraries and other governmental structures.

**JUNKYARD:** Any parcel of land maintained or operated for the purchase, sale, storage, dismantling, demolition, or use of junk, including scrap metals, motor vehicles, machinery, buildings, structures, construction material or other salvaged material. Also any premises upon which two (2) or more unlicensed, used motor vehicles which cannot be operated under their own power are kept or stored outside a building for a period of fifteen (15) days or more. The purchase and storage of used cars in operable condition, used or salvaged materials, used furniture and household equipment are excluded if carried on in enclosed buildings.

**LIVING SPACE:** That area within a structure intended, designed, erected or used for human occupancy.

**LOADING SPACE:** An off-street space on the same lot with a building or group of buildings, for temporary parking for a commercial vehicle while loading or unloading merchandise or materials.

**LOT or PARCEL:** A piece of land described either by metes and bounds or by reference to a recorded plat, or site condominium unit created under a recorded master deed.

**LOT - CORNER:** A lot which occupies the interior angle at the intersection of two (2) street lines which make an angle of less than 145 degrees.

**LOT COVERAGE:** The amount of a lot stated in terms of percentage that is covered by all roofed buildings and other structures located thereon. This shall be deemed to include all buildings, porches, arbors, breezeways, patio-roofs and the like, whether open box type and/or lathe roofs or fully roofed, but shall not include fences, walls or hedges used as fences, or swimming pools.

**LOT DEPTH:** The distance between the front and rear lot lines measured in the main direction of the side lot lines. For irregularly shaped lots, the depth is the average length of the side lot lines.

**LOT - INTERIOR:** A lot other than a corner lot, with only one (1) lot line fronting a street.

**LOT - THROUGH:** A lot other than a corner lot, having frontage on more than one (1) street.

**LOT LINE:** The lines bounding a lot or parcel. For the purpose of this Ordinance, a lot line is the boundary line between two (2) lots or the line between the properties of two (2) different owners and also the line between the lot and the boundary of any street or road right-of-way.

**LOT LINE - FRONT:** The line(s) separating the lot from any street right-of-way, private road or other access easement. For waterfront lots, the front lot line shall be the ordinary high water line.

**LOT LINE - REAR:** A lot line which is opposite and most distant from the front lot line and, in the case of an irregularly shaped lot, a line ten (10) feet in length within the lot, parallel to and at the maximum distance from the front lot line.

**LOT LINE - SIDE:** Any boundary line not a front lot line or a rear lot line.

**LOT OF RECORD:** A lot which is part of a subdivision, the map of which has been recorded in the office of the Register of Deeds, or a lot described by metes and bounds, the deed to which has been recorded in the office of the Register of Deeds at the time this Ordinance is passed.

**LOT, WATERFRONT:** A lot having frontage directly upon a lake, river, or stream. The portion adjacent to the water is considered the front of the lot.

**LOT WIDTH:** The distance between the side lot lines measured at the front setback line.

**MANUFACTURED HOME SITE:** A plot of ground within a manufactured housing development designed for the accommodation of one manufactured home.

**MANUFACTURED HOUSING DEVELOPMENT:** A parcel of land that has been planned and improved for the placement of three (3) or more mobile homes for residential dwelling use. Such developments shall be licensed by the State of Michigan. May also be referred to as a mobile home park.

**MOBILE HOME:** See Dwelling, Manufactured.

**MOBILE HOME PARK:** A parcel of land which has been planned and improved for the placement of three (3) or more mobile homes for residential dwelling use.

**MODULAR HOME:** See Dwelling, Manufactured.

**MOTEL:** See Hotel or Motel.

**NONCONFORMING STRUCTURE OR BUILDING:** A structure or building or portion thereof lawfully existing at the effective date of this Ordinance, or amendments thereto, that does not conform to one or more of the following: setbacks, area, height, size or other dimensional provisions of the Ordinance.

**NONCONFORMING USE:** A legally created use of a building or structure or of a parcel or tract of land that does not conform to the use regulations in the district in which located, but conformed with use regulations, if any, at the time it was created..

**NUDE MODEL STUDIO:** Any place where a person who displays Specified Anatomical Areas is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly

depicted by other persons who pay money or any form of consideration, but does not include an educational institution funded, chartered, or recognized by the State of Michigan.

**NUDITY OR A STATE OF NUDITY:** Knowingly or intentionally displaying in a public place, or for payment or promise of payment by any person including, but not limited to payment of an admission fee, any individual's genitals or anus with less than a fully opaque covering, or a female individual's breast with less than a fully opaque covering of the nipple and areola. Public nudity does not include any of the following:

- A. A woman's breastfeeding a baby whether or not the nipple or areola is exposed during or incidental to the feeding.
- B. Material as defined in section 2 of Act No. 343 of the Public Acts of 1984, being section 752.362 of the Michigan Compiled Laws.
- C. Sexually explicit visual material as defined in section 3 of Act No. 33 of Public Acts of 1978, being section 722.673 of the Michigan Compiled Laws.

**OFF STREET PARKING:** A facility providing vehicular parking spaces, along with adequate drives and aisles. Adequate maneuvering space shall also be included to allow unrestricted access and egress to at least two (2) vehicles.

**OPEN SPACE:** Land upon which no structures, parking, rights-of-way, or other improvements have or will be made and that will not be committed for future use other than outdoor recreational use..

**ORDINARY HIGH WATER LINE:** The line between upland and bottomland that 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 itself, the configuration of the surface of the soil, and the vegetation. On Lake Charlevoix the ordinary high water mark shall be the legally established lake level of 582.3 feet IGLD 1985.

**OWNER:** A person holding any legal, equitable option or contract interest in land.

**PARK:** Properties and facilities owned or operated by any governmental agency, or owned or operated by any private agency, which are open to the general public for recreational purposes.

**PARKING SPACE:** An area of definite length and width exclusive of drives, aisles, or entrances, giving access thereto, and fully accessible for the storage or parking of permitted vehicles.

**PERSON:** An individual firm, corporation, association, partnership, limited liability company, or other legal entity.

**PLACE OF WORSHIP:** A building wherein people regularly assemble for religious worship and which is maintained and controlled by a religious body, accepted by the Internal Revenue Service (IRS) and organized to sustain public worship, together with all accessory buildings and uses customarily associated with such principal purpose.

**PLANNED UNIT DEVELOPMENT (PUD):** Land under unified control which allows a development to be planned and built as a unit and which permits upon review and approval, variations in many of the traditional controls related to density, land use, setbacks, open space and other design elements, and the timing and sequencing of the development.

**PLANNING COMMISSION:** The South Arm Township Planning Commission.

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

**PORCH - OPEN:** A covered entrance to a building or structure which is unenclosed except for columns supporting the porch roof, and projects out from the main wall of said building or structure and has a separate roof or integral roof with principal building or structure to which it is attached.

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

**RECREATIONAL VEHICLE:** A vehicle designed to be used primarily for recreational purposes, including temporary sleeping quarters and/or cooking facilities, or a unit designed to be attached to a vehicle and used for such purposes, including self-propelled motor homes, pickup campers, fifth wheel trailers, travel trailers, and tent trailers; PROVIDED, however, that any such vehicle or unit which is fifty (50) feet or more in overall length shall be considered a manufactured home and shall be subject to all regulations of this Ordinance applicable to a manufactured home.

**RECREATIONAL VEHICLE PARK:** All lands and structures which are owned and operated by private individuals, a business or corporation which are predominantly intended to accommodate recreational vehicles and provide for outdoor recreational activities.

**RESORT CABINS:** Two (2) or more cabins used for seasonal occupancy as a dwelling or sleeping quarters for transients or tourists for a fee. Also refer to "Cabin."

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

**SETBACK:** The minimum distance from the lot line within which no buildings or structures, including overhangs, may be placed, except as otherwise provided in this ordinance.

- A. Front: Minimum distance, extending the full lot width, between the principal building and the front lot line.
- B. Rear: The minimum required distance, extending the full lot width, between the principal and accessory buildings and the lot line opposite the front lot line.
- C. Side: The minimum required distance, extending from the front setback to the rear setback, between the principal and accessory buildings and the side lot line.

**SEXUAL ENCOUNTER CENTER:** A business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:



- A. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
- B. Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity.

**SEXUALLY ORIENTED BUSINESS:** A business or commercial enterprise engaging in any of the following: (1) adult arcade; (2) adult bookstore or adult video store; (3) adult cabaret; (4) adult motel; (5) adult motion picture theater; (6) adult theater; (7) escort agency; (8) nude model studio; and (9) sexual encounter center.

**SIGN:** Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, design, trade names or marks, or other representation, or combination thereof, by which anything is made known, such as the designation of an individual, a firm, an association, a profession, a business, a commodity or products, which is located upon any land or on or in any building, in such manner as to attract attention from outside the premises..

**SIGN - OFF PREMISE:** Any sign relating to subject matter not conducted on the premises on which the sign is located.

**SIGN - ON PREMISE:** An advertising sign relating in its subject matter to the premises on which it is located, or to products, accommodations, service, or activities on the premises.

**SITE PLAN:** The drawings and documents depicting and explaining all salient features of a proposed development so that it may be evaluated according to the procedures set forth in this Ordinance, to determine if the proposed development meets the requirements of this Zoning Ordinance.

**SPECIAL USE PERMIT:** A permit granted with approval by the Township Planning Commission for a use of land in a district that does not conflict with any other permitted land use in the district when such a special use is specified in this Ordinance for that district..

**SPECIFIED ANATOMICAL AREAS:** Are defined as

- A. Less than completely and opaquely covered human genitals, pubic regions, buttocks, anus and female breast below a point immediately above the top of the areola; and
- B. Human male genitals in a discernibly turgid state even if completely and opaquely covered.

**SPECIFIED SEXUAL ACTIVITIES:** Means and includes the following:

- A. The fondling or other erotic touching of human genitals, pubic regions, buttocks, or female breast;
- B. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
- C. Masturbation, actual or simulated; or

- D. Excretory functions as part of or in connection with any of the activities set forth in (A) through (C) above.

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

**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 purpose of this ordinance the usable floor area is only that area having at least four feet (4') clear height between the floor and ceiling, and does not exceed two-thirds of the floor area in the story directly below.

**STRUCTURE:** Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having such location on the ground. Sidewalks and at-grade patios shall not be considered as "structures," but must comply with all applicable standards of this Ordinance.

**TELECOMMUNICATION TOWERS AND FACILITIES OR TOWER:** All structures and accessory facilities, including alternative tower structures, relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals; including, but not limited to, radio towers, television towers, telephone devices and exchanges, microwave relay facilities, telephone transmission equipment buildings, private and commercial mobile radio service facilities, personal communication services towers (PCS), and cellular telephone towers. Not included in this definition are: citizen band radio facilities; short wave receiving facilities; radio and television broadcast reception facilities; satellite dishes; federally licensed amateur (HAM) radio facilities; and governmental facilities which are subject to state or federal law or regulations which preempt municipal regulatory authority.

**VEHICLE REPAIR:** Any major activity involving the general repair, rebuilding, or reconditioning of motor vehicles or engines; collision repair, such as body, frame, or fender straightening and repair; overall painting and vehicle rust-proofing; refinishing or steam cleaning.

**VEHICLE SALES:** An authorized dealership for the sale of new and/or used vehicles with completely enclosed office and sales facilities on the premises. All related activities incidental to the sale of new and/or used vehicles such as minor repairing, servicing, and restoring, shall be performed within completely enclosed facilities.

**WATERCRAFT PARKING SPACE:** A docking space, slip, marina space, mooring, or any other in-water location designed and used to accommodate a boat.

**YARD:** An open space on the same lot with a building, structure or use, unoccupied and unobstructed from the ground upward, except as otherwise provided herein. The measurement of a yard shall be construed as the minimum horizontal setback distance between the lot line and the building, structure or use.

**YARD – FRONT:** A yard extending across the front of the lot between the side lot lines and measured between the front line of the lot and the nearest point of any use, building or structure located upon the property.

**YARD – REAR:** A yard extending across the rear of a lot between the side lot lines and being the minimum horizontal distance between the rear lot line and the rear of the use, building or structure, or any projections other than steps, unenclosed balconies or unenclosed porches. On the corner lots, the rear yard shall be considered as parallel to the street upon which the lot has its least dimension. On both corner lot and interior lots, the rear yard shall in all cases be at the opposite end of the lot from the front yard.

**YARD – SIDE:** A yard between the side lot line and the nearest side line of the use, building or structure and extending from the rear line of the building to the front line of the use, building or structure.

**ZONING ADMINISTRATOR:** The administrator of this Ordinance, appointed by the South Arm Township Board.

**ZONING LOT or PARCEL:** Two (2) or more lots, parcels, combination of lots or parcels or portions of lots or parcels which are contiguous, of record and are under or come under the same ownership at or after the effective date of this Zoning Ordinance or amendment thereto, which, as individual lots, parcels, or portions of lots or parcels are nonconforming as defined in this Zoning Ordinance shall be considered to be an undivided parcel for purposes of this Zoning Ordinance. If the lots when combined meet lot width and area requirements established by this Zoning Ordinance or any amendment thereto, then no portion of said lot or parcel shall be used or occupied which do not meet area or dimensional requirements established by this Zoning Ordinance.

**ZONING PERMIT:** A zoning permit is written authority as issued by the Zoning Administrator on behalf of the Township permitting the construction, moving, exterior alteration or use of a building or land in conformity with the provisions of this Ordinance.

## **Article III: General Provisions**

### **Section 3.01 Purpose**

General regulations apply to all districts except as noted herein. Where requirements of a general regulation and a district regulation differ, the more restrictive requirement shall prevail.

### **Section 3.02 Principal Use and Lot/Building Relationship**

Hereafter, every building erected, altered or moved shall be located on a lot of record as defined herein, there shall be no more than one (1) principal use and its permitted accessory structures located on each lot, except as otherwise authorized by this Ordinance.

### **Section 3.03 Accessory Buildings**

- A. A building which is structurally connected to principal building by a roofed porch, breezeway or similar structure, shall be considered part of the principal building and thus not subject to the regulations for accessory structures.
- B. A detached accessory building shall be located no closer to a front, side or rear lot line than the permitted distance for the principal structure on the same lot, except as otherwise provided in this Section.
- C. An accessory building shall comply with all setback requirements and shall be located no less than ten (10) feet from any other building.
- D. An accessory building shall be for personal use by the owner or occupant of the property, unless otherwise authorized by this ordinance.
- E. A mobile home shall not be used as an accessory building.
- F. An accessory building shall not be used, in whole or in part, as a dwelling, except as otherwise allowed for in the Zoning Ordinance.
- G. On properties located in the Agricultural Zoning District, accessory building(s) shall be allowed to be located on a parcel without a principal building.

### **Section 3.04 Accessory Buildings as Dwellings**

No accessory building on the same lot as a principal building shall be used for dwelling purposes except for family members or domestic employees whose employment functions are directly related to the function of the principal building; provided that all other applicable requirements of this Ordinance are satisfied.

### **Section 3.05 Temporary Buildings**

Temporary buildings for use incidental to construction work, and all debris, shall be removed within thirty (30) days after occupancy of any building or structure or within thirty (30) days of completion of the construction work, whichever is less.

### **Section 3.06 Temporary Dwelling during Construction of a Permanent Dwelling**

For the express purpose of promoting the health, safety and general welfare of the inhabitants of South Arm Township, and of reducing hazards to health, life and property, no basement-dwelling, cellar-dwelling, garage-house, tent, camper, travel trailer, recreational vehicle, mobile home not installed according to the requirements of this Ordinance, or other substandard structure shall hereafter be erected or moved upon any premises and used for dwelling purposes except under all the following applicable conditions:

- A. The location on the lot or parcel shall conform to the provisions governing yard requirements of dwellings in the district where located.
- B. The use shall be for the sole purpose of providing dwelling facilities for the owner of the premises during the period in which a dwelling conforming to the provisions of this Ordinance is in process of erection and completion, or is under repair, but not to exceed twelve (12) months. One (1) additional twelve (12) month extensions may be obtained from the Zoning Administrator. The temporary dwelling shall be removed within thirty (30) days of completion of the construction of a permanent dwelling unit complying with the requirements of this Ordinance, or within thirty (30) days after occupancy of the permanent dwelling unit, whichever is less.
- C. A sanitary waste disposal system and drinking water well shall be constructed and maintained in accordance with the standards of materials and installation recommended by the Health Department of Northwest Michigan for the permanent dwelling, and shall precede occupancy of the temporary dwelling.
- D. Application for the erection and use of a temporary dwelling shall be made at the time of zoning permit application for the permanent dwelling. On approval and delivery of the zoning permit, the applicant shall certify in a space allotted for that purpose, and on the copy retained for filing by the Township, that he has full knowledge of the limitations of the permit and the penalty pertaining thereto. No such permit shall be transferable to any other person.
- E. No annexes or additions shall be added to temporary dwellings.

### **Section 3.07 Essential Services**

- A. The erection, construction, alteration, maintenance, and operation by utilities or municipal departments or commission, of overhead or underground gas, electrical, steam or water distribution, transmission systems, collection, communication, supply or disposal systems, including mains, drains, sewers, pipes, conduits, wires, hydrants, structures, towers, poles, electrical substations, gas regulator stations, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utility or municipal department or commission, or for the public health or safety or general welfare, shall be permitted as authorized or regulated by any laws and the ordinances of the Township of South Arm in any Use District.
- B. Telecommunication towers, alternative tower structures, antennas, wind turbine generators, and anemometer towers shall be regulated and permitted pursuant to this

Ordinance and shall not be regulated or permitted as essential services, public utilities or private utilities.

### **Section 3.08 Water Supply and Sewage Disposal Facilities**

All water supply and sanitary sewage disposal systems either public or private, for any building hereafter erected, altered or moved upon any premises shall be subject to compliance with the local health department sanitary code requirements. Plans must be submitted to and approved by the responsible agencies. The written approval of such facilities by local health department shall be filed with application for a Zoning Permit.

### **Section 3.09 Storm Water Retention**

Stormwater drainage in excess of natural conditions shall be retained on site. This provision may require stormwater retention ponds where appropriate. An exception may be made for water leaving the site via an adequately sized existing stormwater ditch, stormwater pipe or through other stormwater facilities that will be developed at the same time as the proposed new use. Stormwater management efforts shall be consistent with the provisions of the Charlevoix County Stormwater and Soil Erosion Control Programs. In the case of conflicting regulations, between the Township Zoning Ordinance and the applicable county ordinances pertaining to stormwater and/or erosion control, the more stringent of the two shall apply. Written approval from the Michigan Department of Transportation (MDOT) shall be required for an additional site run-off directed into a state ditch, i.e.M-66.

### **Section 3.10 Mobile Homes and Manufactured Housing**

- A. Mobile homes and manufactured homes sited on individual lots shall meet the standards for minimum lot size, yard set-backs, minimum floor area and minimum dwelling unit width for the district in which they are located and shall meet the following additional standards:
1. Mobile homes and manufactured homes shall be attached to an approved permanent foundation or basement and shall be anchored using a system that meets the Michigan Mobile Home Commission requirements.
  2. Mobile homes and manufactured homes shall be installed according to manufacturer's set up requirements, and the construction of the unit shall comply with the National Mobile Home Construction and Safety Standards Act of 1974, as amended.
  3. The wheels, axles and towing assembly shall be removed from a mobile home or manufactured home before the unit is attached to the foundation. Additionally, no mobile home or manufactured home shall have any exposed undercarriage or chassis.
  4. No person shall occupy any mobile home or manufactured home as a dwelling within the Township until a certificate of compliance has been issued by the building official which permit shall indicate satisfactory compliance with all requirements of the Township/County and Building Code.

