

# ARBELA TOWNSHIP ZONING ORDINANCE

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# **Article 1**

## **Miscellaneous Provisions**

### **Section 1.01 Short Title**

This Ordinance shall be known and may be cited as the Arbela Township Zoning Ordinance.

### **Section 1.02 Legal Basis**

This Ordinance has been prepared and adopted under the authority of the Township Rural Zoning Act (P.A. 184 of 1943, as amended).

### **Section 1.03 Purpose**

This Ordinance has been prepared and adopted for the purpose of providing standards and regulations for land development, for the use of land and buildings, and for all other purposes described in Section 1 of the Township Rural Zoning Act. Also, this Ordinance is based on the Arbela Township Master Plan, and is intended to carry out the objectives of that Plan.

### **Section 1.04 Interpretation**

This Ordinance does not repeal other laws and ordinances except as may be noted in the provisions that follow this section. This Ordinance has no effect on the applicability of private deed restrictions or restrictive covenants.

In cases where this Ordinance imposes greater restrictions on the use of land, buildings, structures, or on the commencement of land development projects, or requires larger lots, setbacks, or parking areas than provided by other laws, ordinances, or private deed restrictions or restrictive covenants, the provisions of this Ordinance shall prevail.

In cases where this Ordinance establishes lesser restrictions on the use of land, buildings, structure, or on the commencement of land development projects, or requires smaller lots, setbacks or parking areas than provided by other laws, ordinances, or private deed restrictions or protective covenants, the provisions of those other laws, ordinances, restrictions or covenants shall prevail.

## **Section 1.05 Repeal**

This Ordinance repeals and replaces the previous Arbela Township Zoning Ordinance in its entirety.

## **Section 1.06 Validity**

This Ordinance and the various sections, subsections, clauses, sentences, and provisions are severable. If any section, subsection, clause, sentence or provision is declared to be unconstitutional or invalid, the balance of the Ordinance shall not be affected by the declaration.

## **Section 1.07 Effective Date**

This Ordinance shall become effective upon publication of a notice of adoption as provided by the Township Rural Zoning Act (P.A. 184 of 1943, as amended).

# Article 2

## Definitions

### Section 2.01 Rules of Use and Construction

This chapter defines the words used in this Ordinance. The rules of construction applicable to the words used in this Ordinance are as follows:

- a. Words and phrases that are not defined in this chapter shall be defined in terms of their common or customary usage.
- b. Technical words and phrases that may have peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.
- c. The particular shall control the general.
- d. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- e. When it is consistent with the context, words used in the present tense shall include the future. Words used in the singular form shall include the plural, and the plural form shall include the singular.
- f. The word "person" includes any individual, partnership, association, trust, corporation, or any other legal entity or combination of legal entities.
- g. The word "lot" includes the word "parcel."
- h. Where a standard or regulation involves two or more conditions, provisions, or items that are connected by the conjunction "and" or "or," then the conjunction shall be interpreted as follows:
  1. **"And"** means that all the connected conditions, provisions or items shall apply.
  2. **"Or"** means that the connected conditions, provisions or items may apply singly or in combination.

### Section 2.02 Definitions

#### **Abutting (lot or parcel)**

A lot or parcel that shares a common border with the subject lot or parcel.

**Access management (access control)**

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

**Access to property, reasonable**

A property owner's legal right, incident to property ownership, to access a public road right-of-way. Reasonable access to property may be indirect or certain turning movements prohibited for improved safety and traffic operations.

**Accessory building**

A freestanding building that is located on the same lot on which a principal use or principal building is located, and that is devoted to and occupied by a use that is incidental and subordinate to the principal use. Examples of accessory buildings include, but are not limited to, detached residential garages and sheds, boat houses, snowmobile sheds, greenhouses, guard or gate houses, and barns.

**Accessory Structure**

A freestanding structure that is located on the same lot on which a principal use or principal building is located, and that is devoted to a use that is incidental and subordinate to the principal use. Examples of accessory structures include, but are not limited to, *residential* dish and other types of antennae, fences and walls, freestanding lighting fixtures, silos and other agricultural structures, and residential swimming pools.

**Accessory Use**

A use of land that is customarily incidental and subordinate to the principal use of a lot, and that is located on the same lot on which that principal use is located.

**Adjacent (lot or parcel)**

A lot or parcel which abuts or is directly across a street right-of-way or alley from any lot or parcel line of the subject lot or parcel.

**Adult Entertainment Business**

Any business, club, or other organization where one or more persons display "specified anatomical areas" or engage in "specified sexual activities" as defined elsewhere by this Ordinance, either in person or by photographs, motion pictures, books and printed materials, television, computer images, or other type of images. The definition of "adult entertainment business" specifically includes those establishments commonly known as "adult bookstores."

**Adult Foster Care Home** See "Foster care home."

**Agriculture**

Farms and general farming, including horticulture, floriculture, dairying, livestock, and poultry raising, farm forestry, and other similar enterprises or uses.



**Alteration**

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

**Animal, wild**

Any animal not domesticated by humans or any animal which a person is prohibited from possessing by law. Wild animals shall include, but shall not be limited to, the following: alligator (family), deer (family), opossum (family), badger, dog (wild family), primate excluding humans (family), bear, dog-wolf, raccoon, ferret, skunk, cat (wild family), lemur, spider (poisonous), coyote, lizard (poisonous), weasel (family), and marten.

**Basement**

That portion of a building which is part or wholly below grade but so located that the vertical distance from the mean grade to the floor is greater than the vertical distance from the mean grade to the ceiling (See Figure 1).

**Bed and Breakfast Establishment**

A use which is subordinate to the principal use of a dwelling as a single-family dwelling unit and in which transient guests are provided a sleeping room and board in return for payment.

**Berm**

A mound of earth graded, shaped and improved with landscaping in such a fashion as to be used for visual and/or audible screening purposes.

**Billboard**

An outdoor sign, structure or symbol advertising services or products which are not made, produced, assembled, stored, or sold upon or from the lot or premises upon which the same is located.

**Blight** is defined and includes any, each, and all of the following:

- a. **Blighted Structure** includes, without limitation, any dwelling, garage or outbuilding, warehouse, or any other structure or part of a structure, which because of deterioration, damage (including damage by fire), demolition or partial demolition when the demolition is not carried out within a period of time specified by the Township, is no longer habitable as a dwelling, nor useful for the purpose for which it may have been intended, or has uncovered openings which may provide for unrestrained access to the structure.

- b. **Junk** includes, without limitation, old or scrap ferrous or non-ferrous materials, rope, rags, batteries, paper, plastic, rubber (including scrap tires), junked, dismantled or wrecked motor vehicles, appliances or other manufactured items, and all other trash or waste materials; and includes unusable trailers and mobile homes not meeting the minimum standards for inhabitation by humans.
- c. **Junked, dismantled, or wrecked motor vehicles** includes any farm machinery or automobiles or other motor vehicle (including boats, boat trailers, snowmobiles or other off-road vehicles) that is not currently licensed as required by state law, is inoperable for the purpose for which it was intended or designated, or which has not been used as originally intended;
- d. **Building materials blight** includes the storage of building materials for a period in excess of 30 days **unless** one of the following conditions is met:
  - (1) The materials are stored within a completely enclosed building; or
  - (2) The materials are stored within an area enclosed by a solid, obscuring temporary fence or wall; or
  - (3) The materials are otherwise screened from view in a manner found to be suitable by the Enforcement Officer.

**Building materials blight does not** include building materials stored on the site of property for which a valid building permit has been issued by the appropriate building official and where the materials are intended for use in connection with such construction. Building materials include, without limitation, lumber (including pallets and crating), bricks, cinder blocks, plumbing materials, electrical or wiring equipment, heating ducts or equipment, shingles, mortar, concrete or cement, nails, screws, or any other materials used in constructing any structure.

### **Board of Appeals**

The Arbelá Township Zoning Board of Appeals.

### **Buffer zone**

A strip of land often required between certain zoning districts reserved for plant material, berms, walls, or fencing to serve as a visual barrier.

### **Building**

Any structure which is erected having a roof supported by columns or walls, which is used or erected for the shelter or enclosure of persons, animals or personal property or for carrying on business activities or other similar uses. This shall include tents or vehicles situated on private property and used for purposes of a building.

**Building height**

The vertical distance from the established grade at the center of the front of the building to the highest point of the roof surface of a flat roof, to the deck line of a mansard roof, and to the mean elevation level between eaves and ridge of a gable, hip or gambrel roof (See Figure 2).

**Building line**

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

**Building, Main**, (also Building, Principal) A building in which the principal or main use of the lot on which it is situated occurs.

**Building Setback Line**

A line indicating the minimum distance required to be maintained between a street right-of-way and the nearest supporting member of any structure on the lot.