5. Mobile homes or manufactured homes shall not be used as an accessory building.
- B. Where three (3) or more mobile homes are sited on the same parcel, the development shall be considered a mobile home park, and shall be licensed by the State of Michigan and shall be subject to the applicable state regulations for such developments.

### **Section 3.11 Travel Trailers, Camping Accommodations and Recreation Vehicles**

- A. Camping (tent or RV) shall be allowed on any parcel of land, without a temporary zoning permit, provided the following conditions and limitations are met:
1. No more than one (1) recreational vehicle shall be permitted.
  2. Any tent or RV must be located to meet all applicable setback requirements for principal structures, and shall not be used for commercial or business purposes.
  3. Time limits for camping:
    - a. On parcels in all zoning districts, except parcels of two (2) acres or greater in the Agricultural Zoning District, camping shall be limited to a period of not more than 14 consecutive days and a total of 28 days in a calendar year.
    - b. On parcels of two acres or greater in the Agricultural Zoning District, no time limit shall apply.
- B. Recreational vehicles stored on a parcel for greater than 28 days shall be screened from view from adjacent properties and public roads.

### **Section 3.12 Landscape Buffer**

A landscape buffer, shall be required for any commercial or industrial use that abuts a residential or agricultural use on either the side yard or rear yard. In all instances, this may be provided as part of the side or rear setback requirements. The Planning Commission may waive the landscape buffer requirement, after public hearing (with prior notification of property owners within 300') and upon the Planning Commission finding that there would be no adverse effects upon the neighboring property as a result of the development.

### **Section 3.13 Restoration of Unsafe Buildings**

Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe by the Building Inspector.

### **Section 3.14 Continued Conformances with Regulations**

The maintenance of yards, open spaces, lot areas, height and bulk limitations, fences, walls, clear vision areas for safety, parking and loading spaces, and all other requirements, including the proper maintenance and repair of screening arrangements, for a building or use specified within this Ordinance shall be the continuing obligation of the owner of such building or property on which such building or property or use is located.

### **Section 3.15 Signs**

The purpose of this section is to preserve the desirable character of South Arm Township, as well as to recognize the need for and privilege of advertising, so that people unfamiliar with the area, such as tourists and transients, may avail themselves of the goods and services afforded by the local business places. At the same time, the Township recognizes right of residents to be free of advertising that could affect property values and create an unpleasant or less than desirable atmosphere. The use and erection of all outdoor signs and media shall be subject to all state and local codes and statutes, in addition to the provisions of this ordinance.

- A. Signs Not Requiring a Sign Permit. The following signs may be placed in any zoning district without a sign permit, provided such signs comply with any applicable federal or state law or regulation and are located so as not to cause a nuisance or safety hazard:
1. One (1) non-illuminated identification sign per use, not exceeding two (2) square feet of sign surface.
  2. Street name signs, route markers and other traffic control signs erected or approved by state, county or village agencies when necessary to give proper directions or to otherwise safeguard the public.
  3. Non-advertising signs erected by any organization, person, firm or corporation that is needed to warn the public of dangerous conditions and unusual hazards including but not limited to: road hazards, high voltage, fire danger, explosives, severe visibility, etc.
  4. Non-advertising signs exclusively devoted to controlling property access (no trespassing, private property, keep out, no hunting, hiking trail, day use only, and similar instructional messages), provided the sign surface does not exceed the maximum size limitations of subsection B. below.
  5. Non-advertising signs marking an historically significant place, building or area when sanctioned by a national, state or local historic organization recognized by the planning commission, provided the sign surface does not exceed the maximum size limitations of subsection B. below.
  6. Signs that have been approved in conjunction with a valid site plan or zoning permit for any principal or accessory use, and signs required by federal or state agencies in connection with federal or state grant programs.
  7. One temporary real estate sign, not exceeding ten (10) square feet per side, on individual lots advertising a premise for sale or rent.
  8. One sign advertising a sale such as garage, estate, auction, moving, and yard sale, which last no more than seven (7) consecutive days, provided the sign surface does not exceed the maximum size limitations of subsection B. below.
  9. Political and noncommercial signs, provided the sign surface does not exceed the maximum size limitations of subsection B. below.



B. Size Restrictions.

The size of any publicly displayed sign, symbol or notice on a premises to indicate the name of the occupant, to advertise the business there transacted, to express non-commercial political views, or directing to some other locale, shall be regulated as follows:

<u>Use District.</u>	<u>Maximum Size of Sign per Side.</u>
Residential Districts (R-1, R-2, R-3, R-4)	Six (6) square feet
Cons. Reserve and Natural Rivers Districts (CR, NR)	Twelve (12) square feet
Agricultural, Commercial and Industrial Districts (A-1, C-1, C-2, I-1)	Thirty-two (32) square feet

C. General Sign Regulations.

In addition to the size limitations stated in Subsection B, the following conditions shall apply to all signs and billboards erected in any use district:

1. No sign, except non-illuminated residential name plates and signs specifically identified in subsection A above, shall be erected or altered until approved by the Zoning Administrator (ZA) or authorized by a Planning Commission (PC) approved site development plan. After the ZA or PC approval, the required sign permit shall be issued.
2. No signs or billboards shall be located on any street corner which would obscure the vision of drivers using said streets, or conflict with traffic control signals at the intersection of any streets. No signs shall obstruct the vision of drivers at any driveway, parking lot or other route providing ingress or egress to any premises.
3. Illumination of signs shall be directed, shaded or designed so as not to interfere with the vision of persons on the adjacent highway, streets or properties. The projected light shall not emanate beyond the sign and unnecessarily illuminate the night sky. Illuminated signs shall not be of the flashing, moving or intermittent type.
4. In those instances where a business use or tourist service facility is not located directly on a major route, but is dependent upon passer-by traffic for support, not more than two (2) signs per business may be permitted in A-1, C-1, C-2 or I-1 Districts subject to review and approval of location by the Zoning Administrator. Not more than one (1) freestanding sign per six hundred sixty (660) feet of road frontage or per lot, may be allowed, EXCEPT if the signs are directional signs as provided by the Michigan Department of Transportation or part of a local Township approved directional sign program and approved by the Zoning Administrator. No off-premise signs shall be permitted in the Residential Districts (R-1, R-2, R-3, R-4) or the Conservation Reserve District (CR).
5. All directional signs located along the public roadways, to direct traffic to a business off the highway, must conform to the standards used by the Michigan Department of Transportation or County Road Commission for such signs. Wherever possible such directional signs will be clustered.

6. Freestanding signs, pole signs or advertising pylons may be permitted in a required front yard for uses set ten (10) feet or more behind the front property line. No freestanding sign shall exceed a maximum of twenty (20) feet height, measured from the ground to the top of the sign, regardless of the zoning district.
7. Both sides of any freestanding or overhanging sign may be used for display.
8. No sign shall project beyond or overhang the wall, roof or any architectural feature by more than five (5) feet. However, prior to the erection or overhanging of a sign in a public right-of-way, the sponsor of such sign shall receive the approval of the proper governmental agency having jurisdiction over such right-of-way (county or state).
9. Roof position signs or billboards are specifically prohibited.
10. The number of signs allowed will be decided by the Township Zoning Administrator unless site plan approval is required for the proposed use, in which case the number of signs allowed will be decided by the Planning Commission at the time of site plan review. Factors considered will include building size, location, length of street frontage and lot size.
11. In no case shall a sign or signs exceed a total of ten percent (10%) of the building face to which they are attached.
12. Portable signs shall be prohibited, except where allowed for in this section or such signs have been approved by the Planning Commission as meeting a special purpose need and/or being appropriate for the particular need. Approved sandwich board portable signs shall not exceed twenty four (24) inches in width by forty eight (48) inches in height.
13. Advertising devices such as banners, balloons, flags, pennants, pinwheels, searchlights or other devices with similar characteristics are prohibited, except when used temporarily for period not to exceed fifteen (15) days to announce the opening of a new type of business or use by a new owner.
14. In the case of Commercial Special Events, which occur no more than once every six (6) months, advertising devices such as banners, balloons, flags, pennants, pinwheels, searchlights or other devices with similar characteristics, are permitted with Planning Commission approval, for a period of not more than seven (7) days prior to the event and shall be removed within one (1) day of the completion of the event.
15. In the case of seasonal recurring events, advertising devices such as banners, balloons, flags, pennants, pinwheels, searchlights or other devices with similar characteristics, are permitted with seasonal Planning Commission approval, such advertising devices shall not be used for a period of more than twenty-four (24) hours prior to the event and shall be removed immediately following the event.
16. Political signs: Political signs shall be removed within five (5) days after the election.

17. The use of any outdoor business or informational sign erected and in use at the date this amendment is enacted, may be continued. Such signs shall be designated as "Nonconforming Signs". The maintenance, reconstruction, alteration, discontinuation, and change in the nonconforming nature of a Nonconforming Sign shall be governed by Article III, Section 3.17 – Nonconforming Buildings, Structures and Uses of this ordinance the same as for other nonconforming uses under this ordinance.
- D. Off-premise signs and billboards regulated by the Michigan Department of Transportation under the Highway Advertising Act, P.A. 106 of 1972 and amendments, shall not exceed Thirty two (32) square feet in size. All other off-premise signs shall be subject to the limitations of Subsections 3.15.B and C.

### **Section 3.16 Parking and Loading Standards**

- A. For each dwelling, business, commercial, industrial, or similar building hereafter erected or altered, and located on a public roadway in the Township, including buildings or structures used principally as a place of public assembly, there shall be provided and maintained suitable off-street parking in accordance with the following schedule:
1. Residential Uses: Minimum two (2) parking spaces per primary dwelling unit.
  2. Commercial, Service and Office Uses: Minimum two (2) parking spaces per 1,000 square foot of usable floor area. Maximum five (5) parking spaces per 1,000 square feet of usable floor area.
  3. Industrial Uses: Minimum one parking space for every 1,000 square foot of usable floor area.
  4. Other uses not covered by the above, such as places of worship or other gathering sites, shall be subject to review and approval by the Planning Commission.
- B. Two (2) or more buildings or uses may collectively provide the required off-street parking. In such a case, the required number of parking spaces for the individual uses may be reduced by up to twenty-five (25%) percent if a signed agreement is provided by the property owners and, upon approval, the agreement is recorded with the Charlevoix County Register of Deeds for both properties.
- C. Parking Lot Deferment: Where the property owner or Planning Commission can demonstrate that the required amount of parking is excessive, the Planning Commission may approve a smaller parking area. Area of sufficient size to meet the parking space requirements of this Article shall be retained as open space, and the owner shall agree to construct the additional parking at the direction of the Planning Commission based on observed usage within six (6) months of being informed of such request in writing by the Zoning Administrator. The site plan shall note the area where parking is being deferred, including dimensions and dotted parking lot layout. Any required landscaping placed in this area shall be relocated when the parking area is expanded.
- D. In order to minimize excessive areas of pavement, which are unsightly and contribute to high rates of stormwater runoff, exceeding the minimum parking space requirements by

greater than ten (10%) percent shall not be allowed, except as approved by the Planning Commission. In granting such additional space, the Planning Commission shall determine that such parking will be required, based on documented evidence, to accommodate the use on a typical day.

- E. In case of a use not specifically mentioned, the requirements of off-street parking facilities shall be the same as for the most similar use listed.
- F. Exits and entrances may be combined or provided separately. Approval of location of such exit and entrance shall be obtained in writing from the Charlevoix County Road Commission and/or Michigan Department of Transportation which approval shall include the design and construction thereof in the interest of safety, adequate drainage and other public requirements.
- G. On the same premises with every building, structure or part thereof, involving the receipt or distribution of vehicles or materials or merchandise, there shall be provided and maintained on-the-lot space for standing, loading, and unloading in order to avoid undue interference with public use of dedicated streets or alleys.

### **Section 3.17 Nonconforming Buildings, Structures and Uses**

- A. Any lawful building or use existing at the time of the enactment of this Ordinance or any building or use that is lawful at the time of any amendment to this Ordinance, may be continued at the discretion of the owner.
- B. Abandonment of nonconforming use or structure: If a property owner has an intent to abandon a nonconforming use or structure and in fact abandons a nonconforming use or structure for a period of one (1) year, then any subsequent use of the property or structure shall conform to the requirements of this Ordinance. When determining the intent of the property owner to abandon a nonconforming use or structure, the zoning administrator shall consider the following factors:
  - 1. Whether utilities, such as water, gas and electricity to the property have been disconnected.
  - 2. Whether the property, buildings and grounds have fallen into disrepair.
  - 3. Whether signs or other indications of the existence of the nonconforming use have been removed.
  - 4. Whether equipment or fixtures necessary for the operation of the nonconforming use have been removed.
  - 5. Other information or actions that evidence an intention on the part of the property owner to abandon the nonconforming use or structure.
- C. Nothing contained in this Ordinance shall be construed to approve, to authorize, or to condone, any nonconforming building structure or use that is otherwise unlawful, or constitutes a hazard or a nuisance.
- D. Nonconforming Uses.

1. A nonconforming use may be carried on throughout any parts of a building or land which were manifestly arranged or designed for such use.
2. Any nonconforming use which is superseded by a permitted use, shall thereafter conform to the regulations for the district in which the use is located, and the nonconforming use may not thereafter be resumed.

E. Nonconforming buildings and structures.

1. Normal maintenance, repairs and cosmetic alterations and improvements of nonconforming buildings and structures may be made throughout its normal life.
2. Extensions or enlargements of nonconforming buildings or structures that are constructed in a conforming way with the ordinance requirements may be permitted. Nothing in this Ordinance shall require any change in the construction or intended use of a building or structure for which the construction was substantially under way on the effective date of this Ordinance.
3. Damaged nonconforming buildings or structures. Any building or structure, whether it be nonconforming because of the building itself or the lot on which it is located, may be reconstructed to no greater than its original configuration (i.e. original footprint and spatial envelope) in the event it is destroyed or partially destroyed by explosive, fire or other acts of God.
4. Extensions, additions, replacement, or enlargement of nonconforming buildings or structures that extend the nonconformity of the building or structure need approval by the Zoning Board of Appeals, based on the ZBA standards set forth in Article IX. Replacement buildings or structures shall be reconstructed only up to its original configuration.

F. Zoning Lots or Parcels

Any lots or parcels combined as a zoning lot or parcel as defined in Article II of this Zoning Ordinance, or amendments thereto, shall not be divided so as to leave remaining a lot or parcel with dimensional or area requirements below those stated in this Zoning Ordinance or any amendment thereto. If the lots when combined still do not meet area or dimensional requirements established by this Zoning Ordinance or any amendment thereto, then the combined lots or parcels or portions thereof may be used as one nonconforming lot of record under this Zoning Ordinance or any amendment thereto.

**Section 3.18 Fences in Residential Districts**

No fence shall exceed six (6) feet in height, except as otherwise provided for in this Ordinance. In a yard fronting on a street or road, no fence shall exceed four (4) feet in height and shall be constructed of non-obscuring materials. Fences shall not obstruct clear vision for traffic safety purposes nor create a hazard to traffic or pedestrians.

**Section 3.19 Docks**

One dock shall be allowed per lake front lot or parcel. Two or more adjacent nonconforming lots that are owned by the same person shall be allowed one dock. One additional dock shall be

allowed for each full 100' of frontage in excess of the first 100 feet of frontage. All docks shall comply with the applicable district setback requirements. The dock length shall be limited to 30 feet in length, or the minimum length to reach a water depth of four (4) feet, whichever is greater. Dock width shall be limited to six (6) feet in width.

### **Section 3.20 Common Use Waterfront**

When more than two (2) families share a waterfront lot, such common use and/or ownership of the waterfront lot shall be governed by this Section. The provision herein shall apply regardless of whether access to the waterfront is gained by easement, common or joint fee ownership, single fee ownership, lease, license, site condominium unit, stock, or membership in a corporation, or any other means. All such common use waterfront lots must comply with the following regulations and standards:

- A. Site plan approval is required by the Planning Commission, pursuant to Article V, except that the following additional information shall be included in the site plan:
  - 1. The specific uses permitted on the common waterfront area, the locations of same, and all conditions that must be met to entitle one to such uses.
  - 2. The bearings, distances, and calculations showing compliance with subsections (B), (C), and (D) below.
  - 3. Proposed location of docks or other waterfront structures.
- B. The land comprising the common waterfront shall have at least the minimum water frontage (as measured at the ordinary high water line), and shall have at least the minimum area for the applicable zoning district. The required frontage and area shall be increased by the required district minimums for each additional family having waterfront privileges associated with the common waterfront.
- C. One (1) car parking space shall be provided for each family having waterfront privileges, unless this standard is reduced or otherwise waived by the Planning Commission due to the proximity of the families having such privileges to the common waterfront.
- D. No more than three watercraft parking spaces (i.e. slip, mooring, boat hoist or any other means of seasonal anchorage) per one hundred feet (100') of frontage on the water shall be allowed.
- E. A maximum of one (1) dock per one hundred feet (100') of lot width shall be allowed, all boat hoists shall be attached to a dock. The Planning Commission may limit the number of docks, provided the allowed dock(s) provide sufficient space to accommodate the allowable three watercraft parking spaces per one hundred feet of lot width.
- F. Commercial boat launch facilities are not permitted, except as specifically provided for by other sections of this Ordinance.
- G. The Planning Commission shall approve, disapprove or approve with conditions the site plan based upon the standards pursuant to Article V, and in consideration of the following standards related to the common use waterfront:

1. The extent of contemplated injury or nuisance, including noise, to owners of riparian, adjacent and nearby lands.
  2. The impact upon the public's enjoyment of the navigable waters.
- H. Obtain and comply with the conditions of all other applicable permits.

### **Section 3.21 Outdoor Lighting**

In order to minimize light pollution, and promote the dark sky principles, all outdoor lighting, whether for illuminating sites, parking areas, buildings, signs and/or other structures shall be shielded, shaded, designed and/or directed away from all adjacent districts and uses; and further shall not glare upon or interfere with persons and vehicles using public streets. Lighting fixtures are to be of the full cut-off design with horizontally aligned flush mounted (non-protruding) lens, directing light on-site only, and no more than twenty (20) feet in height.

The Planning Commission may permit taller or require shorter fixtures only when the Commission determines that unique conditions exist and where a waiver would: reduce the number or size of light fixtures; not adversely impact neighboring properties and permit fixtures in proportion to height and bulk of nearby buildings and other fixtures. Site lighting shall not exceed twenty (20) foot candles as measured three (3) feet above the ground surface, directly under the fixture.

### **Section 3.22 Medical Use of Marihuana**

- A. The medical use of marihuana by both qualifying patients and primary caregivers, as those terms are defined in Section 3 of Initiated Law 1 of 2008, as amended (Michigan Medical Marihuana Act), being MCL 333.26423, shall be a use by right in all zoning districts. Because of the confidential nature of the medical use of marihuana, no zoning permit shall be required.
- B. A property at which a primary caregiver is providing medical marihuana services shall have no sign related to the use as a primary caregiver visible from outside the dwelling.

### **Section 3.23 Antenna Co-location on an existing Tower or Structure**

- A. No antenna or similar sending/receiving devices appended to the tower, following its approved construction, shall be permitted if it exceeds the engineered design capacity of the tower thereby jeopardizing the tower's structural integrity.
- B. The installation and/or operation of the above mentioned, antennas or facilities shall not interfere with normal radio/television reception in the area. In the event interference occurs, it shall be the sole responsibility of the owner to rectify the situation with the parties involved.
- C. No antenna or similar sending and receiving devices appended to the tower or structure shall increase the overall height of the tower or structure by more than twenty (20) feet.
- D. No zoning permit shall be required for co-location of an antenna on an existing tower or structure.

## **ARTICLE IV: ZONING DISTRICTS AND REGULATIONS**

### **Section 4.01 – Kinds of Districts**

For the purpose of this Ordinance, all of the unincorporated area of South Arm Township is hereby divided into the following zoning Districts. The locations of these Districts are shown on the accompanying Township Zoning Map of South Arm Township.

- A. Single Family Residential District, R-1
- B. Single Family Waterfront Residential District, R-2
- C. Multiple Family Residential District, R-3
- D. Mobile Home Park or Manufactured Housing Development Residential District, R-4
- E. Commercial District, C-1
- F. Waterfront Commercial District, C-2
- G. Industrial District, I-1
- H. Agricultural District, A-1
- I. Natural Rivers District, NR
- J. Conservation Reserve District, CR

### **Section 4.02 –Zoning Map of South Arm Township**

The ZONING MAP OF SOUTH ARM TOWNSHIP and all information and proper notations shown thereon are hereby made a part of this Ordinance. Unless otherwise provided, the boundary lines of all zoning districts shall be interpreted as following along section lines or the division of sections such as quarter and eighth lines; or the centerlines of highways, streets, and waterways; or the shoreline of water bodies; or the boundaries of incorporated areas, recorded plats or subdivision; or property lines of legal record on the date of enactment of this Ordinance, or any extension of said lines.

### **Section 4.03 –Determinations by Township Zoning Board of Appeals**

All questions concerning the exact location of any zoning district not clearly described shall be determined by the Township Zoning Board of Appeals, consistent with the purpose of this Ordinance, upon written application through the Township Zoning Administrator, or upon its own motion.



**SOUTH ARM TOWNSHIP,  
CHARLEVOIX COUNTY, MICHIGAN**  
TOWNSHIP ZONING MAP  
THE OFFICIAL TOWNSHIP ZONING MAP  
IS ON DISPLAY AT THE TOWNSHIP HALL

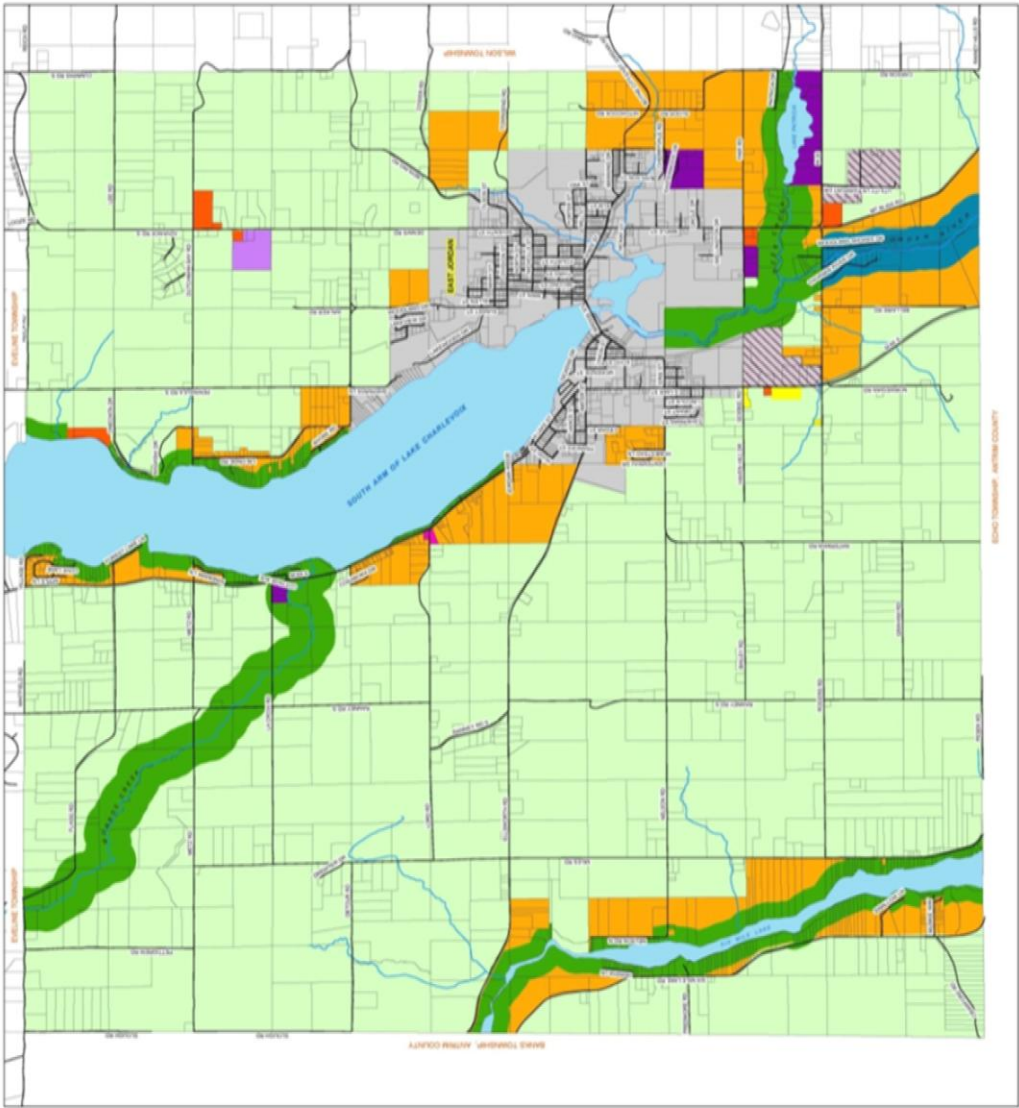


**LEGEND**

**ZONING DISTRICT CLASSIFICATION**

	LAKES
	P.A. ISLANDS
	WETLANDS
	A. AGRICULTURAL
	R1. RESIDENTIAL
	R2. GREENBELT RESIDENTIAL
	R3. MULTIFAMILY RESIDENTIAL
	R4. MOBILE HOME PARK RESIDENTIAL
	C1. COMMERCIAL
	C2. WATERFRONT COMMERCIAL
	I1. INDUSTRIAL

**SECTION 140 SOUTH ARM TOWNSHIP ZONING ORDINANCE - ZONING MAP PROVISIONS**  
 ANY ZONING DISTRICT CLASSIFICATION ON THIS ZONING MAP SHALL BE SUBJECT TO THE FOLLOWING: THE DISTRICT CLASSIFICATION SHALL BE APPLIED TO ALL LANDS WITHIN THE TOWNSHIP UNLESS OTHERWISE SPECIFIED BY THE TOWNSHIP BOARD OF SUPERVISORS. THE TOWNSHIP BOARD OF SUPERVISORS SHALL HAVE THE AUTHORITY TO AMEND, REPEAL, OR SUSPEND ANY ZONING DISTRICT CLASSIFICATION ON THIS ZONING MAP. THE TOWNSHIP BOARD OF SUPERVISORS SHALL HAVE THE AUTHORITY TO AMEND, REPEAL, OR SUSPEND ANY ZONING DISTRICT CLASSIFICATION ON THIS ZONING MAP. THE TOWNSHIP BOARD OF SUPERVISORS SHALL HAVE THE AUTHORITY TO AMEND, REPEAL, OR SUSPEND ANY ZONING DISTRICT CLASSIFICATION ON THIS ZONING MAP.



#### **Section 4.04 Single Family Residential District (R-1)**

- A. Purpose – The purpose of this District is to provide for a stable and sound family residential environment with its appropriate neighborhood with utilities and services.
- B. Permitted Uses
  - 1. One single family dwelling on each lot.
  - 2. Farms on land areas of ten (10) acres or more.
  - 3. State licensed residential facilities for six (6) or fewer persons.
  - 4. Accessory buildings and uses customarily incidental to the above permitted uses.

- C. Uses Subject to Special Use Permit

Special uses that may be authorized in this zoning district include the following uses provided that an application is submitted for a special use permit and approved in accordance with the procedures, provisions and standards of Article VI of this Ordinance. A site plan prepared according to Article V shall be required.

- 1. Home occupations, subject to the provisions of Article VII
- 2. Churches and other places of worship and related structures such as a parish hall, parsonage, etc.
- 3. Schools, libraries, community buildings, publicly owned buildings
- 4. Parks and Playgrounds
- 5. Public utility buildings
- 6. Child Care Facilities
- 7. Cemeteries, subject to the provisions of Article VII
- 8. Bed and breakfast facilities, subject to the provisions of Article VII
- 9. Planned unit development, subject to the provisions of Article VIII
- 10. Accessory buildings and uses customarily incidental to the above special uses

- D. Dimensional Regulations

Structures and uses in the Single Family Residential District are subject to the area, height, bulk and placement requirements in Section 4.14 Schedule of Regulations.

#### **Section 4.05 Single Family Waterfront Residential District (R-2)**

- A. Purpose – The purpose of this district is to implement a waterfront protection area on the lakes, rivers and streams of South Arm Township. This section of the South Arm Township Zoning Ordinance shall include all land to a distance of four hundred (400) feet from the center of the Jordan River, Monroe Creek and Deer Creek, three hundred (300) feet from the ordinary high water line of the following lakes in the Township: Charlevoix, Six Mile and Patricia, or the first lot adjacent to the water body, whichever is less; unless classified in another zoning district.
- B. Permitted Uses
1. One single family dwelling on each lot.
  2. State licensed residential facilities for six (6) or fewer persons.
  3. Parks and playgrounds.
  4. Accessory buildings and uses customarily incidental to the above permitted uses
- C. Uses Subject to Special Use Permit
- Special uses that may be authorized in this zoning district include the following uses provided that an application is submitted for a special use permit and approved in accordance with the procedures, provisions and standards of Article VI of this Ordinance. A site plan prepared according to Article V shall be required.
1. Home occupations, subject to the provisions of Article VII
- D. Dimensional Regulations
- Structures and uses in the Single Family Waterfront Residential District are subject to the area, height, bulk and placement requirements in Section 4.14 Schedule of Regulations.
- E. Greenbelt Regulations
1. A strip of land fifty (50) feet wide from the ordinary high water mark from a lake or from the banks of a stream or river shall be maintained in trees or shrubs. In a space not to exceed one-third (1/3) of the lot width trees may be trimmed and shrubs removed, to allow for installation of a dock and facilitate water views.
  2. Platforms and boardwalks along rivers and streams in the Township shall not exceed twenty (20) feet in length, eighty square feet in size and shall not extend into the water.
- F. Flood and Grade Level
- No dwelling shall be constructed on lands, which are subject to flooding, or on land where a minimum of four (4) feet between finished grade level and high ground water cannot be met. Land may be filled to meet the minimum requirements only under the following conditions:
1. Fifty (50) greenbelt strip is maintained.
  2. No material is allowed to enter water either by erosion or mechanical means.
  3. Fill material is pervious.
  4. A walk to the water's edge may be may be constructed from wood or other material no finer than gravel. Such path shall not exceed four (4) feet in width.
  5. None of the above is permissible without a permit from the State of Michigan, the U.S. Army Corps of Engineers, and Charlevoix County Soil Erosion Control Officers.

## **Section 4.06 Multiple Family Residential District (R-3)**

A. Purpose – This zoning district is provided to encourage the development of a sound and stable environment for multiple family dwelling units. This zone district will be established only upon approval of an application from the owner of the property proposed for a pre-planned apartment, garden apartment or condominium apartment complex. Establishment of this zoning district shall follow the provisions of Article XI, Section 11.03 (Amendments) of this Ordinance.

B. Permitted Uses

1. Multiple family dwellings as defined herein.
2. Two (2) family dwelling units.
3. Playgrounds, parks, and open spaces
4. Accessory uses customarily incidental to the proceeding listed permitted uses including, but not limited to, off street parking and loading spaces, and signs, as regulated in Article III of this Ordinance.

C. Uses Subject to Special Use Permit

Special uses that may be authorized in this zone district include the following, provided that an application is submitted for a special use permit and approved in accordance with the procedures, provisions and standards of Article VI of this Ordinance:

*[Reserved for future use]*

D. Dimensional Regulations

Structures and uses in the Multiple Family Residential District are subject to the area, height, bulk and placement requirements in Section 4.14 Schedule of Regulations.

E. Additional Regulations

1. Minimum building spacing shall be twenty (20) feet side to side, or fifty (50) feet when oriented front to front, or back to back.
2. All parking areas shall be paved.
3. All buildings within the zoning district shall be served by a public sanitary sewage disposal system and public water supply system within two (2) years of being available.
4. All utility lines shall be located underground.
5. The developer shall be encouraged to provide community areas, laundry facilities, playgrounds, tot lots or other services beneficial to the residents of the district.

**Section 4.07 Mobile Home Park or Manufactured Housing Development Residential District (R-4)**

A. Purpose – The purpose of this district and its accompanying regulations is to provide for a stable and sound environment for mobile home and manufactured housing residential development.

B. Permitted Uses

1. Mobile home parks or manufactured housing developments provided that all state regulations governing mobile home parks and manufactured housing developments are met, subject to the provisions of Article VII.

C. Uses Subject to Special Use Permit

Special uses that may be authorized in this zone district include the following, provided that an application is submitted for a special use permit and approved in accordance with the procedures, provisions and standards of Article VI of this Ordinance:

*[Reserved for future use]*

D. Dimensional Regulations

Structures and uses in the Mobile Home Park or Manufactured Housing Development Residential District are subject to the area, height, bulk and placement requirements in Section 4.14 Schedule of Regulations.

#### **Section 4.08 Commercial District (C-1)**

A. Purpose – The purpose of this district and its accompanying regulations is to provide areas for business use that primarily serve the motoring and tourist needs of the community.

B. Permitted Uses

1. Personal service shops, including:
  - a. Barber shops
  - b. Beauty parlors
  - c. Laundry and dry cleaning pick-up-shops
  - d. Dressmaking and tailoring shops
  - e. Shoe repair shops
2. Gift and antique shops
3. Banks
4. Publicly owned building, public utilities buildings, telephone exchange buildings and substations without storage or service yards.
5. Accessory buildings and uses customarily incidental to the above permitted uses.

C. Uses Subject to Special Uses Permit

Special uses that may be authorized in this zone district include the following, provided that an application is submitted for a special use permit and approved in accordance with the procedures, provisions and standards of Article VI of this Ordinance. A site plan prepared according to Article V shall be required.

1. Grocery stores
2. Motels, hotel and resort cabins
3. Professional offices
4. Marinas
5. Restaurants
6. Travel trailer parks
7. Campgrounds
8. Dance and recreation halls
9. Gasoline and oil service stations, subject to the provisions of Article VII
10. Dry cleaning establishments
11. Bars and taverns
12. New and used car lots
13. Plant or landscape nurseries, subject to the provisions of Article VII
14. Private recreation areas, such as golf courses and ski areas
15. Sexually oriented businesses, subject to the provisions of Article VII
16. Lumber yards
17. Self-storage warehouses, subject to the provisions of Article VII
18. Community clubs, fraternal lodges and similar civic and social organizations when not operated for profit.
19. Other uses not specifically stated or implied elsewhere which, in the determination of the Planning Commission, are similar to the principal permitted uses provided herein, and in harmony with the character of the District and the purpose and intent of this Section and the Township Master Plan.
20. Accessory building and uses customarily incidental to the above special uses

D. Dimensional Regulations

Structures and uses in the Commercial District are subject to the area, height, bulk and placement requirements in Section 4.14 Schedule of Regulations.

## **Section 4.09 Waterfront Commercial District (C-2)**

- A. Purpose – The purpose of this district is to encourage a compatible mix of land uses related to the waterfront and to provide areas for business use that serve the boating and tourist needs of the community.
- B. Use Regulations – No land shall be used and no building or structure erected, altered or used for other than one or more of the following uses:
1. Public and private marinas, including incidental and related retail facilities, but excluding boat repair and storage
  2. Tourist oriented retail sales and services
  3. Bait and sporting goods sales and rentals
  4. Motels, hotels, and resort cabins
  5. Accessory buildings and uses customarily incidental to the above permitted uses.
- C. Uses Subject to Special Use Permit

Special uses that may be authorized in this zone district include the following, provided that an application is submitted for a special use permit and approved in accordance with the procedures, provisions and standards of Article VI of this Ordinance. A site plan prepared according to Article V shall be required.

1. Boat repair and storage facilities
  2. Restaurants, excluding drive-thru businesses
  3. Public and private parks
  4. Other uses not specifically stated or implied elsewhere which, in the determination of the Planning Commission, are similar to the principal permitted uses provided herein, and in harmony with the character of the District and the purpose and intent of this Section and the Township Master Plan.
  5. Accessory buildings and uses customarily incidental to the above special uses.
- D. Dimensional Regulations
- Structures and uses in the Waterfront Commercial District are subject to the area, height, bulk and placement requirements in Section 4.14 Schedule of Regulations.



## **Section 4.10 Industrial District (I-1)**

A. Purpose – To provide for and to accommodate industrial needs for the entire community in a safe and stable manner.

B. Permitted Uses

1. Warehouse and storage buildings
2. Self-storage warehouses, subject to the provisions of Article VII
3. Lumber yards
4. Laundry and dry cleaning establishments
5. Establishments contained within a building which are operated and used for fabricating, assembling and developing activities and processes of such character as not to become obnoxious or offensive by reason of the emission of smoke, noise, vibration, odor or by reason of the accumulation of unsightly waste material on private or public property with said work.
6. Accessory buildings and uses customarily incidental to the above permitted uses.

C. Uses Subject to Special Use Permit

Special uses that may be authorized in this zone district include the following, provided that an application is submitted for a special use permit and approved in accordance with the procedures, provisions and standards of Article VI of this Ordinance. A site plan prepared according to Article V shall be required.

1. Sawmills.
2. Sexually Oriented Businesses, subject to the provisions of Article VII.
3. Other uses not specifically stated or implied elsewhere which, in the determination of the Planning Commission, are similar to the principal permitted uses provided herein, and in harmony with the character of the District and the purpose and intent of this Section and the Township Master Plan.

D. Dimensional Regulations

Structures and uses in the Industrial District are subject to the area, height, bulk and placement requirements in Section 4.14 Schedule of Regulations.

#### **Section 4.11 Agricultural District (A-1)**

- A. Purpose – The purpose of this district and its regulation is to preserve sufficient farmland and its compatible uses.
- B. Permitted Uses
  - 1. Farms, including both general and specialized farming and roadside stands.
  - 2. Detached one-family dwellings, and two-family dwellings.
  - 3. State licensed residential facilities for six (6) or fewer persons.
  - 4. Accessory buildings and uses customarily incidental to the above permitted uses.
  - 5. Commercial natural resource extraction or relocation, including sand and gravel, but specifically exempting cases where land grades are changed in connection with the erection or construction of any roads, and other land improvements which have received appropriate approvals.
- C. Uses Subject to Special Use Permit

Special uses that may be authorized in this zone district include the following, provided that an application is submitted for a special use permit and approved in accordance with the procedures, provisions and standards of Article VI of this Ordinance. A site plan prepared according to Article V shall be required.