**Certificate of Occupancy**

A document issued by the Building Inspector certifying that the described property has complied with the provisions of the Building Code and may be legally occupied.

**Child Care Center (Day Care Center)**

A facility, other than a single-family dwelling, receiving more than six (6) preschool or school age children for group care for periods of less than twenty-four (24) hours per day, and where the parents or guardians are not immediately available to the children. These facilities are also known as day nurseries, nursery schools, parent cooperatives, or preschools.

**Church**

A building used principally for religious worship, but the word "church" shall not include or mean an undertaker's chapel or funeral building.

**Clinic**

An establishment housing facilities for medical, dental or psychiatric diagnosis and treatment, exclusive of major surgical procedures, for sick, ailing and injured persons who are not kept overnight on the premises.

**Club**

A nonprofit association of persons who are bona fide members, paying regular dues and are organized for some common purpose, but not a group organized solely or primarily to render a service customarily carried on as a commercial enterprise.

**Common land**

A parcel or parcels of land with the improvements thereon, the use, maintenance and enjoyment of which are intended to be shared by the owners and or occupants of individual building units in a subdivision or a planned unit development.

**Common open space**

An unoccupied area within a planned unit development which is reserved primarily for the leisure and recreational use of all the planned unit development residents, owners and occupants, and generally owned and maintained in common by them, often through a homeowners association.

**Communication Tower**

See "Tower"

**Condominium Act**

Michigan Public Act 59 of 1978, as amended.

**Condominium project**

Equivalent to "Subdivision" as used in this Ordinance.

**Condominium project, mobile home**

A condominium project in which mobile homes are intended to be located upon separate sites which constitute individual condominium units.

**Condominium setbacks** shall be measured as follows:

**Front Yard Setback:** The distance between the street centerline and the unit site.

**Side Yard Setback:** The distance between the limits of the development and the side of a unit, or the distance between the sides of any adjacent units.

**Rear Yard Setback:** The distance between the limit of the development and the rear of the unit, or the distance between the rears of any two adjacent units.

**Condominium subdivision plan**

The site, survey and utility plans, and sections showing the existing and proposed structures and improvements including the location thereof on the land. The plan shall follow and show all aspects as required under the Condominium Act.

**Condominium unit**

That portion of the condominium project designed and intended for separate ownership as described in the Master Deed, regardless of whether it is intended for residential, office, industrial, business, recreational, use as a time-share unit, or any other type of use.

**Condominium unit site**

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

**Construction**

The building, erection, alteration, repair, renovation, demolition or removal of any building, structure or structural foundation; or the physical excavation, filling and grading of any lot other than normal maintenance.

**Convenience store with gasoline sales** An establishment that retails convenience food items which occupy fifty (50) square feet or greater of the sales area in conjunction with gasoline sales.

**Cul-de-sac**

A dead end public or private street, generally short in distance, which terminates in a circular or semi-circular section of street which allows for vehicle turnaround.

**Deceleration lane**

An added roadway lane that permits vehicles to slow down and leave the main vehicle stream before turning.

**Density**

The number of dwelling units situated on or to be developed per net or gross acre of land. For the residential component of Planned Unit Developments, the overall maximum unit density calculations shall include wetland areas regulated by the State of Michigan and wetland areas not regulated by the State, but shall not include floodplains or surface water bodies such as rivers, streams, lakes or ponds over five acres in size which are permanently or typically covered with water.

**Detention facility**

A facility designed for holding stormwater runoff for a short period of time and then releasing it to the natural watercourse where it returns to the hydrologic cycle.

**Development**

Any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

**Division**

See "Land Division"

**Drainageways and streams**

Existing permanent or intermittent water courses.

**Drive through business**

A business establishment so developed that its retail or service character is wholly or partially dependent on providing a driveway approach and service windows or facilities for vehicles in order to serve patrons while in the vehicle.

**Driveway** means an improved or unimproved path or road extending from a public road to a single building, dwelling or structure, and intended to provide ingress and egress primarily for the occupants.

**Dwelling, multiple family**

A building containing three (3) or more dwelling units designed for exclusive use and occupancy by three (3) or more families.

**Dwelling, single family**

A building designed for exclusive use and occupancy as a dwelling unit by one (1) family.

**Dwelling, two family**

A building containing two separate dwelling units designed for residential use and connected by either a common wall or an attached garage area.

**Dwelling unit**

A building, or part thereof, providing complete living facilities, including provisions for sleeping, cooking, eating and sanitation, for exclusive use by one family, with no ingress or egress through any other dwelling unit.