- 1. Home occupations and home based businesses, subject to the provisions of Article VII.
- 2. Churches, schools, libraries, community center buildings, nurseries, and public owned buildings.
- 3. Parks and playgrounds.
- 4. Public utility buildings.
- 5. Dog kennels, horse stables and raceways.
- 6. Migrant labor housing.
- 7. Sewage treatment facilities and sanitary landfills.
- 8. Junkyards and salvage yards, provided a solid fence is constructed surrounding the property proposed for use as a junkyard or salvage yard and that the junkyard or salvage yard is licensed by the state, subject to the provisions of Article VII.
- 9. Golf courses
- 10. Truck terminal and fleet dispatch center.
- 11. Airports and landing strips, subject to the provisions of Article VII.
- 12. Plant or landscape nurseries, subject to the provisions of Article VII.
- 13. State licensed residential facilities for seven (7) or more persons
- 14. Bed and breakfast facilities, subject to the provisions of Article VII
- 15. Planned unit development, subject to the provisions of Article VIII
- 16. Gas and oil processing facilities, subject to the provisions of Article VII
- 17. Telecommunication towers and facilities, subject to the provisions of Article VII
- 18. Other uses not specifically stated or implied elsewhere which, in the determination of the Planning Commission, are similar to the principal permitted uses provided herein, and in harmony with the character of the District and the purpose and intent of this Section and the Township Master Plan.
- 19. Accessory buildings and uses customarily incidental to the above special uses.

D. Dimensional Regulations

Structures and uses in the Agricultural District are subject to the area, height, bulk and placement requirements in Section 4.14 Schedule of Regulations.

## **Section 4.12 Natural Rivers Zone District (NR)**

A. Purpose – The purposes of this zoning district are:

1. To promote the public health safety and general welfare, to prevent economic and ecological damages due to development within the natural river district and to preserve the values of the natural river district for the benefit of present and future generations.
2. To protect the free flowing conditions, fish and wildlife resources, water quality, scenic and aesthetic qualities and historical and recreational values of the Jordan river and adjoining lands.
3. To prevent flood damages due to interference with natural flood plain characteristics by excluding developments which are vulnerable to flood damages or would create the potential for increases flood levels.

B. Permitted Uses & Regulations

*As Regulated by the Jordan River Natural River Zoning, as enacted by the State of Michigan and administered by the Michigan Department of Natural Resources (permits required).*

### **Section 4.13 Conservation Reserve District (CR)**

A. Purpose – The purpose of this district and its regulations is to preserve state and township public park, forest and recreation areas.

B. Permitted Uses

1. Parks, forests, open space and recreation areas owned by a governmental agency.
2. Docks, launch ramps and associated parking areas.
3. Uses similar to the preceding, which tends to preserve in substance the scenic character of the area.

C. Uses Subject to Special Use Permit

Special uses that may be authorized in this zone district include the following, provided that an application is submitted for a special use permit and approved in accordance with the procedures, provisions and standards of Article VI of this Ordinance:

*[Reserved for future use]*

D. Dimensional Regulations

Structures and uses in the Conservation Reserve District are subject to the area, height, bulk and placement requirements in Section 4.14 Schedule of Regulations.

**Section 4.14 – Schedule of Dimensions, Area and Bulk Requirements**

Zoning District		Lot Size		Yard Setbacks			Building Size			Max. Lot Coverage (%)
		Min Lot Area (sq ft)	Min Width (ft)	Min Front (ft) (k)	Min Side (ft)	Min Rear (ft)	Min. Width (ft)	Min. Floor Area (sq ft)	Max. Ht (ft) or Stories (n)	
R-1	Single Family Residential	½ acre(a)	100	25	10 (b)	25	20	740	30 or 2 ½ stories (whichever is less)	NONE
R-2	Single Family Waterfront Residential	30,000	100 (a)	100 (j)(m) (WATER)	15 (b)	25	20	740	30	30%
R-3	Multiple Family Residential	(c)	NONE	(d)	30(e)	30(e)	20	740	35 or 3 stories (whichever is less)	50%
R-4	Mobile Home Park or Manufactured Housing Development	5,000	50	20	10	20	NONE	600	30	NONE
C-1	Commercial	1 acre	150	100 (i)	15 (i)	30 (i)	NONE	600	30	NONE
C-2	Waterfront Commercial	1 acre	150	100 (i) (WATER)	15 (i)	30 (i)	NONE	600(f)	30	NONE
I-1	Industrial	NONE	NONE	100 (l)	50	50	NONE	NONE	30 (o)	NONE
A-1	Agricultural	2 acres	200	25(g)	10 (g)	25 (g)	NONE	740(h)(f)	30	NONE
NR	Natural Rivers Zone	<i>As Regulated per Jordan River Natural River Zoning (State of Michigan, administered by DNR)</i>								
CR	Conservation Reserve	NONE	NONE	100	15	25	NONE	NONE	30	NONE

- (a) Minimum lot width shall be measured at the ordinary high water line.
- (b) For nonconforming lots 70 feet or less in width, the side setback may be reduced to five (5) feet.
- (c) Maximum 4 units per net acre with no less than 50% of the net area reserved for open space.  
 Maximum 6 units per net acre with no less than 55% of the net area reserved for open space.  
 Maximum 8 units per net acre with no less than 60% of the net area reserved for open space.  
 Maximum 10 units per net acre with no less than 70% of the net area reserved for open space.

- (d) If parking is in the front yard, minimum building set back is seventy five (75) feet, if parking is not in the front yard, the minimum set back is forty (40) feet. The front twenty five (25) feet of the front setback shall be landscaped.
- (e) If property is adjacent to any single family zoning district or agricultural district the setback must be forty (40) feet.
- (f) Cabins and resort cabins are exempt from minimum floor area requirements.
- (g) Water front lots shall have a minimum set back of fifty (50) feet on a stream and one hundred (100) feet on a river or lake.
- (h) Buildings with more than one (1) story shall have a minimum of one thousand (1000) square feet of floor area.
- (i) All commercial developments must maintain a twenty (20) foot wide landscaped buffer strip adjacent to any adjoining properties located within another zoning district.
- (j) For waterfront lots of record with a lot area of less than 10,000sf, the front setback shall be reduced to sixty (60) feet.
- (k) On corner lots, the front yard shall be designated by the Zoning Administrator.
- (l) The required setback shall be reduced to twenty (20) feet, if the adjacent property on the applicable side is also zoned Industrial.
- (m) In cases where the structures on the adjacent properties are closer than the required setback, the required front setback shall be reduced to the average setback distance as established by the structure location on the parcel immediately adjacent on either side of the subject property, or a minimum setback of fifty (50) feet, whichever is greater.
- (n) Maximum height is measured at average finished grade.
- (o) The following are exempt from the height limit: chimneys, cooling towers, elevators, fire towers, grain elevators, silos, stacks, stage towers, tanks, water tanks, pumping towers, radio towers, television antennas, monuments, cupolas, and mechanical appurtenances pertaining to necessary permitted uses.

## **ARTICLE V: Site Plan Review**

### **Section 5.01 Purpose**

The purpose of this article is to specify the documents and/or drawings required, to ensure that a proposed land use or development activity is in compliance with this ordinance, other local ordinances, and state and federal statues and regulations. Furthermore, its purpose is to ensure that development taking place within the Township is properly designed, safe, efficient, environmentally sound, and designed in such manner as to protect adjacent properties from substantial adverse impacts.

### **Section 5.02 – Plot Plan**

The Zoning Administrator shall require that all applications for Zoning Permits, which do not require a site plan, be accompanied by plans and specifications including a Plot Plan, drawn to scale, showing the following:

- A The shape, location and dimensions of the lot, drawn to scale. The scale shall be of such size as deemed adequate by the Zoning Administrator to make a judgment that the application meets the requirements of this ordinance. When deemed necessary by the Zoning Administrator, a survey may be required.
- B The location, shape and size of all buildings or other structures to be erected, altered or moved onto the lot and of any building or other structure already on the lot, drawn to scale. In addition, an elevation drawing of the proposed building(s) may be required by the Zoning Administrator in order to confirm the height of the proposed structures.
- C The location and configuration of the lot access and driveway, drawn to scale.
- D The existing and intended use of the lot and of all such structures upon it, including, in residential areas, the number of dwelling units the building is intended to accommodate.
- E Other information concerning the lot or adjoining lots that may be essential for determining whether the provisions of this Ordinance are being observed.

### **Section 5.03 Site Plan Review (All Districts)**

#### **A. Circumstances Requiring a Site Plan:**

Site plans give the Planning Commission an opportunity to review development proposals in a concise, consistent manner. The use of a site plan insures that physical changes in the property meet with local approval and that building actually occurs as it was promised by the developer. Site plans are required for the following uses:

- 1. All new development, both permitted uses and special uses, except the following, provided all requirements are met:
  - one-family and two-family residential units
  - associated accessory structures to one-family or two-family residential units
  - agricultural buildings in the Agricultural district



2. Expansion or renovation of an existing use, other than a one-family and two-family residential use, which increases the existing floor space more than twenty-five percent (25%).
3. Changes of use for an existing structure or parcel to a use other than one-family and two-family residential.
4. Any special use permit.
5. Any use requiring off-street parking, as stated in the off-street parking schedule (see Section 3.16 of this ordinance).
6. Other uses as required by this Ordinance.

B. Pre-application Conference:

The Zoning Administrator and/or Planning Commission Chair or his/her designee shall have the authority to conduct a pre-application meeting with the applicant/developer to assist them in understanding the Site plan review process, and other ordinance requirements; and to provide insight as to what portions of their proposed development may be of special concern to the Planning Commission.

This conference shall not be mandatory, but is recommended of small and large projects alike. It is recommended for large projects that a pre-application conference be held several months in advance of the desired start of construction. Such an advance conference will allow the applicant/developer time to prepare the needed information for the Planning Commission to make a proper review. In no case, however, shall any representations made by the Planning Commission at the pre-application conference be construed as expressing a position on whether the site plan should be denied, approved, or approved with conditions.

C. Site Plan Application Requirements:

1. Ten (10) copies of the proposed site plan, including all required additional or related information, shall be presented to the Zoning Administrator by the petitioner or property owner or his designated agent at least thirty (30) days prior to the Planning Commission meeting at which the site plan will be considered. The Zoning Administrator shall review the application and information submitted to determine if all required information was supplied. If the Zoning Administrator determines that all required information was not supplied, he or she shall send written notification to the Applicant of the deficiencies. The application for site plan approval shall not proceed until all required information has been supplied. Once a complete application meeting the requirements of this ordinance has been submitted, the Zoning Administrator shall introduce the application and place on the agenda for the following regular meeting.
2. Application fees as determined pursuant to Section 10.05 of this Ordinance shall be paid when the application and site plan are submitted to cover the estimated review costs.

3. Where the application is dependent upon obtaining variances, either favorable action by the Zoning Board of Appeals shall be obtained prior to site plan approval; or the site plan may be approved subject to favorable action by the Zoning Board of Appeals.
4. The applicant and/or his/her representative shall be present at each scheduled review or the matter may be tabled for a minimum of two consecutive meetings due to lack of representation, the application shall be designated as inactive and all fees forfeited.
5. The application shall at a minimum include the following information:
  - a. The applicant's name, address, and phone number in full.
  - b. Proof of property ownership; and whether there are any options on the property or liens against it.
  - c. A signed statement that the applicant is the owner of the property or agent acting on the owner's behalf.
  - d. The name and address of the owner(s) of record if the applicant is not owner of record (or firm or corporation having a legal or equitable interest in the land) and signature of the owner(s).
  - e. The address and tax parcel number of the property.
  - f. Project title.
  - g. Project description, including total number of structures, units, offices, square feet, parking spaces, employees, amount of recreation and open space, and related information as pertinent or otherwise required by the ordinance.
  - h. Name and address of the developer (if different from the applicant, if appropriate).
  - i. Name and address of the engineer, architect and/or land surveyor, if appropriate.
  - j. A vicinity map drawn at a scale of 1"=2,000' with north point indicated.
  - k. The gross and net acreage of all parcels in the project.
  - l. Land uses, zoning classification and existing structures on the subject parcel and adjoining parcels.
  - m. Impact statement addressing the demands the development will have on community services and any environmental impacts.
  - n. Project completion schedule/development phases.
  - o. Site Plan with data specified in Section 5.03.D.

D. Site Plan Data Requirements:

The site plan shall consist of ten (10) copies of an accurate, reproducible drawing at a scale of 1"=100' or less, showing the site and all land within 150' of the site which depicts the following, unless specifically waived in whole or in part by the Planning Commission or Zoning Administrator for good cause shown.

1. Property lines, dimensions, legal descriptions, setback lines and monument locations.

2. Existing topographic elevations at two (2) feet intervals, proposed grades and direction of drainage flows.
3. The location and type of existing soils on the site and certification of soil borings.
4. Location and type of significant existing vegetation.
5. Water courses and water bodies, including flood plains and wetlands, county drains, and manmade surface drainage ways.
6. Location of existing and proposed buildings and intended uses thereof, as well as the length, width, and height of each building.
7. Proposed location of accessory structures, buildings and uses, including but not limited to all flagpoles, light poles, signs, bulkheads, docks, storage sheds, transformers, air conditioners, generators, and similar equipment, and the method of screening where applicable.
8. Location of existing public roads, right-of-way and private easements of record.
9. Location of abutting streets and proposed alignment of streets, drives, curb cuts and access easements serving the development.
10. Location and design of barrier free access, parking areas (including indication of all spaces and method of surfacing), fire lanes and all lighting thereof.
11. Location, size, and characteristics of all loading and unloading areas.
12. Location and design of all sidewalks, walkways and bicycle paths.
13. Location of water supply lines and/or wells, including fire hydrants and shut off valves, and the location and design of wastewater lines, clean out locations, connection points and treatment systems, including septic systems if applicable.
14. Location of all other utilities on the site including but not limited to natural gas, electric, cable TV, telephone and steam.
15. Proposed location of common open spaces and common facilities if applicable.
16. Location, size and specifications of all signs and advertising features with cross-sections.
17. Location and specifications for all fences, walls and other screening features with cross-sections.
18. Location and specifications for all proposed perimeter and internal landscaping and other buffering features. For each landscape material, the proposed size at the time of planting and of all vegetation to be retained on the site must be indicated.
19. Location and specifications for all solid waste disposal facilities.

20. Location and specifications for any existing or proposed above or below ground storage facilities for any chemicals, salts, flammable materials, or hazardous materials as well as any containment structures or clear zones required by government authorities.
21. Identification of any significant site amenities or unique natural features.
22. Identification of any significant view onto or from the site to or from adjoining area.
23. North arrow, scale and date.
24. Seal of the registered engineer, architect, landscape architect, surveyor, or planner who prepared the plan.
25. Development plans for residential projects (Multiple family developments and mobile home parks) shall include the following additional information:
  - a. Minimum floor area of dwelling units.
  - b. Total number of units proposed.
  - c. Number of bedrooms per unit in multiple family developments.
  - d. Area to be used for open space and recreation.

E. Site Plan Review Standards:

Each site plan shall conform to all applicable provisions of the South Arm Township Zoning Ordinance and the following standards:

1. All elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the size and type of lot, the character of adjoining property and the type and size of buildings. The site shall be so developed as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this ordinance.
2. The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal, and by topographic modifications, which result in maximum harmony with adjacent area.
3. Proper site drainage shall be provided so that removal of stormwater will not adversely affect neighboring properties, in accordance with the provisions of the Uniform Storm Water Management Ordinance for Charlevoix County.
4. The site plan shall provide reasonable, visual and sound privacy for all units located therein. Fences, walks, barriers, and landscaping may be used, as appropriate, for the protection and enhancement of property.
5. All buildings or groups shall be so arranged as to permit emergency vehicles access by some practical means to all sides.
6. Pedestrian access and walkways to public areas and/or other areas dedicated for common use.

7. There shall be provided a pedestrian circulation system, which is insulated as completely as reasonably possible from the vehicular circulation system.
8. All loading and unloading areas and outside storage areas, including areas for the storage of trash, which face or are visible from residential districts or public thoroughfares, shall be screened by a vertical screen consisting of structural or plant materials no less than six (6) feet in height.
9. Exterior lighting shall be arranged so that illumination is aimed down, contains shielding or cutoff devices to ensure light does not shine upward and is deflected away from adjacent properties. Exterior lighting shall not impede the vision of traffic along adjacent streets.
10. Site plans shall conform to all applicable requirements of State and Federal statutes and approval may be conditioned on the applicant receiving necessary State and Federal permits before final site plan approval or a zoning permit is granted.
11. Agency reviews. At the discretion of the Zoning Administrator or the Planning Commission, the applicant may be required to submit additional copies of a complete application and site plan to the Zoning Administrator for distribution to any or all of the following agencies for review and comment:
  - a. The County Enforcing Agent for Soil Erosion and Sedimentation Control and stormwater ordinance.
  - b. The Michigan Department of Transportation and/or the County Road Commission.
  - c. The local Fire Department.
  - d. The Health Department of Northwest Michigan.
  - e. The County GIS & Planning Department.

F. Site Plan Approval Procedures:

The Planning Commission shall have the responsibility and authorization to approve, disapprove or approve with conditions, the site plan in accordance with the zoning district in which the proposed use is located. A site plan shall comply with the standards listed above unless the Planning Commission waives a particular standard upon finding that the standard is not applicable to the proposed development. The waived standard shall not be detrimental to surrounding property or contrary to the intent of the Ordinance. The Planning Commission's decision shall be in writing and shall include findings of fact, based on evidence presented on each standard. When approved, at least two (2) copies of the final approved site plan shall be signed and dated by the chair of the Planning Commission and the applicant or designated representative. One of these two (2) approved copies shall be kept on file by the Zoning Administrator, and the other approved copy shall be returned to the applicant. Any changes deemed necessary after final approval requires mutual consent of both the Planning Commission and the applicant.

G. Conformity to Approved Site Plan Required:

Following approval of a site plan by the Planning Commission, the applicant shall construct the site improvements in complete conformity with the approved site plan. Failure to do so shall be deemed a violation of this Ordinance.

H. Modification of Site Plan:

Any conditions desired by the Planning Commission prior to approval shall be recorded in the minutes of the appropriate Planning Commission meeting. Any modification of the site plan required by the Planning Commission shall be so stated in writing to the applicant, and a copy kept on file by the Zoning Administrator.

I. Amendment of Approved Site Plan:

The Zoning Administrator may approve minor amendments to a site plan initially approved by the Planning Commission where the amendments do not directly relate to standards for approval. Any other amendments to an approved site plan shall be approved by the Planning Commission following the procedures for initial approval. Any amendment to an approved site plan shall be so stated in writing to the applicant, with a copy kept on file by the Zoning Administrator, and shall be recorded in the minutes of the appropriate Planning Commission meeting.

J. Performance Guarantee Required:

The Planning Commission may require an applicant to provide a performance guarantee in connection with the approval of a site plan, pursuant to Section 10.06 of this Ordinance.

K. Site Plan Expiration:

Site plan approval shall expire if the authorized work is not commenced within twelve (12) months of site plan approval. For the work to proceed, the applicant shall resubmit the site plan following the requirements of this Section. If work is not completed within twenty-four (24) months after approval of the site plan, the applicant may request not more than two (2) additional twelve (12) month extensions. In situations when a site plan is resubmitted or extensions requested, the applicant shall provide a performance guarantee under the provisions of this Section.