**Dwelling unit, attached**

A dwelling unit attached to one or more dwelling units by common major structural elements.

**Dwelling unit, detached**

A dwelling unit which is not attached to any other dwelling unit by any means.

**Easement**

A grant of one or more of the property rights by a property owner to the public, or another person or entity.

**Endangered species habitat**

An area where a plant or animal listed as an endangered species by state or federal agencies naturally grows or lives, or identified habitat sites designated on the Michigan Natural Features Inventory.

**Erected**

Means built, constructed, altered, reconstructed, moved upon, or any physical operations on the premises which are required for the construction. Excavation, fill drainage and the like shall be considered a part of erection.

**Essential public services**

The erection, construction, alteration, or maintenance by public utilities or municipal departments or commissions of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith, (but not including towers, buildings or substations) reasonably necessary for the furnishing of adequate service by each public utilities, or township departments or commissions for the public health, safety or general welfare.

**Essential public service building**

A building or structure principal to an essential public service, such as a drop-off station for residential recyclables, vehicle garages, telephone exchange buildings, electricity transformer stations or substations, or gas regulator stations.

**Essential public service building storage yard**

An outdoor storage area principal or accessory to an essential public service.

**Excavation**

Any breaking of ground, except common household gardening and ground care.

**Family**

- a. An individual or group of two (2) or more persons related by blood, marriage or adoption, including those related as foster children, who are domiciled together as a single, domestic, non-profit housekeeping unit in a dwelling unit, or
- b. A collective number of individuals domiciled together in one dwelling unit whose relationship is of a continuing, non-transient, distinct domestic character and who are cooking and living as a single, non-profit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, organization, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or terms of other similar determinable period.

**Farm**

A tract of land which is directly devoted to agricultural purposes for growing of cash crops, for greenhouses, for plant nurseries, orchards, aviaries, raising farm animals or farm fowl.

**Farm Recreation Animal**

Any animal or fowl, domestic or wild, other than the following:

- a. Animals or fowl kept for farming purposes or for profit;
- b. Animals of which possession is prohibited or controlled by state law;
- c. Farm animals as defined in the Michigan Right to Farm Act, as amended.

“Farm recreation animals” are further regulated by the Arbela Township Animal Control and Farm Recreation Animal Maintenance Ordinance.

**Fence**

An accessory structure intended for use as a barrier to property ingress or egress, a screen from an objectionable vista or noise, and/or for decorative use.

**Filling**

The depositing or dumping of any matter onto, or into, the ground, except common household gardening and ground care.

**Financial services**

Establishments such as banks, savings and loan institutions, credit unions, brokerage houses, and similar establishments.

**Flood or flooding**

A general and temporary condition of partial or complete inundation of normally dry land areas from:

- a. The overflow of inland waters
  
- b. The unusual and rapid accumulation or runoff of surface waters from any source

**Flood hazard area**

Land which on the basis of available floodplain information is subject to a one percent (1%) or greater chance of flooding in any given year.

**Flood Insurance Rate Map (FIRM)**

An official map of a community, on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

**Flood Insurance Study**

The official report provided by the Federal Insurance Administration. The report contains flood profiles, the water surface elevation of the base flood, and may include a Flood Hazard Boundary - Floodway Map.

**Floodplain**

Any land area susceptible to being inundated by water from any source (see definition of flood).

**Floodway**

The channel of a river or other watercourse and the adjacent land areas which must be reserved in order to discharge the base flood.



**Floor area, usable**

That area to be used for the sale of merchandise or services, or for use to serve patrons, clients, or customers. Such floor area which is used or intended to be used principally for the storage or processing of merchandise, hallways, stairways, and elevator shafts, or for utilities for sanitary facilities, shall be excluded from the computation of usable floor area. Usable floor area shall be measured from the interior faces of the exterior walls, and total usable floor area for a building shall include the sum of the usable floor area for all floors.

**Floor area, gross**

The sum of the horizontal areas of each story of a building, measured from the interior faces of the exterior walls, and the centerlines of interior walls, exclusive of mechanical areas, elevator shafts, stairwells and vent shafts for more than one floor, and uninhabitable attics or basements having headroom of seven (7) feet or less.

**Floor area, residential**

The sum of the horizontal areas of each story of a dwelling unit, measured from the interior faces of the exterior walls, exclusive of areas of basements, unfinished attics, attached garages, carports, breezeways and enclosed or unenclosed porches.