L. As-Built Site Plan:

Upon completion of the installation of required improvements as shown on the approved site plan, the property owner shall submit to the Zoning Administrator two (2) copies of an "as-built" site plan, certified by the engineer or surveyor, if such professional prepared the original site plan, at least one week prior to the anticipated occupancy of any building. The Zoning Administrator shall circulate the as-built plans to the agencies listed in Section 5.03E.11 that provided comments to the planning commission during the initial review process for review and further comments. Any further comments shall be submitted to the Zoning Administrator within seven (7) days of sending the as-built plans. After receiving the comments or the expiration of the seven (7) day comment period, whichever comes first, the Zoning Administrator may make the final inspection of the project to determine whether the project conforms to the approved site plan.

## **Article VI: Special Use Permits**

### **Section 6.01 – Purpose**

It is the purpose of this Article to specify the procedure and requirements for the review of special land uses, as specified in this Ordinance. Uses classified as special land uses are recognized as possessing unique characteristics (relative to location, design, size, public infrastructure needs, and other similar characteristics), which require individual review and approval standards in order to safeguard the general health, safety, and welfare of the Township.

### **Section 6.02 Uses Subject to Special Use Permit**

Uses requiring special use permit shall be subject to the general provisions and supplemental site development standards of this Ordinance, the provisions of the Zoning District where located in addition to applicable provisions of this Article to prevent conflict with or impairment of the other uses or uses permitted by right of the district. Each use shall be considered an individual case.

#### **A. Application:**

Application shall be submitted through the office of the Zoning Administrator, to the Planning Commission, on a special form provided for that purpose, and shall include the following.

1. Site plan prepared under the requirements of **Article V – Site Plan Review**.
2. Name and address of applicant and owner of the premises.
3. Anticipated description of proposed use, including parking facilities, if required, and any exceptional traffic situations.
4. A statement by applicant appraising the effect on the neighborhood.
5. The application shall be accompanied by the fee established by the Township Board of Trustees.
6. A detailed written statement, with supporting evidence, demonstrating how the proposed special land use will comply with the applicable general provisions, supplemental site development standards, and the standards for special use permit of this Ordinance.

#### **B. Zoning Administrator’s Review**

1. The Zoning Administrator shall review the application and information submitted under **Section 6.02.A** above to determine if all required information was supplied. If the Zoning Administrator determines that all required information was not supplied, he or she shall send written notification to the Applicant of the deficiencies. The application for the special use permit cannot proceed until all required information has been supplied.

2. Once all required information is submitted, the Zoning Administrator shall forward the application to the Planning Commission for its review under the procedures of this Article.

**C. Notice Requirements for Planning Commission Public Hearings:**

The notices for all public hearings before the Planning Commission concerning requests for special use permits and planned unit developments shall comply with all of the following:

1. The content of the notice shall include all of the following information:
  - a. A description of the nature of the proposed special use or planned unit development request.
  - b. A description of the property on which the proposed special use or planned unit development will be located. The notice shall include a listing of all existing street addresses within the property. Street addresses, however, do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used, such as using tax parcel identification numbers or including a map showing the location of the property.
  - c. The time, date, and place the proposed special use or planned unit development request will be considered.
  - d. The address where written comments will be received concerning the proposed special use or planned unit development request and the deadline by which such comments must be received.
2. The notice shall be published in a newspaper of general circulation within the Township not less than 15 days before the scheduled public hearing. The notice shall also be posted on the Township website in accordance with the Open Meetings Act, as amended.
3. The notice shall be sent by first-class mail or personal delivery to the owners of the property on which the proposed special use or planned unit development will be located not less than 15 days before the scheduled public hearing.
4. The notice shall also be sent by first-class mail or personal delivery to all persons to whom real property is assessed within 300 feet of the property on which the proposed special use or planned unit development will be located and to the occupants of all structures within 300 feet of the property on which the proposed special use or planned unit development will be located not less than 15 days before the scheduled public hearing, regardless of whether the property or occupant is located in the Township. If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection.
5. After providing the notice required under this section and without further notice, except that as required under the Open Meetings Act, the Planning Commission may adjourn from time to time a duly called public hearing by passing a motion specifying the time, date, and place of the continued public hearing.



**D. Standards for granting Special Use Permit**

The Planning Commission shall approve, or approve with conditions an application for a special land use permit only upon finding that the proposed special land use complies with the following standards:

1. Allowed Special Land Use

The property subject to the application is located in a Zoning District in which the proposed special land use is allowed.

2. Compatibility with Adjacent Land Uses

a. The proposed use subject to a special use permit shall be designed, constructed, operated and maintained so as not to diminish the opportunity for surrounding properties to be used and developed as zoned.

b. The proposed special land use will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on other conforming properties in the area by reason of traffic, noise, smoke, fumes, glare, odors, or the accumulation of scrap material that can be seen from any public road or seen from any adjacent land owned by another person.

c. If deemed necessary by the Planning Commission, the hours of operation that the special use is allowed to operate, be open or otherwise occur, shall be imposed as a condition of approval to ensure compatibility with the surrounding land uses.

d. The proposed use is compatible with the South Arm Township Master Plan.

3. Public Services

a. The proposed special land use will not place demands on fire, police, or other public resources in excess of current capacity.

b. The proposed special land uses will be adequately served by public or private streets, water and sewer facilities, and refuse collection and disposal services.

4. Economic Well-Being of the Community

The proposed special land use shall not be detrimental to the economic well-being of the surrounding residents, businesses, landowners, and the community as a whole.

5. Compatibility with Natural Environment

The proposed special land use will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on the natural resources of the Township or the natural environment as a whole.

6. Compliance with Specific Standards

The proposed special land use complies with all applicable specific standards required under this Ordinance.

7. Conditional Approvals

The Planning Commission may impose reasonable conditions with the approval of a special use permit, pursuant to Section 10.03 of this Ordinance.

8. Performance Guarantee Required

The Planning Commission may require an applicant to provide a performance guarantee in connection with the approval of a special use permit, pursuant to Section 10.06 of this Ordinance.

9. Amendment of Approved Special Use Permits

Amendment of an approved special use permit shall be permitted only under the following circumstances:

- a. The owner of property for which a special use permit has been approved shall notify the Zoning Administrator of any desired change to the approved special use. Minor changes may be approved by the Zoning Administrator upon determining that the proposed revision(s) will not alter the basic design and character of the special land use, nor any specified conditions imposed as part of the original approval. Minor changes shall include the following:
  - 1) Reduction of the size of any building and/or sign.
  - 2) Movement of building and/or signs by no more than ten (10) feet.
  - 3) Landscaping approved in the special use that is replaced by similar landscaping to an equal or greater extent.
  - 4) Changes in floor plans that do not exceed five (5%) percent of the total floor area and which do not alter the character of the use or increase the amount of required parking.
  - 5) Internal re-arrangement of parking lots which does not affect the number of parking spaces or alter access locations or design.
  - 6) Changes related to item 1) through 5) above, required or requested by South Arm Township, Charlevoix County, or other state or federal regulatory agencies in order to conform with other laws or regulations; provided the extent of such changes does not alter the basic design and character of the special land use, nor any specified conditions imposed as part of the original approval.
- b. All amendments to a special land use approved by the Zoning Administrator shall be in writing. After approval by the Zoning Administrator, the applicant shall prepare a revised site plan showing the approved amendment. The revised site plan shall contain a list of all approved amendments and a place for the Zoning Administrator to sign and date all approved amendments.
- c. An amendment to an approved special use permit that cannot be processed by the Zoning Administrator under subsection 9.a. above shall be processed in the same manner as the original special land use application.

10. Expiration of Special Use Permit

- a. An approved special use permit shall expire one (1) year following approval by the Planning Commission, unless substantial construction has begun pursuant to the permit prior to the expiration, or the property owner applies to the Planning Commission for an extension prior to the expiration of the special use permit. The Planning Commission shall grant the requested extension for an additional one year, if it finds good

cause for the extension and that the zoning regulations governing the special use permit approval have not changed since the approval.

- b. If the special use permit expires pursuant to subsection 10.a. above, no work pursuant to the special use permit may be undertaken until a new special use permit is obtained from the Planning Commission following the procedures for a new special use permit.

11. Reapplication

No application for a special use permit which has been denied, wholly or in part, by the Planning Commission shall be re-submitted for a period of one (1) year from the date of such denial, unless a rehearing is granted pursuant to this Ordinance.

12. Jurisdiction of the Zoning Board of Appeals

The Zoning Board of Appeals shall have no jurisdiction over decisions of the Planning Commission in regard to matters concerning the granting of special use permits.

13. Inspection

The Zoning Administrator shall have the right to inspect any special use permit use, to ensure continued compliance with the conditions of the special use permit.

## **Article VII: Site Development Standards**

Those permitted uses and special permit uses enumerated in any zoning district, and if included below, shall be subject to the requirements of this Article, in addition to those of the zoning district in which the use is located.

### **Section 7.01 – Airports, Aircraft Landing Fields**

- A. Privately owned and maintained noncommercial aircraft landing strips, more or less parallel to a public road, shall be set back from such road for a minimum distance of seventy-five (75) feet, or as determined by the Planning Commission during the review process. Where a privately owned landing strip is situated more or less perpendicular to a public road, such landing strip shall be separated from said road by a distance of at least one hundred (100) feet;
- B. All privately owned and maintained aircraft landing strips shall be at least four hundred (400) feet from the nearest residential dwelling unit and at least four hundred (400) feet from all other buildings not designed as accessory structures for said aircraft landing field; and
- C. All other aircraft landing fields or airports must conform to applicable federal and state regulations and be approved by appropriate federal and state agencies prior to submittal of a site plan to the Planning Commission.

### **Section 7.02 – Bed and Breakfast Facilities**

A bed and breakfast operation shall be a subordinate use to a single family dwelling unit, thus in order to preserve the character of the surrounding residential area, a bed and breakfast facility shall be subject to the following conditions:

- A. A bed and breakfast operation shall be confined to the single-family dwelling unit, and the operator shall live on the premises when the operation is active.
- B. The number of rooms available for guests shall be limited to four (4). Each guestroom shall be equipped with a separate functioning smoke detector alarm, and a fire extinguisher in proper working order shall be installed and maintained on every floor. Guests shall have access to lavatory and bathing facilities.
- C. Parking spaces shall be provided in accordance with the requirement of Section 3.16.
- D. Signs shall be in accordance with Section 3.15.
- E. Breakfast may be served only to overnight guests, and in accordance with state and county public health regulations regarding bed and breakfast facilities.
- F. Any number of dwelling residents may assist with the bed and breakfast operation, but not more than two (2) non-resident employees may be hired, except as temporarily required for special events.

- G. The bed and breakfast operation shall produce no excessive noise, traffic, glare or other nuisance that would be detrimental to the character of the neighborhood.
- H. Special events as allowed by the Planning Commission, based on the size of the parcel and existing and/or proposed buffers.

### **Section 7.03 – Campgrounds, as regulated and licensed by the State of Michigan**

- A. The minimum parcel size for a campground facility shall be 10 acres.
- B. All sanitary facilities shall be designed and constructed in strict conformance to all applicable health regulations; and
- C. The campground shall provide a minimum of one hundred (100) feet of buffer area between any campsite and an adjacent neighboring property.

### **Section 7.04 – Cemeteries**

- A. Minimum lot size shall be five (5) acres.
- B. The owner, lessee, agent or designated representative shall maintain the premises in compliance with the township cemetery ordinance and other state and local regulations.
- C. All burial plots and all structures shall be setback no less than 30 feet from any lot line or road right-of-way.

### **Section 7.05 – Churches or Places of Worship**

- A. Minimum lot area shall be two (2) acres;
- B. Minimum lot width shall be one hundred fifty (150) feet;
- C. For every one (1) foot of height (excluding spire) above the maximum building height allowable for the district in which the church is located, an additional one (1) foot setback on all sides of the main structure shall be required; and
- D. Proper vehicular ingress, egress and off-street parking requirements shall be maintained in accordance with Section 3.16.
- E. Any uses of place of worship structures or properties for such purposes as recreation, day care centers, group housing, and the like, shall be separately considered as part of the conditions to granting or denying a special use permit.

### **Section 7.06 – Commercial and Industrial Uses- garbage storage**

Enclosed and secured temporary outside storage of trash and/or garbage shall be located in the rear or side yards, screened from view, and vehicular access to such storage shall be maintained.

### **Section 7.07 – Commercial Kennels and Animal Hospitals**

- A. All commercial kennels and animal hospitals shall be operated in conformity with all pertinent county and state regulations;
- B. Buildings where animals are kept and animal runs and/or exercise areas are located shall not be less than two hundred fifty (250) feet from any property line.
- C. The Planning Commission may require the installation of noise barriers, which may include but are not limited to vegetative materials depending on site specific conditions.

### **Section 7.08 – Commercial Riding Stables**

- A. For commercial breeding, rearing and/or boarding of horses, the minimum lot size, including a residential dwelling, shall be ten (10) acres;
- B. Structures used as stables shall not be located closer than sixty (60) feet from any property line or less than one hundred (100) feet from any residential dwelling;
- C. Animals shall be paddocked in a suitably fenced area surrounding or adjacent to said stable to preclude their approaching nearer than sixty (60) feet of any residential dwelling; and
- D. Stable and corral facilities shall be constructed in such a way that dust, noise, odor and drainage problems will be minimized so as not to constitute a nuisance or hazard to premises on the same lot or adjoining properties. Such facilities shall be maintained in accordance with any applicable Generally Accepted Agricultural and Management Practices (GAAMPs).

### **Section 7.09 - Extraction of Sand and Gravel**

- A. From and after the effective date of this Ordinance, it shall be unlawful for any person, firm, corporation, partnership, or any other organization or entity to strip greater than 2,000 cubic yards of topsoil, sand, clay and gravel or similar material, or to use lands for filling within the Township without first submitting a site plan and procuring approval from the Planning Commission.
- B. A separate site plan approval will not be required for excavation or fill activities associated with building construction pursuant to a duly issued building permit. However, where sand, gravel, topsoil, or other substances are removed from the site where found and taken to another site, site plan approval is needed for the receiving site.
- C. Site plan application. A separate site plan shall be required for each separate excavation or fill site. In addition to the site plan requirements listed in **Section 5.03 Site Plan Review (All Districts) - Site Plan Data Required**, a site plan prepared under this section shall also include:
  - 1. Names and addresses of parties interested in said premises setting forth their legal interest in said premises.
  - 2. Full legal description of the premises where operations are proposed.

3. Detailed proposal as to method of operation, what type of machinery or equipment will be used, and estimated period of time that such operation will cover.
  4. Detailed statement as to exactly what type of material is proposed to be extracted or deposited.
  5. Proposed method of filling excavation and/or other means to be used to allow for the reclamation of lands to a usable purpose.
  6. Such other information as may be reasonably required by the Planning Commission to base an opinion as to whether the site plan should be approved or not.
- D. The sand and gravel operations application shall provide information to confirm compliance with the following standards:
1. **Hours of Operations**  
The operation of mechanical equipment of any kind shall be limited by the day and/or the hour. Site Specific Hours of Operation for mining, processing and reclamation activities must be approved, but shall not exceed the following schedule Monday through Saturday, excluding legal holidays, during the following times:
    - a. Mining or extracting operations, and processing and stockpiling of aggregates shall occur only between the hours of 7:00 a.m. and 6:00 p.m.
    - b. Loading and hauling operations shall occur only between the hours of 7:00 a.m. and 8:00 p.m.
    - c. Routine equipment maintenance and repair shall occur only between the hours of 7:00 a.m. and 9:00 p.m.
  2. **Screening**  
Fences, berms, walls, and visual screening devices may be required, if necessary, in the opinion of the Planning Commission, to protect adjoining properties and/or ensure the health, safety and welfare of persons in the vicinity of the site. Factors of safety and aesthetics shall be addressed.
  3. **Noise, Dust, Debris**  
All processing equipment and activities and all storage areas shall be treated, covered, muffled, or otherwise controlled to prevent excessive dust, debris, or other impacts beyond the property line. Noise levels shall not exceed 60 dBA at the property line at an elevation of five (5) feet above ground. Any trucks hauling material to or from the site shall be enclosed or covered to prevent materials from blowing or falling out of the trucks.
  4. **Groundwater Impact**  
Extractive operations shall be managed and designed so as to not cause any negative impact on groundwater and potable water supply, whether as a result of contamination or reduction in the rate and volume of flow.
  5. **Road Impact**
    - a. Extractive operations shall be managed and designed so as to have minimum negative impact on existing roadways. The truck route to be utilized in the accessing of the extraction site shall be designated and subject to approval by the Planning Commission.
    - b. Dust caused by truck traffic of the entrance drive to be treated as needed with dust suppression material.
  6. **Site Rehabilitation Requirements:** All excavated overburden or other materials and structures extending above the natural surfaces (the surface of the ground existing prior to commencement of the operation) shall be leveled or removed, and the surface of the entire parcel restored to a usable condition for development or agriculture. The excavated area shall be graded so that no

gradients in disturbed earth shall be steeper than one (1) foot of rise in three (3) feet of horizontal distance. The area so graded shall be seeded with an appropriate grass type to minimize soil erosion and the site shall be contoured to blend with adjacent properties.

7. Performance Bond: see Section 10.06.

### **Section 7.10 – Funeral Homes**

- A. Minimum lot area shall be two (2) acres;
- B. A well-designed and landscaped off-street vehicle assembly area for funeral processions shall be maintained in addition to required off-street parking and related vehicle maneuvering space; and
- C. A caretaker's residence may be located inside the main facility.

### **Section 7.11 – Gas and Oil Processing Facilities**

- A. The facility shall comply with all federal, state and local building, environmental and health codes and regulations.
- B. The applicant shall provide copies of the application for permit to drill, permit to drill, survey record of well location, and plat, as provided to the Supervisor of Wells, Department of Environmental Quality, as part of the permit process for the location and erection of oil and gas processing facilities.
- C. The facility may incorporate surface land owned or leased by the oil and/or gas company. If leased, the lease documents shall be submitted to the Planning Commission, and the Township Board shall be informed of the length of the lease.
- D. Because the subject facilities are industrial in nature, the required site plan shall also show adequate visual and sound privacy from adjacent property and public roads. Forested buffer, berms, fence, screen, landscaping, mufflers, insulation, or other contrivances may be required to insure compliance with visual and sound privacy of the neighboring properties.
- E. In the event the facility is no longer required or is not used for two (2) years, any buildings, structures, wells, etc. shall be removed and the area restored to its original state. Further, the township may require an evaluation of the site by an entity knowledgeable of environmental protection to insure it is clear of pollutants. This evaluation shall be at the expense of the facility owner/operator.
- F. The sound level of the facility shall not exceed sixty (60) decibels as measured four hundred and fifty (450) feet in any direction from the facility, measured at a five (5) foot elevation above ground.
- G. The facility shall be built no closer than four hundred and fifty (450) feet from an existing dwelling.
- H. The facility shall be built no closer than one hundred (100) feet from any public road.



### **Section 7.12 – Gasoline/Service Station**

- A. No ingress or egress to an automobile service station, public garage or filling station, shall be closer than seventy-five (75) feet from any intersection or residential property line abutting the property on which such facility is located.
- B. All work areas of the lot, excluding those areas occupied by a building or landscaped areas, shall be hard-surfaced with concrete or a plant mixed bituminous material.
- C. All lubrication equipment, hydraulic hoists and pits shall be completely enclosed within a building. All gasoline pumps and canopy overhang shall be located not less than twenty-five (25) feet from any lot line and shall be arranged so that motor vehicles may be provided easy egress and ingress to and from the adjoining street, and so that no portion of the vehicle while it is stopped for service, shall overhang onto a sidewalk, curb, street or public right-of-way.
- D. When adjoining residential property, a six (6) foot masonry wall, obscuring fence or landscape screen shall be constructed parallel to the property line of such residential property. A fixed curb or other barrier to prevent vehicular contact shall protect all masonry walls.
- E. All outside storage areas for trash, used tires, auto parts and the like shall be enclosed by a masonry wall with minimum height of six (6) feet. Outside storage or parking of disabled, wrecked or partially dismantled vehicles shall be screened from view, and shall not remain for more than 15 days.
- F. The property on which the automobile service station, repair garage or filling station is located shall be no closer than five hundred (500) feet from a vehicular entrance or exit to a hospital, library, museum, public, charter or private school, playground, church or park.
- G. All exterior lighting, including signs, shall be hooded or shielded so that glare shall be directed away from the view of adjacent properties and contain a cutoff device to prevent the light from shining above the source of illumination.
- H. All floor drains shall discharge into a sealed holding tank and be emptied as necessary by a licensed liquid waste transporter to a proper disposal site.

### **Section 7.13 – Golf Courses**

- A. Any main and accessory buildings shall be set back a minimum of one hundred (100) feet from all street rights-of-way; and
- B. Areas for vehicular parking shall be maintained on course property. Adequate parking space shall be provided for all anticipated rates of course usage or capacity.

### **Section 7.14 – Home Occupation and Home Based Business**

The regulation of home occupations and home based businesses as provided herein is intended to secure flexibility in the application of the requirements of this Ordinance; but such flexibility is not intended to change the essential residential character of residential districts, in terms of use

and/or appearance. The nonresidential use shall only be incidental to the primary residential use.

**A. Site and Development Standards**

Home occupations or home based businesses, as defined in Article 2 of this Ordinance, shall comply with the following site and development standards:

<b>Standard</b>	<b>Home Occupation</b>	<b>Home Based Business</b>
Structure Used	Primary dwelling only, with proprietor residing on site	Primary Dwelling or Accessory Structure, with proprietor residing on site
Outdoor Storage or Display	Not allowed	If screened, screening approved by Planning Commission
Number of Nonresident Employees	0	2
Retail Sales	Limited retail sales (incidental to residence) and does not create a nuisance	Limited retail sales (incidental to residence) and does not create a nuisance
Traffic	Traffic – shall not exceed that normally created by residential use	Traffic – shall not exceed that normally created by residential use
Parking	Minimal off-street parking-provide in the side or rear yard	Not to exceed number of parking spaces set by PC
Appearance	No change in exterior appearance of residence, other than sign	Shall not detract from the residential character of the premises or neighborhood, any alterations or construction features shall be customary to dwellings.
Nuisance	Shall not create nuisance, No noise, vibration, glare, fumes, odors or electrical interference detectable off-site	Shall not create nuisance, No noise, vibration, glare, fumes, odors or electrical interference detectable off-site
Hours of Operation	NA	Approved by Planning Commission
Signs	2 square feet, non-illuminated, no double sided signs are allowed	Per sign section 3.15
Inspections	Periodic inspection by ZA to confirm continued compliance	Periodic inspection by ZA to confirm continued compliance
<b>Approval/permit required</b>	No zoning permit	Special Use Permit

**B. Termination, Extensions, Revisions, and Inspections**

1. Upon written application by the owner, the Planning Commission may, for just cause, grant a time extension for compliance with the conditions of this Section.
2. Any home occupation or home based business shall be subject to periodic review by the Zoning Administrator.

3. If the Zoning Administrator has reason to believe the property owner is in violation of his or her permit or grounds for revocation exist, written notice of alleged violation(s) shall be sent to the operator of the home occupation or home based business.
4. Proposed revisions or additions to a home occupation or home based business shall constitute a change of use and shall be subject to special use review and approval by the Planning Commission.

### **Section 7.15 – Junkyards and Salvage Yards**

The operation of a junkyard or salvage yard shall be subject to the following special requirements, in order to prevent conflict with or impairment of the principal permitted uses of the zoning district:

- A. Approval by the State of Michigan shall be submitted along with the Site Plan.
- B. All parking, storage, burning, wrecking or dismantling of any junk or refuse material, shall be setback at least one hundred (100) feet from the front lot line, and at least fifty (50) feet from any side or rear lot line.
- C. Storage yards must be adequately screened so items or goods on the premises are not visible from the road or neighboring properties. Screening must be solid, provided by a uniformly finished wall, fence, or an adequately maintained evergreen hedge; the height of which screening shall be no less than eight (8) feet and in no case less than that of the enclosed material.
- D. Glare from any process, such as arc welding, conducted at a junkyard or salvage yard, which emits harmful rays, shall be screened so as not to constitute a hazard or nuisance to adjacent properties.

### **Section 7.16 – Livestock Auction Yards and Animal Slaughter Houses**

- A. All structures and open areas used for operations shall be located no closer than five hundred (500) feet from the nearest lot line.
- B. The Planning Commission upon review of the special permit request may require fencing, in accordance with the generally accepted agricultural and management practices as stipulated in the Michigan Right to Farm Act.

### **Section 7.17 – Plant or Landscape Nurseries**

- A. Any office, storage building, storage area and/or display area shall meet all applicable setbacks, floor area requirements and parking requirements stated in this Ordinance.
- B. Organic plant food, soil or fertilizer shall be sufficiently packed or stored so as not to create adverse health effects or odors for neighboring property owners.
- C. Minimum lot size shall be one (1) acre.
- D. The premises shall be screened, unless waived by the Planning Commission due to site specific conditions such as topography.

- E. Parking shall be in accordance with the requirements of section 3.16.

**Section 7.18 – Self-Storage Warehouses**

- A. The minimum lot area shall be two (2) acres.
- B. All storage shall be within the enclosed building area. No outside storage or stockpiling shall be allowed.
- C. Storage of goods shall be limited to personal property with no commercial distribution allowed. No operation which requires the regular delivery or pick-up of goods by a truck in excess of one and one-half (1.5) ton capacity shall be permitted.
- D. No retail, wholesale, fabrication, manufacturing, or service activities may be conducted from the storage units by the lessees.
- E. The minimum building and parking setback shall be fifty (50) feet from any public street right-of-way and property line.
- F. The exterior of the mini-storage buildings shall be finished quality and maintained so as not to be offensive from the adjacent property or abutting roads.
- G. No storage of hazardous, toxic, or explosive materials shall be permitted at the facility. Signs shall be posted at the facility describing such limitations.

**Section 7.19 – Sexually Oriented Business**

- A. No sexually oriented business shall be permitted in a location in which any principal or accessory structure, including signs, is within one thousand (1,000) feet of any principal or accessory structure of another sexually oriented business.
- B. No sexually oriented business shall be established on a parcel within two hundred (200) feet of any residence, school, childcare organization, or place of worship. The distance shall be measured in a straight line from the nearest property line upon which the proposed sexually oriented business is to be located to the nearest property line of the residence, school, childcare organization, or place of worship.
- C. The outdoor storage of garbage and refuse shall be contained, screened from view and located so as not to be visible from neighboring properties or adjacent roadways.
- D. Any sign or signs proposed for the sexually oriented business must comply with the provisions of this Ordinance, and shall not otherwise include photographs, silhouettes, drawings, or pictorial representations of any type, or include animated or flashing illumination.
- E. Entrances to the proposed sexually oriented business must be posted on both the exterior and interior walls, in a location clearly visible to those entering and exiting the business. Lettering no less than two (2) inches in height shall state: 1) "Persons under the age of 18 are not permitted to enter the premises", and 2) "No alcoholic beverages of

any type are permitted within the premises unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission."

- F. No product or service for sale or gift, or any picture or other representation of any product or service for sale or gift shall be displayed so as to be visible from the nearest adjoining roadway or a neighboring property.
- G. Hours of operation shall be limited to 12:00 noon to 12:00 midnight.
- H. All off-street parking areas shall be illuminated during all hours of operation of the sexually oriented business, and until one hour after the business closes.
- I. Any booth, room or cubicle available in any sexually oriented business, except an adult motel, used by patrons for the viewing of any entertainment characterized by the showing of Specified Anatomical Areas or Specified Sexual Activities, shall be:
  - 1. Handicap accessible to the extent required by the Americans with Disabilities Act;
  - 2. Unobstructed by any door, lock or other entrance and exit control device;
  - 3. Have at least one side totally open to a public, lighted aisle so that there is an unobstructed view at all times from the adjoining aisle of any occupant;
  - 4. Illuminated by a light bulb of wattage of no less than twenty-five (25) watts;
  - 5. Designed and constructed such that it contains no holes or openings in any side or rear walls.

#### **Section 7.20 – Telecommunication towers and facilities**

- A. Towers and antenna supporting structures for all classes of communications services, include but are not limited to, AM, FM, CATV, microwave, TV, VHF, cellular telephone, and the like. Such towers shall be constructed in conformity with all applicable rules and regulations of any governmental agency or regulatory body having jurisdiction, and the requirements of Electronic Industries Association (EIA) standards, as amended.
- B. The tower shall be located on a continuous parcel and setback not less than one and one-half (1.5) times the height of the tower measured from the base of the tower to all points on each property line.
- C. The base of the tower shall be fully enclosed by a chain link fence not less than six (6) feet in height and located at such distance from the base on all sides of the tower to prevent entry into the radio frequency radiation envelope area. The fence shall be securely locked at all times, except when a representative of the owner of such tower is on the premises for inspection, repair or maintenance. Signs shall be posted on all sides of the fence with adequate warnings of potential hazards.
- D. All accessory buildings housing transmitting equipment and guy wire anchors shall be surrounded by a chain link fence at least six (6) feet in height and shall be kept locked at all times, except when a representative of the owner is on the premises for purposes of inspection, repair or maintenance. Adequate signs warning of any

hazards shall be placed on all sides of the fence. The accessory buildings shall also be locked at all times, except when a representative of the owner is on the premises for purposes of inspection, repair or maintenance.

- E. All cables and guy wires shall be wholly located on the premises upon which the tower is located.
- F. At the time of application for a special use permit to construct the tower, the applicant shall submit to the Zoning Administrator a copy of the plans and specifications, together with a copy of all permits and approvals of regulatory bodies and agencies having jurisdiction and a certification of the owner, contractor and/or engineer that the tower meets the minimum standards of the Electronic Industries Association (EIA).
- G. The approval of any of the above mentioned towers shall cease when the tower is no longer used for the purpose for which the special use permit was initially granted. The applicant shall dismantle the tower within nine (9) months after operations cease.

### **Section 7.21 – Mobile Home Parks and Manufactured Housing Developments**

Mobile home parks and manufactured housing developments shall be subject to the following conditions:

- A. Mobile home parks and manufactured housing developments shall be developed and licensed pursuant to the requirements of the Michigan Mobile Home Commission Act, Public Act 96 of 1987 and any rules promulgated pursuant to this Act, as amended. This includes but is not necessarily limited to compliance with Michigan Manufactured Housing Commission regulations concerning internal roads, parking requirements, fencing, screening, unit spacing and recreational and open spaces.
- B. To the extent permitted by the Michigan Manufactured Housing Commission, this ordinance shall require all mobile homes in mobile home parks to be anchored to the ground in accordance with the standards and specifications of the manufacturer and any applicable state and federal statutes and rules.
- C. To the extent permitted by the Michigan Manufactured Housing Commission, this ordinance shall require the underside or chassis of all mobile homes in mobile home parks to be fully skirted or enclosed with durable, weather-resistant materials, as specified by the manufacturer or as specifically manufactured for use as home skirting, and all such skirting shall be maintained in place as designed.

## **Article VIII: Planned Unit Development**

### **Section 8.01 – Purpose**

The purpose of a Planned Unit Development (PUD) is to encourage flexibility in design and the development on sites with a minimum of 2 acres located within the R-1 and A-1 Zoning Districts. By allowing increased density with opportunities for diverse types of dwellings and a mix of uses, it is the objective of the PUD to promote the more efficient use of land, minimize adverse environmental impacts, create permanent open space, and reduce costs for infrastructure and services. The benefits of any proposed PUD shall be real and tangible and the PUD shall not be used as a means to circumvent existing zoning requirements.

It is the intent of this Article to establish procedures which offer an alternative to traditional development patterns through the use of Planned Unit Development (PUD), as authorized by Michigan Zoning Enabling Act, as amended, for the purpose of:

- A. Encouraging the use of Township land in accordance with its character and adaptability;
- B. Assuring the permanent preservation of open space, woodlands, and other natural resources;
- C. Allowing innovation and greater flexibility in the design of residential developments;
- D. Facilitating the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner;
- E. Ensuring compatibility of design and use between neighboring properties; and,
- F. Encouraging a less sprawling form of development, thus preserving open space as undeveloped land.

### **Section 8.02 – Procedures for Application and Approval**

Pre-application conference: A pre-application conference shall be held to discuss the applicant's objectives and how these may be achieved under the Ordinance, before a PUD application is submitted. This conference shall be scheduled upon request by the applicant. Participants in this conference shall include the applicant, the site designer, the Zoning Administrator, the Planning Commission chair (or designee) and Township consultants, as deemed necessary by the Planning Commission Chair. The applicant may prepare a conceptual rough sketch plan for this session; however, no engineered site plans or surveys will be considered at the pre-application conference. If necessary, a site visit may be scheduled at this conference. Concepts and statements presented at the pre-application conference shall not be legally binding on any party. In order for any proposal to be formally considered, the applicant shall submit an application based on the requirements of this Ordinance, after the pre-application conference.

PUD Application: A preliminary PUD conceptual plan meeting the requirements of this Article and Article VI Special Land Use Permit, shall be required and shall be administratively processed as specified in Article VI, including the public hearing.

Within one (1) year of approval of the preliminary PUD conceptual plan, the final plan must be submitted to the planning commission for approval of the special use permit. The planning commission may, or may not, require an additional public hearing for the consideration of the final plan.

### **Section 8.03 – Preliminary PUD Conceptual Plan Requirements**

A conceptual plan shall include the types and placement of all structures, open spaces, recreational facilities, minimum lot sizes, densities, environmental treatment, pedestrian and auto circulation and any proposed commercial and industrial areas. The conceptual plan should also show the conformity of the proposed development with surrounding areas, and all other information which may be required to gain a satisfactory understanding of the proposed development.

After the pre-application conference(s), an application including preliminary PUD conceptual plan is submitted to the Zoning Administrator for preliminary review of completeness, it shall be forwarded to Planning Commission to schedule a public hearing and consideration of the application. The application shall be reviewed in accordance with the processes and procedures required in Article VI.

The preliminary plan shall include enough detail for administrative review and analysis and must contain the following:

- A. Legal description of the property
- B. A statement of the objectives of the planned development,
- C. Phasing of residential, public and commercial areas and future selling and/or leasing intentions
- D. A site plan which meets the requirements of Article V.
- E. Additional written information, including tabulation of land area ratios, and environmental impact statements.
- F. Any additional information such as traffic studies, comprehensive market analysis or agency reviews, which were determined necessary as a result of the pre-application conference(s).

### **Section 8.04 – Approval of Final Plan**

The final development plan shall be submitted to the Zoning Administrator not more than one (1) year from the date of approval of preliminary plan. The final plan shall include all the approved elements of the preliminary plan plus all the changes and/or conditions stipulated by the Planning Commission. The Zoning Administrator shall submit the final plan to the Planning Commission, which shall review it within thirty (30) days of submission. The Planning Commission shall review the final plan and then approve, disapprove or approve with conditions a special use permit. If the plan is disapproved, the reasons for the denial shall become part of the public record and presented to the developer in written form.



The final plans meeting the requirements of Article V Site Plan Review and Article VI Special Use Permit shall be sealed by a professional engineer, surveyor, architect or landscape architect. Drawings and plans presented in a general fashion in the preliminary stage shall be presented in detailed in the final plan. Any legal documents, such as easements, agreements, condominium documents, deed restrictions, etc., and the final draft of Articles of Incorporation, any indentures as well as dedications, shall also be submitted by the applicant.

The developer shall file a copy of the approved site plan, the master deed, other restrictive covenants and road maintenance agreement with the Register of Deeds after the final plan is approved, but prior to beginning construction. The master deed or restrictive covenants shall guarantee the open space included in the final plan will remain open for their designated approved purposes or for other homeowners' association accepted open space uses in perpetuity. Additionally, if the development is a site condominium, these restrictions shall be included in the master deed.

Minor changes to the final plan may be approved by the zoning administrator if all of the following conditions are met:

- A. The revised final plan does not violate any required provisions of the Ordinance;
- B. The development area has not been changed by more than ten percent (10%);
- C. Land reserved for open space has not been reduced by more than ten percent (10%);  
and
- D. The total building coverage has not increased by more than five percent (5%).

Changes that do not qualify as minor must be approved following the same procedures that are required for a new application.

### **Section 8.05 – Design Requirements**

#### **A. Required open space**

Required open space must be either common (for use by all homeowners in the PUD), or public (open to all members of the general public). Open spaces may consist of natural areas, planting areas, walkways and areas dedicated for recreational uses.

Not less than twenty five (25%) of the gross area of the property shall be contiguous common or public open space. For application of this section, gross area is defined as the entire site area minus any lakes, rivers, streams, flood plains or wetlands.

#### **B. Density calculations**

A PUD development is allowed a density increase above that allowed by the underlying R-1 or A-1 Zoning Districts and shall be approved for additional density increases based on an increased amount of protected common open or protected public open space. The Planning Commission may approve up to a thirty percent (30%) increase in density, accumulated in the following manner:

1. For the required initial 25% of open space, a 15% increase in density is granted.

2. For each additional 5% open space, an additional 5% increase in density is granted.
3. Density bonuses are subject to approval by the Health Department of Northwest Michigan for water supply and sewage disposal.

Note: The density bonus calculation shall be the number of additional units rounded down to the nearest full unit.

### **Section 8.06 – Natural & Unique Features**

The Planning Commission may require that the site be designed to preserve and protect, to the greatest extent feasible, existing natural or unique land features such as, but not limited to, mature trees, significant vegetation, waterways, steep slopes or scenic views.

### **Section 8.07 – Access and Circulation**

Internal circulation systems and points of ingress and egress with external traffic flow must be coordinated within the PUD and in relation to the community as a whole. These systems should promote safety, convenience, easy access, separation of vehicles from pedestrians and enhance the overall physical design of the PUD. Vehicular circulation systems in PUDs should not be connected with external streets to encourage through traffic. Emergency access and safety standards should be adhered to. These standards apply to the location of residences relative to the community and the overall design of the PUD.

### **Section 8.08 – Private Streets**

Private streets, in PUDs must be designed to accommodate anticipated traffic loads including volume, vehicular weight (including fully loaded fire tankers) and size, speed, emergency vehicles and turning radius. Those developments with homeowners' associations may maintain private streets within the development through a private road maintenance agreement. All private streets can deviate from existing public street standards if, upon review and recommendation, the Fire Chief, Sheriff, County Drain Commissioner, Road Commission and the Planning Commission authorize such modifications within the PUD and health, safety and welfare requirements are met.