**Foster care home, family**

A single-family dwelling occupied as such in which one (1) but not more than four (4) minor children, who are not related to an adult member of the family occupying the single-family dwelling by blood, marriage or adoption, are given care and supervision for twenty four (24) hours per day, unattended by a parent or legal guardian.

**Foster care home, group**

A single-family dwelling occupied as such in which more than four (4) but less than seven (7) minor children, who are not related to an adult member of the family occupying the single-family dwelling by blood, marriage or adoption, are given care and supervision for twenty four (24) hours per day, unattended by a parent or legal guardian.

**Freeway Interchange**

An area designed to provide for the ingress and egress of vehicular traffic to and from a freeway or other limited access highway.

**Frontage**

The total length along which a parcel of land fronts on a street, measured along the line where the property abuts the street right-of-way.

**Frontage road**

A public or private drive which generally parallels a public street between the right-of-way and the front building setback line. Frontage roads can be one-way or bi-directional in design. The frontage road provides specific access points to private properties while maintaining separation between the street and adjacent land uses. A road which allows parking or is used as a maneuvering aisle within a parking area is generally not considered a frontage road.

**Garage**

The part of a main building or an accessory building used primarily for the parking or storage of vehicles necessary in connection with the permitted use of the main building, where there is no vehicle servicing for compensation.

**Garden center**

An establishment with retail sales of trees, fruits, vegetables, shrubbery, plants, seeds, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment and other home garden supplies and equipment.

**Glare**

The effect produced at the lot line by brightness sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

**Grade, average (mean)**

The arithmetic average of the lowest and highest grade elevations in an area within five (5) feet of the foundation line of a building or structure (See Figure 3).

**Grade, finished**

The lowest point of elevation between the exterior wall of the structure and a line five (5) feet from the exterior wall of the structure.

**Grade, natural**

The elevation of the ground surface in its natural state, before construction begins.

**Greenbelt**

A strip of land which shall be of sufficient width and density of planting materials to screen adjacent properties from view.

**Health Care Institution**

A state licensed medical establishment whose facilities provide in-patient accommodation, a wide range of medical and surgical care, and other in-patient health services for sick, ailing or injured persons; and including such related facilities as laboratories, outpatient departments, training facilities, central services and staff offices and residences which are integral with and accessory to the principal use of the establishment.

**Home occupation**

An occupation or profession carried on by an occupant of a dwelling unit as a secondary use which is clearly subservient to the use of the dwelling for residential purposes.

**Home Sale**

A sale of personal property conducted at a residential dwelling on a temporary basis. Home sales include garage sales, yard sales, porch sales, basement sales, and the like.

**Hospital**

See "Health Care Institution."

**Hotel or Motel**

Any establishment in which individual cabins, courts, rooms, suites or similar structures or units are rented to transients for temporary periods of time. A "hotel" shall include tourist cabins and homes and motels, but shall not include bed and breakfast establishments. A hotel shall not be considered or construed to be a multiple family dwelling.

**Improved area** (for a private road) means a road surface that meets or exceeds the standards of the Tuscola County Road Commission for an aggregate base course road.

**Indoor recreation establishment**

A privately owned facility designed and equipped for the conduct of sports, amusement or leisure time activities and other customary recreational activities indoors (within an enclosed building) and operated as a business and open for use by the public for a fee, such as fitness centers, bowling alleys, indoor softball, and racquetball and tennis clubs.

**Institutional uses**

Churches, schools, hospitals, and other similar public or semi-public uses. This excludes nursing homes, convalescent homes, and adult foster care facilities.

**Junkyard or recycling yard**

Any land or building used for commercial storage and/or sorting, recycling, or sale of paper, rags, scrap metals, salvaged building materials, other scrap or discarded materials, or for the dismantling, storage or salvaging of automobiles or other vehicles not in running condition, or of machinery or parts thereof, but not including a dump.

**Kennel**

Any land, building or structure where four (4) or more cats and/or dogs over six (6) months of age are either permanently or temporarily boarded, housed, bred or sold for specified compensation.

**Land Division** (also "Division")

Land division means the partitioning or splitting of a parcel or tract of land that results in one or more parcels of less than 40 acres, and that meets the requirements of the Land Division Act, Act 591 PA 1996, as amended.

**Loading space**

An off-street space on the same lot with a building, or group of buildings, for the temporary parking of a commercial vehicle while loading and unloading merchandise or material.

**Lot**

A parcel of land separated from other parcels of land by description on a recorded plat or by metes and bounds description, including a condominium unit site in a site condominium subdivision; having frontage upon a public road and having sufficient size to comply with the requirements of the Ordinance for minimum area, setbacks, coverage, and open space. A lot may or may not be specifically designated as part of the public record.

**Lot area**

The total horizontal area included within lot lines. Where the front lot line is the centerline of a public street, the lot area shall not include that part which is in the public right-of-way.

**Lot area, net buildable**

The net lot area less areas devoted to floodplains or surface water bodies; water bodies being defined as areas greater than five (5) acres in size (either before or after project implementation) which are periodically or permanently covered with water.

For Planned Unit Developments, net buildable lot area is the net lot area less area devoted to water bodies; water bodies being defined as areas greater than five (5) acres in size (either before or after project implementation) which are periodically or permanently covered with water. However, in determining the overall density for the residential component of a Planned Unit Development, State regulated wetlands and non-State regulated wetlands may be included — see definition for density.

**Lot, corner**

A lot where the interior angle of two adjacent sides at the intersection of two streets is less than one hundred and thirty five (135) degrees. A lot abutting upon a curved street or streets shall be considered a corner lot if the curve is of less radius than one hundred and fifty (150) feet, and tangents to the curve, at the two points where the side lot lines meet the curve, form an interior angle of less than one hundred and thirty five (135) degrees (See Figure 4).

**Lot coverage**

A part or percentage of a lot occupied by buildings or structures.

**Lot depth**

The arithmetic mean of the shortest and longest distances from the front lot line to the rear lot line (See Figure 5).

**Lot frontage**

The length of the front lot line.

**Lot, interior**

A lot other than a corner lot which, with the exception of a "through lot," has only one lot line fronting on a street.

**Lot line**

The line bounding a lot, parcel, or general common element if there is no limited common element, which separates the lot, parcel, or general common element if there is no limited common element, from another lot, parcel, general common element if there is no limited common element, existing street right-of-way, approved private road easement, or ordinary high water mark.

**Lot lines**

- a. **Front lot line:** In the case of an interior lot, abutting upon one (1) public or private street, the front lot line shall mean the line separating such lot from such right-of-way as measured from the center line of the road (See Figure 6).
- b. **Rear lot line:** That lot line which is opposite and most distant from the front lot line. In the case of an irregular or triangular shaped lot, a line at least ten (10) feet in length, entirely within the lot, and generally parallel to and most distant from the front lot line (See Figure 6).
- c. **Side lot line:** Any lot line not a front or rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line (See Figure 6)
- d. In the case of a lot fronting on right-of-way on two or more sides, or other case in which the above definitions do not apply, the Zoning Administrator shall designate front, rear and side lot lines, based on the following considerations:
  1. location and orientation of existing or proposed buildings on the lot in question, in relation to existing buildings on properties in the same general neighborhood.
  2. location and effect of vegetation, water, or other natural features affecting location of buildings or structures on the lot in question.

**Lot, nonconforming**

A lot of record which does not meet the dimensional requirements of this Ordinance.

**Lot of record**

A lot which actually exists in a subdivision plat as shown on the records of the County Register of Deeds, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

**Lot, through** (also "double frontage lot")

An interior lot having frontage on two (2) more or less parallel streets.

**Lot width**

The horizontal distance between side lot lines measured parallel to the front lot line at the front setback line (See Figure 6).

**Manufactured home**

A mobile home, residential building, dwelling unit, dwelling room or rooms, or a building component which is designed for long term residential use and is wholly or substantially constructed at an off-site location, transported to a site and erected.

**Medical clinic**

An establishment where human patients are admitted for examination and treatment by a group of physicians, dentists or similar professionals on an out-patient basis. A clinic may incorporate customary laboratories and pharmacies incidental or necessary to its operation.

**Mini-warehouse** (also "self-storage warehouse")

A building or group of buildings in a controlled-access and fenced compound that contains varying sizes of individual, compartmentalized, and controlled-access stalls or lockers strictly for the storage of a customer's non-hazardous goods or wares.

**Mobile home**

A structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical system contained in the structure. "Mobile home" does not include a recreational vehicle or motor home.

**Mobile home park**

A parcel or tract of land under the control of a person upon which three or more mobile homes are located on a continual non-recreational basis, and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home and which is not intended for use as a temporary trailer park.

**Mobile home site or space**

A portion of the mobile home park set aside and clearly designated for use by a specific mobile home.