Private streets may be dedicated to the public street system if the owners of these streets fully agree to accept all expenses for any required upgrading to public street standards and agree to dedicate these streets, without compensation, to the public. The following residential street standards should be adhered to, unless the Planning Commission permits modification.

Type of Street	Uses Served	Required Right-of-Way (Feet)	Width of Road Surface	Vertical Clearance
Driveway or Shared Driveway	1-3 dwellings	20	12	14
Private Road	7-20 dwellings	40	20	14
	21-50 dwellings	40	22	14
Residential collector	51 or more lots and/or dwellings	Per Charlevoix County Road Commission (CCRC) requirements	Per CCRC requirements	Per CCRC requirements

- A. Driveways that provide access to not more than three (3) parcels shall be allowed with Zoning Administrator approval, provided the driveway meets the following standards: Access to the principal structure(s) shall require a driveway which has twelve feet (12') horizontal and fourteen feet (14') vertical clearance of all obstacles and vegetation, except ground covers, cleared and continually maintained in a drivable condition for the purpose of access by emergency vehicles (This section does not cover or require snow removal). A vehicle turn around area shall be provided within one hundred feet (100') of the principal structure(s) capable of handling forty (40') foot vehicles (Minimum T-type turn around 20' x 45') for police, fire, and ambulance, and be connected to a private or public road. County or Township cannot be held responsible for non-maintenance of access.
- B. **Private Road and Shared Driveway Construction and Design Standards:** The creation of a private road shall meet the following standards:
1. Right-of-Way and Cross Section: All private roads shall meet or exceed the Charlevoix County Road Commission's cross-sectional construction standards for roads of similar traffic levels, including road and intersection grades.
  2. Construction Materials minimum standards for Private Roads: Sand and gravel base of not less than twelve (12) inches in depth of which the top six (6) inches in depth shall be 23A gravel or the equivalent., as approved by the Township.
  3. Geometric Design Standards for Private Roads: All private roads shall be meet the applicable current geometric design standards of the Charlevoix County Road Commission, except as provided for in this section.
  4. Stormwater management: All private roads and shared driveways shall comply with the standards of the Uniform Stormwater Management Ordinance for Charlevoix County, and must obtain a Storm Water Management (SWP) permit prior to obtaining a zoning permit and beginning construction.
  5. Design Layout: Unless otherwise specifically authorized by the Township Planning Commission, each shared driveway or private road shall be laid out in a manner that:
    - a. Avoids soils classified as 'hydric' (wetland soils) by the Natural Resources Conservation Service.
    - b. Aligns the shared driveway or private road along fence rows or on edges of the open fields adjacent to woodlands.
    - c. Will be least likely to impact scenic views, as seen from public roads and waters. Grade cuts or fills of greater than six feet shall only be allowed if

the Township Planning Commission finds that these areas will be shielded from scenic views by vegetation or topography.

- d. Avoids areas of prime and/or unique farmlands.
- 6. Setback: The required setback of the Right of Way for a Private Road in relation to the perimeter boundaries of the master parcel shall be the front, side or rear setbacks for the applicable zoning district.
- 7. Road Names and Signs: Road names shall be approved by the Township and by the County Numbering System and Charlevoix County Road Commission. Standard County blue and white identification signs shall be required for all Private Roads. Signs shall be of a design which is similar in design to those identifying Public Roads in the Township. In addition to road identification, Private Road signs shall also include the wording "PRIVATE ROAD" in a minimum of four (4) inch high letters and "NOT MAINTAINED BY CHARLEVOIX COUNTY ROAD COMMISSION" in a minimum of two (2) inch high letters.
- 8. Maintenance Agreements Private Roads serving or to serve four (4) or more Lots shall have a road maintenance agreement which provides for the perpetual private (non-public) maintenance of such roads. This document, at a minimum, shall contain the following provisions:
  - a. A method of initiating and financing long term maintenance in order to keep the Private Road in good and usable condition.
  - b. A workable method of apportioning the costs of maintenance and improvements.
  - c. A binding agreement requiring that the owners of any and all of the property using the Private Road shall refrain from prohibiting, restricting, limiting or in any manner interfering with normal ingress and egress and use by any of the other owners. Normal ingress and egress and use shall include use by family, guests, invitees, tradesmen and others bound to or returning from any of the properties having a right to use the road. Provisions shall be included to allow ingress and egress of agency and other public vehicles for necessary public services.
  - d. A notice that if the Private Road repairs and maintenance are not made in a timely manner to keep the road in good and usable condition, the Township shall have the authority to make such repairs and maintenance. In these situations owners of Lots serviced by the Private Road shall be assessed for repairs and maintenance costs, plus an amount to cover documented administrative costs.
  - e. A notice that specifies no public funds of the Township are to be used to build, repair or maintain the Private Road.

### **Section 8.09 – Parking Standards**

The PUD shall provide parking in accordance with the requirements of Section 3.16 Parking and Loading.

Additionally the following minimum requirements shall be adhered to:

- A. All on-site parking areas shall be located in the side or rear yards. The base number of parking spaces shall be calculated based on the standards in Section 3.16; however, the Planning Commission may grant a reduction in the required number and/or location of parking spaces based on the mix of uses and whether the peak times for different uses will significantly overlap, and whether additional parking is available off-site. The number

of parking spaces shall not be reduced to less than one space per dwelling unit. Off-street parking that can be easily viewed from roads shall be screened with landscaping, unless specifically waived by the Planning Commission.

Note: Shared parking agreements are encouraged.

- B. All streets and any off-street loading area shall be paved and the design approved by the Planning Commission; all areas shall be marked so as to provide for orderly and safe loading, parking and storage; and
- C. All parking areas shall be graded and drained to dispose of all surface water without erosion, flooding or other inconveniences, in accordance with the Uniform Storm Water Management Ordinance for Charlevoix County.

### **Section 8.10 – Perimeter Treatment**

To provide adequate separation between the PUD and the surrounding properties, a minimum thirty (30) foot buffer zone shall be established on the perimeter of the development, in which no structures are to be located, and adequate screening and landscaping or protection by natural features shall be established. In those cases where, because of natural topography, this screening and landscaping requirement cannot be met, and adequate privacy and separation is not possible, the Planning Commission may require structures on the perimeter to be set back in accordance with the requirements established for the zoning district in which the PUD is located. Those structures within this category shall be adequately screened or landscaped.

### **Section 8.11 – Dimensional Requirement Exceptions**

The principal advantage of a Planned Unit Development is to allow innovation and greater flexibility in design. Based on the overall design and layout of a PUD project, the following dimensional requirements may be reduced at the Planning Commissions discretion:

- A. Lot Area and Width – provided health department approval can be obtained for water supply and sewage disposal.
- B. Lot Setbacks
- C. Building Spacing

## **Article IX: Zoning Board of Appeals**

### **Section 9.01 – Zoning Board of Appeals Creation and Membership**

The Zoning Board of Appeals (ZBA) shall perform its duties and exercise its powers as provided in the Michigan Zoning Enabling Act 110, of Public Acts of 2006, as amended, and in such a way that the objectives of this Ordinance shall be observed, public safety secured, and justice done. This Board shall consist of three (3) regular members, appointed by the Township Board.

- A. The first member shall be a member of the Township Planning Commission for the term of his/her office.
- B. The remaining members must be selected from the electors of the Township residing outside of incorporated cities and villages and shall be representative of the population distribution and of the various interests present in the Township. One (1) member may be a member of the Township Board.
- C. An elected officer of the Township shall not serve as chairman. An employee or contractor of the Township Board may not serve as a member or an employee of the Zoning Board of Appeals.
- D. The Township Board may appoint not more than two (2) alternate members for the same term as regular members to the Zoning Board of Appeals. An alternate member may be called as specified to serve as a member of the Zoning Board of Appeals in the absence of a regular member if the regular member will be unable to attend one (1) or more meetings. An alternate member may also be called to serve as a member for the purpose of reaching a decision on a case in which a regular member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision has been made. The alternate member shall have the same voting rights as a regular member of the Zoning Board of Appeals.

### **Section 9.02 – Meetings**

Meetings of the Zoning Board of Appeals shall be held at the call of the Chairman and at such other times as such Board may determine or specify in its rules of procedure. All hearings conducted by said ZBA shall be open to the public. The Zoning Board of Appeals shall adopt its own rules of procedure and keep a record of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating said fact; and shall file a record of its proceedings in the office of the Township Clerk, and shall be a public record. The concurring vote of a majority of the members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator, or to decide in favor of an applicant any matter upon which they are required to pass under this Ordinance or to effect any variation of this Ordinance.

The Zoning Board of Appeals shall not conduct business unless a majority of the Board of Appeals regular members are present.

### **Section 9.03 – Jurisdiction**

- A. Except for Planning Commission decisions concerning special use permits and Planned Unit Developments, an appeal concerning the administration of the provisions of this Ordinance may be taken to the Zoning Board of Appeals within the timeframe defined in the general rules and procedures adopted by the Zoning Board of Appeals. If such a timeframe is not specified, appeals shall be filed within thirty (30) days of the decision of the official or body from which the appellant seeks relief.
- B. The ZBA may hear appeals made by any person who alleges he or she has been aggrieved by a decision of the official or body, except for Zoning Administrator decisions regarding enforcement of this Ordinance.
- C. The ZBA may grant variances as provided for in **Section 9.07 Variances**.
- D. The ZBA may also interpret the location of Zoning District boundaries and may interpret the provisions of this Ordinance.
- E. An appeal may be made by any person, firm or corporation, or by any Officer, Department or Board of the Township. The appellant shall file with the Zoning Board of Appeals, on blanks or forms to be furnished by the Zoning Administrator, a notice of appeal specifying the grounds for the appeal.
- F. The Zoning Administrator shall transmit to the Zoning Board of Appeals all the papers constituting the record upon which the action appealed from was taken. The final decision of such appeal shall be in the form of a resolution either reversing, modifying or affirming, wholly or partly, the decision or determination appealed from. Reasons for the decision must be stated.
- G. Any person may appear and testify at the hearing either in person or by duly authorized agent or attorney.

### **Section 9.04 – Exercising Power**

In exercising the above powers, the Zoning Board of Appeals may reverse or affirm wholly or partly, or may modify the order, 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 official or body from whom the appeal is taken.

### **Section 9.05 – Application Requirements**

The applicant shall submit five (5) copies of a completed application to the Zoning Administrator, with associated fee, surveys, plans and data as required in **Article V: Site Plan Review**, or other information deemed reasonably necessary for making any informed decision on his or her appeal, not less than thirty (30) days prior to the date of the hearing.

## **Section 9.06 – Notice Requirements for Zoning Board of Appeals Public Hearings**

The notices for all public hearings before the Zoning Board of Appeals concerning appeals, interpretations, and variances shall comply with all of the following applicable provisions:

- A. For an appeal or a request for an interpretation, the notice shall comply with all of the following:
  1. The content of the notice shall include all of the following information:
    - a. A description of the nature of the appeal or interpretation request.
    - b. If the appeal or interpretation request involves a specific parcel, then the notice shall describe the property involved. The notice shall also include a listing of all existing street addresses within the property. Street addresses, however, do not need to be created and listed if no such addresses currently exist within the property. If there are no such street addresses, other means of identification may be used, such as using tax parcel identification numbers or including a map showing the location of the property.
    - c. The time, date, and place the appeal or interpretation request will be considered.
    - d. The address where and the deadline when written comments will be received concerning the appeal or interpretation request.
  2. The notice shall be published in a newspaper of general circulation within the Township not less than 15 days before the scheduled public hearing. The notice shall also be posted on the Township website in accordance with the Open Meetings Act, as amended.
  3. The notice shall be sent by first-class mail or personal delivery to the person filing the appeal or requesting the interpretation and, if the appeal or interpretation request involves a specific parcel, to the owners of the property involved not less than 15 days before the scheduled public hearing.
  4. If the appeal or interpretation request involves a specific parcel, then the notice shall also be sent by first-class mail or personal delivery to all persons to whom real property is assessed within 300 feet of the property involved and to the occupants of all structures within 300 feet of the property involved not less than 15 days before the scheduled public hearing, regardless of whether the property or occupant is located in the Township. If the name of the occupant or tenant is not known, the term “occupant” may be used in making notification under this subsection.
- B. For a variance request, the notice shall comply with all of the following:
  1. The content of the notice shall include all of the following information:
    - a. A description of the nature of the variance request.
    - b. A description of the property on which the requested variance will apply. The notice shall also include a listing of all existing street addresses within the property. Street addresses, however, do not need to be created and listed if no such addresses currently exist within the property.



If there are no street addresses, other means of identification may be used, such as using tax parcel identification numbers or including a map showing the location of the property.

- c. The time, date, and place the variance request will be considered.
  - d. The address where and the deadline when written comments will be received concerning the variance request.
2. The notice shall be published in a newspaper of general circulation within the Township not less than 15 days before the scheduled public hearing. The notice shall also be posted on the Township website in accordance with the Open Meetings Act, as amended.
  3. The notice shall be sent by first-class mail or personal delivery to the owners of the property seeking the variance not less than 15 days before the scheduled public hearing.
  4. The notice shall also be sent by first-class mail or personal delivery to all persons to whom real property is assessed within 300 feet of the property on which the requested variance will apply and to the occupants of all structures within 300 feet of the property to which the requested variance will apply not less than 15 days before the scheduled public hearing, regardless of whether the property or occupant is located in the Township. If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection.
- C. After providing the notice required under this section and without further notice, except that as required under the Open Meetings Act, the Zoning Board of Appeals may adjourn from time to time a duly called public hearing by passing a motion specifying the time, date, and place of the continued public hearing.

### **Section 9.07 – Variances**

The ZBA may grant dimensional variances when the applicant demonstrates in the official record of the hearing that the strict enforcement of this Ordinance would result in practical difficulty. To establish practical difficulty, the applicant must establish all of the following:

- A. The need for the requested variance is due to unique circumstances or physical conditions of the property involved that do not apply generally to other properties in the surrounding area and/or zoning district, such as narrowness, shallowness, shape, water, or topography and is not due to the applicant's personal or economic hardship.
- B. The need for the requested variance is not the result of action of the property owner or previous property owners (self-created).
- C. That strict compliance with regulations governing area, setback, frontage, height, bulk, density or other dimensional requirements will unreasonably prevent the property owner from using the property for any permitted purpose, or will render conformity with those regulations unnecessarily burdensome.
- D. Whether granting the requested variance would do substantial justice to the applicant as well as to other property owners in the district, or whether granting a lesser variance

than requested would give a substantial relief to the property owner and be more consistent with justice to other property owners.

- E. That the requested variance will not cause an adverse impact on surrounding property, property values, or the use and enjoyment of property in the neighborhood or Zoning District.

#### **Section 9.08 – Conditions of Approval**

The ZBA may impose such conditions or limitations in granting a variance as deemed necessary to protect the character of the area, as provided for in section 10.03 of this Ordinance.

#### **Section 9.09 – Expiration of ZBA Approvals**

No order of the Zoning Board of Appeals permitting the erection or alteration of a building shall be valid for a period longer than one (1) year, unless a building permit for such erection or alteration is obtained within such period and substantial construction has occurred.

#### **Section 9.10 – Reapplication**

No application for a variance, interpretation, or appeal which has been decided, in whole or in part, by the Zoning Board of Appeals shall be re-submitted for a period of one (1) year from the date of such decision, unless a rehearing is granted pursuant to section 10.04 of this Ordinance.

#### **Section 9.11 – Stay**

An appeal to the Zoning Board of Appeals and an appeal of a decision by the Zoning Board of Appeals to Circuit Court stays all proceedings of the action appealed from, including the effectiveness of any zoning permit issued, unless the Zoning Administrator certifies to the Zoning Board of Appeals after such appeal has been filed that a stay would cause imminent peril to life or property, in which case the proceedings shall not be stayed, unless ordered stayed by the Zoning Board of Appeals or the Circuit Court.

## **Article X: Administration and Enforcement of Ordinance**

### **Section 10.01 Zoning Administrator**

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

The Zoning Administrator shall have the power to grant or deny Zoning Permits and to make inspections of buildings or premises necessary to carry out the duties in the enforcement of this Ordinance. It shall be unlawful for the Zoning Administrator to approve any plans or issue any Permits for the excavation or construction until such plans have been inspected in detail and found to conform to this Ordinance.

The Zoning Administrator shall under no circumstances be permitted to make changes to this Ordinance or to vary the terms of this Ordinance in carrying out the duties of Zoning Administrator.

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 that may occur upon the granting of said Permit.

### **Section 10.02 – Zoning Permit**

- A. No building or structure subject to the provisions of this Ordinance shall hereafter be erected, structurally altered, reconstructed, used, or moved, nor shall any associated excavation or filling of land commence until a Zoning Permit application has been filed with the Township Zoning Administrator and a Zoning Permit has been issued by the Zoning Administrator, except as otherwise permitted for in this Ordinance. No Zoning Permit shall be required for any lawful use of any building or structure in existence as of the adoption date of this Ordinance. No Zoning permit shall be required for an accessory structure without a permanent foundation and which is less than two hundred (200) square feet in size. All structures shall comply with applicable district setback requirements regardless of whether a zoning permit is required.
  
- B. The application shall be signed by the owner of the premises or his agent and shall certify that all provisions of this Ordinance and other applicable laws and requirements are to be complied with. Any application requiring approval from the Planning Commission must be submitted not less than thirty (30) days prior to a scheduled meeting for consideration at that Planning Commission meeting. The application shall be accompanied by:
  - 1. A site plan, if required (see Section 5.03), or a plot plan/sketch in duplicate (see Section 5.02), in a scale sufficient to clearly detail as determined by the Zoning Administrator, the location and dimensions of the premises including the boundary lines of all parcels of land under separate ownership contained therein; the size, dimensions, location on the premises, and height of all buildings, structures or other impervious surfaces in existence, to be erected and/or altered; the width and alignment of all abutting streets, highways, alleys, utility locations, easements and public open spaces; the front yard dimensions of the nearest building on both sides

of the proposed building or structure; the location and dimensions of sewage disposal facilities both on adjoining land or lots and those to be erected on the lot under consideration; and the location of all wells on adjoining lands or lots and those to be erected on the lot under consideration.

2. The Zoning Administrator shall have the authority to require a legal survey (not a mortgage survey) in the cases where there may be encroachment on the setbacks by the proposed structures or when the exact locations of lot lines are not known.
  3. Copies of permits or waivers of permits by other agencies as may be required by statute and/or by the Zoning Administrator of this Ordinance.
  4. Such other information as may be required to determine compliance with the Ordinance.
- C. A Zoning Permit may not be issued until all other necessary permits required by statute have been obtained or waived with exception of those permits issued by the Charlevoix County Department of Building Safety.
- D. The location of the property boundaries and all structures shall be staked on the ground for Zoning Administrator approval prior to the issuance of the Zoning Permit.
- E. Any Zoning Permit under which substantial construction has not started or if no substantial construction has been done in the furtherance of the zoning permit, the zoning permit shall expire after twelve (12) months from date of issuance.
- F. The Zoning Administrator shall have the power to revoke or cancel any Zoning Permit in case of failure or neglect to comply with the provisions of the Ordinance, all other necessary permits have not been obtained or in the case of a false statement or misrepresentation made in the application. The owner shall be notified of such revocation in writing.
- G. No Zoning Permit shall be valid until the required fees have been paid. Except for an accessory building or structure less than two hundred (200) square feet in size (which does not require a zoning permit pursuant to **Section 10.02.A** of this Ordinance), no separate fee shall be required for accessory buildings or structures when part of the application for the principal building or structure. Applications and petitions filed pursuant to the provisions of this Ordinance shall be accompanied by the filing fees as specified by the Township Board of Trustees.