**Mobile home subdivision**

A platted residential development consisting of mobile homes or single and two family dwellings located on individual, separately-owned lots.

**Motel** (See "hotel")**Motor home**

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

**Non-Conforming use**

The use of a building or of land lawfully existing at the time this Ordinance or amendments became effective but which does not conform with the use regulations of the district in which it is located.

**Non-Conforming lot of record ("Substandard lot")**

A lot lawfully existing at the time this Ordinance or amendments became effective, and which fails to meet the minimum area requirements of the zoning district in which it is located.

**Non-Conforming structure**

A structure, or portion thereof, lawfully existing at the time this Ordinance or amendments became effective and which fails to meet the minimum requirements of the zoning district in which it is located.

**Nursery, plant**

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

**Obscuring screen**

A visual barrier between adjacent areas or uses. The screen may consist of structures such as a wall, fence, or earthen berm, as specified in this Ordinance.

**Offset**

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

**Off-street parking lot**

A facility providing vehicular parking spaces along with adequate drives and aisles, for maneuvering, so as to provide access for entrance and exit for the parking of more than two (2) vehicles.

**Open air business**

A retail sales establishment operated substantially in the open air and outside of any enclosed building.

**Ordinary high water mark**

The line, as determined by a Registered Land Surveyor, between upland and bottomland which persists through successive changes in water levels below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface soil, and the vegetation.

**Outdoor recreation establishment**

A privately owned facility designed and equipped for the conduct of sports, amusement or leisure time activities and other customary recreational activities outdoors (outside of an enclosed building) and operated as a business and open for use by the public for a fee such as tennis courts, archery ranges, golf courses, miniature golf courses, golf driving ranges, and children's amusement parks.

**Parapet wall**

An extension of a building wall above the roof which may serve to screen roof-mounted mechanical equipment.

**Parcel**

A lot described by metes and bounds or described in a recorded plat.

**Parking space (stall)**

A designated area of definite length and width for parking of motor vehicles.

**Planned unit development**

A form of land development comprehensively planned as an entity via a unitary site plan which permits flexibility in building, siting, usable open spaces, and the preservation of significant natural features. Such a development may contain a mix of housing types and non-residential uses.

**Planning Commission**

The Arabela Township Planning Commission as duly created under Act 184 of the Public Acts of 1943, as amended.

**Plat**

A map of a subdivision of land.

**Ponds and lakes**

Natural or artificial impoundments that retain water year round.

**Principal building or structure**

A building or structure in which is conducted the principal use of the lot upon which it is situated.

**Principal use**

The main use to which the premises are devoted and the principal purpose for which the premises exist.

**Principal use, permitted**

A use permitted in each zoning district by right.



**Private club**

An organization of persons for special purposes or for the promulgation of sports, arts, sciences, literature, politics, or the like, but not operated for profit.

**Private Road** means any undedicated path, trail, or road that provides or is intended to provide the primary means of ingress and egress to two (2) or more parcels, principal buildings, dwelling units, structures, or combination thereof. Private roads are not permitted under this Ordinance.

**Public and semi-public institutional buildings, structures and uses**

Buildings, structures, and uses of governmental agencies and non-profit organizations including but not limited to office buildings, municipal parking lots, post offices, libraries, and community centers.

**Public park**

Any developed park, playground, beach, outdoor swimming pool, intended for active recreational pursuits, within the jurisdiction and control of a governmental agency.

**Public open space**

Any primarily undeveloped land, intended for passive recreational pursuits, within the jurisdiction and control of a governmental agency.

**Public street**

A public thoroughfare which affords the principal means of access to abutting property.

**Public utility**

Any person, municipal department, board or commission duly authorized to furnish and furnishing under state or municipal regulations to the public: gas, steam, electricity, sewage disposal, communication, telegraph, transportation or water.

**Radioactive materials**

Materials defined as radioactive under Michigan Department of Environmental Quality regulations for transportation of radioactive materials or under Tuscola County Health Department regulations, whichever is determined to be applicable.

**Recreational vehicle**

A vehicle intended and designed primarily for recreational use, such as motor homes, camper trailers, boats, snowmobiles, off-road and all terrain vehicles, and similar vehicles or trailers. The term "recreational vehicle" shall not include motorcycles or motorbikes or other similar means of transportation intended primarily for daily on-street use.

**Retail store**

Any building or structure in which goods, wares, or merchandise are sold to the consumer for direct consumption and not for resale.