### **Section 10.03 – Conditions**

The Planning Commission and Zoning Board of Appeals may attach reasonable conditions on discretionary zoning decisions under their jurisdiction. These conditions may include those necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Any conditions imposed, however, shall meet all of the following requirements:

- A. Be designed to protect natural resources, the health, safety, welfare, as well as the social and economic well being of those who will use the land under consideration, residents and landowners immediately adjacent to the proposed land use, and the community as a whole.
- B. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
- C. Be necessary to meet the intent and purpose of the Zoning Ordinance, be related to the standards established in the Ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.

#### **Section 10.04 – Rehearing Process**

- A. Final Decisions: Except as provided in this section, a decision of the Planning Commission or Zoning Board of Appeals shall be final. The Planning Commission or Zoning Board of Appeals may grant a rehearing under exceptional circumstances for any decision made by it. Exceptional circumstances shall mean any of the following:
  - 1. The applicant who brought the matter before the Planning Commission or Zoning Board of Appeals made misrepresentations concerning a material issue, which was relied upon by the Planning Commission or Zoning Board of Appeals in reaching its decision.
  - 2. There has been a material change in circumstances regarding the Planning Commission or Zoning Board of Appeals' findings of fact, which occurred after the public hearing.
  - 3. The Township Attorney, by written opinion, states that in the Attorney's professional opinion the decision made by the Planning Commission or Zoning Board of Appeals or the procedure used in the matter was clearly erroneous.
- B. Rehearing Procedure: A rehearing may be requested by the applicant or by the Zoning Administrator, or a rehearing may be granted by the Planning Commission or Zoning Board of Appeals on its own motion.
  - 1. A request for a rehearing which is made by an applicant must be made within twenty-one (21) days from the date of approval of the Planning Commission's or Zoning Board of Appeals' minutes regarding the decision for which the rehearing is being requested.
  - 2. A request for a rehearing made by the Zoning Administrator or a rehearing granted by the Planning Commission or Zoning Board of Appeals on its own motion may be granted at any time as long as the applicant has not been prejudiced by any delay.
  - 3. Whenever the Planning Commission or Zoning Board of Appeals considers granting a rehearing, it shall provide written notice to the applicant that a rehearing will be considered. The notice may be served upon the applicant by first class mail at the applicants' last known address, or may be served personally on the applicant. The notice must be served at least nine (9) days before the time

set for the hearing if served by mail, or at least seven (7) days before the time set for the hearing if served by personal service. Service by mail shall be complete upon mailing. In addition to serving the above notice on the applicant, all other notice requirements for the type of decision being heard shall be completed before the Planning Commission or Zoning Board of Appeals holds a meeting at which it considers whether to grant a rehearing.

4. If the Planning Commission or Zoning Board of Appeals grants a rehearing, then the rehearing shall not be held until all applicable notice requirements have been satisfied.

#### **Section 10.05 – Fees**

A. To assist in defraying the costs of investigating, reviewing and administering zoning applications, appeals, rezoning requests from individual property owners, and other types of decisions which result in extra costs to the Township, the Township Board may from time to time adopt by resolution a fee schedule establishing basic zoning fees, such as those fees related to the following:

1. Zoning permits.
2. Special land use permits.
3. Appeals of administrative decisions and requests for Ordinance interpretation by the Zoning Board of Appeals. Appeals and requests for interpretation initiated by the Township Board, the Planning Commission, or the Zoning Administrator shall not be subject to a zoning fee.
4. Classification of unlisted property uses.
5. Requests to change a non-conforming use to another non-conforming use.
6. Requests for variances from the Zoning Board of Appeals.
7. Requests for rezoning of property by individual property owners or amendments to the Zoning Ordinance text. Rezoning of property or text amendments initiated by the Township Board, the Planning Commission, or the Zoning Administrator shall not be subject to a zoning fee.
8. Site plan reviews.
9. Requests for a planned unit development (PUD).
10. Any other discretionary decisions by the Planning Commission or Zoning Board of Appeals.

The amount of these zoning fees shall cover the costs associated with the review of the application or appeal, including but not limited to the costs associated with conducting public hearings, publishing notices in the newspaper, sending required notices to property owners, postage, photocopying, mileage, time spent by zoning staff, and time spent by the members of the Planning Commission and/or Zoning Board of Appeals.

The basic zoning fees shall be paid before any application required under this Ordinance is processed. The basic zoning fees are non-refundable, even when an application or appeal is withdrawn by the applicant.

- B. If the Planning Commission or Zoning Board of Appeals determines that the basic zoning fees will not cover the actual costs of the application review or appeal, or if the Planning Commission or Zoning Board of Appeals determines that review of the application and/or participation in the review process or appeal by qualified professional planners, engineers, attorneys, or other professionals is necessary or advisable, then the applicant shall deposit with the Township Treasurer such additional zoning fees in an amount determined by the Planning Commission or Zoning Board of Appeals equal to the estimated additional costs. The additional zoning fees shall be held in escrow in the applicant's name and shall be used solely to pay these additional costs. If the amount held in escrow becomes less than ten (10%) percent of the initial escrow deposit or less than ten (10%) percent of the latest additional escrow deposit and review of the application or decision on the appeal is not completed, then the Planning Commission or Zoning Board of Appeals may require the applicant to deposit additional fees into escrow in an amount determined by the Planning Commission or Zoning Board of Appeals to be equal to the estimated costs to complete the review or decide the appeal. Failure of the applicant to make any escrow deposit required under this Ordinance shall be deemed to make the application incomplete or the appeal procedurally defective thereby justifying the denial of the application or the dismissal of the appeal. Any unexpended funds held in escrow shall be returned to the applicant following final action on the application or the final decision on the appeal. Any actual costs incurred by the Township in excess of the amount held in escrow shall be billed to the applicant and shall be paid by the applicant prior to the issuance of any permit or the release of a final decision on an appeal.

#### **Section 10.06 – Performance Guarantee**

In connection with the construction of improvements through site plan approval, special land use approval, or a PUD project, the Planning Commission may require the applicant to furnish the Township with a performance guarantee in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Township in an amount equal to the estimated costs associated with the construction of public and site improvements. Public improvements mean by way of example and not limitation roads, parking lots, and water and sewer systems which are located within the development or which the applicant has agreed to construct even though located outside the development. Site improvements mean landscaping, buffering, and the completion of conditions imposed by the Planning Commission which are located within the development. For purposes of this section, the costs covered by the performance guarantee shall include all of the following: (1) the purchase, construction, and/or installation of the improvements, (2) architectural and engineering design and testing fees and related professional costs, and (3) an amount for contingencies consistent with generally accepted engineering and/or planning practice. The performance guarantee shall be deposited with the Township Clerk at or before the time the Township issues the permit authorizing the development, or if the development has been approved in phases, then the performance guarantee shall be deposited with the Township Clerk prior to the commencement of construction of a new phase. The performance guarantee shall ensure completion of the public and site improvements in accordance with the plans approved by the Planning Commission. Any cash deposit or certified funds shall be refunded for the development or each phase of a multi-phase development in the following manner:

- A. One-third of the cash deposit after completion of one-third (monetary value), of the public and site improvements;
- B. Two-thirds of the cash deposit after completion of two-thirds of the public and site improvements; and
- C. The balance at the completion of the public and site improvements.

Any irrevocable bank letter of credit or surety bond shall be returned to the applicant upon completion of the public improvements. If a development is to be completed in phases, then the Planning Commission may require the applicant to furnish a performance guarantee as provided in this section for each phase of the development. If an applicant has contracted with a third-party to construct the public and site improvements and the third-party has provided a bond meeting the requirements described above and the bond also names the Township as a third-party beneficiary of the bond, then the Planning Commission may accept that bond as meeting all or a portion of the performance guarantee required by this section.

## **Section 10.07 – Violations and Penalties**

### **Section 10.07.1 Nuisance per se**

Any land, dwellings, buildings or structures, including tents and trailer coaches, used, erected, altered, razed or converted in violation of this Ordinance or in violation of any regulations, conditions, permits or other rights granted, adopted or issued pursuant to this Ordinance are hereby declared to be a nuisance per se.

### **Section 10.07.2 Inspection**

The Zoning Administrator shall have the duty to investigate each alleged violation and shall also have the right to inspect any property for which a zoning permit has been issued to ensure compliance with the plans and conditions of the zoning permit or approved site plan.

### **Section 10.07.3 Penalties**

- A. Any person, partnership, limited liability company, corporation, association or other entity who creates or maintains a nuisance per se or who violates or fails to comply with this Ordinance or any permit issued pursuant to this Ordinance shall be responsible for a municipal civil infraction and shall be subject to a fine of not more than Five Hundred and 00/100 (\$500.00) Dollars. Every day that such violation continues may constitute a separate and distinct offense under the provisions of this Ordinance. Nothing in this section shall exempt the offender from compliance with provisions of this Ordinance or prohibit the Township from seeking additional and/or equitable relief from any court to ensure compliance with the provisions of this Ordinance.
- B. The Township Zoning Administrator is hereby designated as the authorized Township official to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court. The Township Board may also designate from time to time other officials to issue municipal infraction citations on behalf of the Township in connection with alleged violations of this Ordinance.



- C. In addition to or in lieu of enforcing this Ordinance, as a municipal civil infraction, the Township may initiate proceedings in any court of competent jurisdiction to abate, eliminate, or enjoin the nuisance per se or any other violation of this Ordinance.

#### **Section 10.07.4 Stop Work Order**

If construction or land uses are being undertaken contrary to a zoning permit, the Michigan Zoning Enabling Act, or this Ordinance, the Zoning Administrator or Deputy of the Zoning Administrator or any other official authorized by the Township Board is authorized to post a stop work order on the property at a suitable location, such as at an entrance, in order to prevent the work or activity from proceeding in violation of the Ordinance.

A person shall not continue, or cause or allow to be continued, construction or uses in a violation of a stop work order, except with permission of the Township to abate a dangerous condition or remove the violation, or except by court order. If an order to stop work is not obeyed, the Township may apply to the circuit court for an order enjoining the violation of the stop work order. This remedy is in addition to, and not in limitation of, any other remedy provided by law or ordinance, and does not prevent criminal or civil prosecution for failure to obey the order.

#### **Section 10.08 – Conflicting Regulations**

In the interpretation of this Ordinance, this Ordinance shall control unless there exists a conflict with any other Township Ordinances, in which case the more stringent regulations will rule.

## Article XI: Adoption and Amendments

### Section 11.01 –Amendment to this Ordinance

- A. The Township Board is authorized and empowered to cause this Ordinance to be amended, supplemented, or changed, pursuant to the authority and according to the procedures set forth in the Michigan Zoning Enabling Act, Act 110 of the Public Acts of 2006, as amended.
1. The regulations and provisions stated in the text of this Ordinance and the boundaries of Zoning Districts shown on the South Arm Township Zoning Map may be amended, supplemented or changed by action of the Township Board following a recommendation from the Township Planning Commission.
  2. Proposals for amendments, (including rezonings), supplements or changes may be initiated by the Township Board on its own motion, by the Township Planning Commission or by petition of one (1) or more owners of property to be affected by the proposed amendment.
  3. The procedure to be followed for initiating and processing an amendment shall be as follows:
    - a. Each petition by one (1) or more persons for an amendment shall be submitted by application to the Zoning Administrator on a standard form provided and shall be accompanied by the fee as prescribed by the Township Board. No part of such fee shall be returnable to a petitioner if the public hearing is held.
    - b. The Zoning Administrator shall notify, in writing, the Township Clerk and Chair of the Planning Commission at or before the time he or she transmits the amendment request to the Planning Commission.
    - c. The Planning Commission shall consider each proposal for amendment on particular factors related to the individual proposal and in terms of the likely effect on the community's physical development. The Planning Commission may recommend any additions or modifications to the original proposal.
    - d. Before ruling on any proposal the Planning Commission shall conduct at least one (1) public hearing, notice of which shall be provided as specified in **Section 11.02** of this Ordinance.
    - e. The Planning Commission shall review and apply the following standards and factors in the consideration of any rezoning request.
      - 1) Is the proposed rezoning consistent with the South Arm Township Master Plan?
      - 2) Is the proposed rezoning reasonably consistent with surrounding uses?
      - 3) Will there be an adverse physical impact on surrounding properties?
      - 4) Will there be an adverse effect on property values in the adjacent area?
      - 5) Have there been changes in land use or other conditions in the immediate area or in the community in general which justify rezoning?
      - 6) Will rezoning create a deterrent to the improvement or development of adjacent property in accord with existing

- regulations?
- 7) Will rezoning grant a special privilege to an individual property owner when contrasted with other property owners in the area or the general public (i.e. will rezoning result in spot zoning)?
  - 8) Are there substantial reasons why the property cannot be used in accordance with its present zoning classifications?
  - 9) Is the rezoning in conflict with the planned use for the property as reflected in the Master Plan?
  - 10) Is the site served by adequate public facilities or is the petitioner able to provide them?
  - 11) Are there sites nearby already properly zoned that can be used for the intended purposes?
  - 12) Are other local remedies available?
- f. Following the public hearing the Township Planning Commission shall submit the proposed amendment including any Zoning Map changes to the County Planning Commission. If the recommendation of the County Planning Commission has not been received within thirty (30) days after the receipt of the Ordinance by the County, it shall be conclusively presumed that the County has waived its right for review.
  - g. The Township Planning Commission shall submit a final report/ recommendation to the Township Board along with a summary of the comments received at the public hearing.
  - h. The Township Board may hold additional public hearings, if they decide it is necessary. Notice of such hearing shall be provided in accordance with **Section 11.02** of this Ordinance.
  - i. Once adopted by the Township Board, amendments to this Ordinance shall be filed with the Township Clerk, and one (1) notice of adoption shall be published in a newspaper of general circulation in the Township within fifteen (15) days after adoption. Any amendments to this Ordinance shall take effect eight (8) days after publication or at a later date as may be specified by the Township Board at the time of adoption.
  - j. No application for a rezoning which has been denied by the Township shall be resubmitted for a period of one (1) year from the date of the last denial, except on grounds of newly discovered evidence or proof of changed conditions found valid upon inspection by the Township Planning Commission.

### **Section 11.02 – Public Hearing Notice Requirements for Zoning Ordinance Amendments**

The notices for all public hearings before the Planning Commission or Township Board concerning proposed Zoning Ordinance amendments (zoning text or map amendments) shall comply with the following applicable notice provisions:

- A. For a proposed amendment to the text of the Zoning Ordinance, the notice shall comply with all of the following:
  1. The content of the notice shall include all of the following information:
    - a. A description of the nature of the proposed Zoning Ordinance amendment.

- b. The time, date, and place the proposed Zoning Ordinance amendment will be considered.
    - c. The places and times at which the proposed Zoning Ordinance amendment may be examined.
    - d. The address where and the deadline when written comments will be received concerning the proposed Zoning Ordinance amendment.
  2. The notice shall be published in a newspaper of general circulation within the Township not less than fifteen (15) days before the scheduled public hearing, and posted on the Township website in compliance with the Open Meetings Act, as amended.
  3. The notice shall be given by first-class mail to each electric, gas, and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the Township Clerk for the purpose of receiving the notice of public hearing.
- B. For a proposed Zoning Ordinance amendment rezoning an individual property, any number of non-adjacent properties, or ten (10) or fewer adjacent properties the notice shall comply with all of the following:
  1. The content of the notice shall include all of the following information:
    - a. A description of the nature of the proposed Zoning Ordinance amendment.
    - b. A description of the property or properties proposed for rezoning. The notice shall include a listing of all existing street addresses within the property or properties. Street addresses, however, do not need to be created and listed if no such addresses currently exist within the property or properties. If there are no street addresses, other means of identification may be used, such as using tax parcel identification numbers or including a map showing the location of the property or properties.
    - c. The time, date, and place the proposed Zoning Ordinance amendment will be considered.
    - d. The places and times at which the proposed Zoning Ordinance amendment may be examined.
    - e. The address where and the deadline when written comments will be received concerning the proposed Zoning Ordinance amendment.
  2. The notice shall be published in a newspaper of general circulation within the Township not less than fifteen (15) days before the scheduled public hearing, and posted on the Township website in compliance with the Open Meetings Act, as amended.
  3. The notice shall be sent by first-class mail or personal delivery to the owners of the property or properties proposed for rezoning not less than 15 days before the scheduled public hearing.
  4. The notice shall also be sent first-class mail or personal delivery to all persons to whom real property is assessed within 300 feet of the property or properties

proposed for rezoning and to the occupants of all structures within 300 feet of the property or properties proposed for rezoning not less than fifteen (15) days before the scheduled public hearing, regardless of whether the property or occupant is located in the Township. If the name of the occupant is not known, the term “occupant” may be used in making notification under this subsection.

5. The notice shall be given by first-class mail to each electric, gas, and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the Township Clerk for the purpose of receiving the notice of public hearing.
- C. For a proposed Zoning Ordinance amendment rezoning eleven (11) or more adjacent properties, the notice shall comply with all of the following:
1. The content of the notice shall include all of the following information:
    - a. A description of the nature of the proposed Zoning Ordinance amendment.
    - b. The time, date, and place the proposed Zoning Ordinance amendment will be considered.
    - c. The places and times at which the proposed Zoning Ordinance amendment may be examined.
    - d. The address where and the deadline when written comments can be sent concerning the proposed Zoning Ordinance amendment.
  2. The notice shall be published in a newspaper of general circulation within the Township not less than fifteen (15) days before the scheduled public hearing, and posted on the Township website in compliance with the Open Meetings Act, as amended.
  3. The notice shall be sent by first-class mail or personal delivery to the owners of the property or properties proposed for rezoning not less than 15 days before the scheduled public hearing.
  4. The notice shall be given by first-class mail to each electric, gas, and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the Township Clerk for the purpose of receiving the notice of public hearing.
- D. After providing the notice required under this section and without further notice, except that as required under the Open Meetings Act, the Planning Commission may adjourn from time to time a duly called public hearing by passing a motion specifying the time, date, and place of the continued public hearing.

### **Section 11.03 – Repeal of Prior Ordinance**

- A. This ordinance repeals and replaces any previous South Arm Township Zoning Ordinance in its entirety, upon the effective date of this ordinance.

- B. The repeal of the South Arm Township Zoning Ordinance (adopted March 2001, as amended through July 2006), shall not affect any rights acquired, fines, penalties, forfeitures or liabilities incurred under any provisions of said ordinance or actions related thereto.

**Section 11.04 – Enactment and Effective Date**

- A. This Ordinance was adopted on October 8, 2014 by the South Arm Township Board of Trustees and will be effective January 1, 2015. The foregoing Zoning Ordinance and Zoning Map were presented at a public hearing before the Planning Commission on February 12, 2014.
- B. Amendments or revisions to this Ordinance or Map of the Zoning Districts shall become effective eight (8) days, or a specified later date, after publication of a notice of adoption of said amendments.