**Right-of-way**

A street, alley or other thoroughfare or easement permanently established for passage of persons or vehicles and under the legal authority of the agency having jurisdiction over the right-of-way.

**Salvage**

Material to be used for further use, recycling, or sale.

**Salvage yard**

Any principal or accessory use where salvage or its component parts are bought and sold, exchanged, stored, baled, packed, disassembled, separated, or handled, including but not limited to: scrap iron and other metals, paper, rags, rubber tires and bottles. A "salvage yard" includes automobile wrecking yards and includes any area of more than two hundred (200) square feet for storage, keeping or abandonment of junk, but does not include uses established entirely within enclosed buildings. The term "salvage yard" does not include drop-off stations for residential recyclable materials.

**Satellite dish antenna**

A device incorporating a reflective surface that is solid, open mesh, or bar configured; is in the shape of a shallow dish, parabola, cone or horn. Such a device shall be used to transmit and/or receive television, radio, or other electromagnetic communication signals between terrestrial and/or extraterrestrial-based sources. This definition includes, but is not limited to, what are commonly referred to as satellite earth stations, TVRO's (Television Reception Only satellite antennas), and satellite microwave antennas.

**Screen**

A structure such as a fence or wall, providing enclosure and a visual barrier between the area enclosed and the adjacent property.

**Service drive**

A drive which generally parallels the public right-of-way but runs along the back of a land use which fronts on the public street. A service drive may provide access to properties on both sides, and vary in width and design.

**Setback, required**

The required minimum horizontal distance between a front, rear, or side lot line and a building line. Separate definitions for condominium projects are listed under "condominium setbacks."

**Setback, parking lot**

The minimum horizontal distance between the street right-of-way or property line and the near edge of a parking lot, excluding necessary and/or approved driveways, frontage roads and landscaping areas.

**Shopping center**

A commercial enterprise which is planned and developed as a unit, and which includes a group of retail businesses. Off-street parking is provided for the shopping center as a whole, as opposed to providing separate areas for individual businesses.

**Shoreline**

The edge of a body of water measured at the ordinary high water mark.

**Sight distance**

The length of roadway visible to the driver. Generally related to the distance or time (perception/reaction time) sufficient for the driver to execute a maneuver (turn from driveway or side street, stop or pass) without striking another vehicle or object in the roadway.

**Sign** See definitions in Article 9, Signs and Billboards.

**Site plan**

A scaled drawing(s) illustrating existing conditions and containing the elements required herein as applicable to the proposed development to ensure compliance with zoning provisions.

**Specified Anatomical Areas**

Certain portions of the human anatomy, the visual presentation of which identifies activity that is regulated by this Ordinance as an "Adults Entertainment Business." These areas are: human genitals; pubic region; buttock; and female breast below a point immediately above the top of the areola when less than completely and opaquely covered.

**Specified Sexual Activities**

Certain actions, the visual presentation of which identifies activity that is regulated by this Ordinance as an "Adults Entertainment Business." These activities are: human genitals in a state of stimulation or arousal; acts of human masturbation, sexual intercourse, or sodomy; fondling or erotic touching of human genitals, pubic region, buttock, or female breast; bestiality; fellatio or cunnilingus; and human excretory function.

**Special land use**

A use of land which is permitted within a particular zoning district only if the applicable standards have been met. A special land use requires that a special use permit be obtained.

**Stable, private**

A stable for the keeping of horses for the use of the residents of the principal use. A private stable shall not include the keeping of horses for others, or for commercial boarding.

**Stable, public**

A stable other than a private stable, with a capacity for more than two (2) horses.

**Story**

That portion of a building between a floor and the floor or roof next above it. A basement shall be counted as a story if its ceiling is over four (4) feet above the average adjoining ground surface.

**Street**

A public thoroughfare which affords the principal means of access to abutting property.

**Structure**

Anything constructed, assembled or erected, the use of which requires location on the ground or attachment to something having location on or in the ground; this term shall include fences which are more than 50% solid, tanks, towers, dish antennae, advertising devices, tents, wagons, trailers, dining cars, or similar structures on wheels or other support used for business or living purposes. The word "structure" shall not apply to wires and their supporting poles or frames or electrical or telephone utilities or to service utilities below the ground.

**Structural Alterations**

Any changes in the supporting members of a building such as bearing walls, columns, beams or girders, or any substantial changes in the roof and exterior walls or any expansion or addition to the floor space of a building by the addition of bearing walls, columns, beams or girders.

**Substantial improvement**

Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either, (1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or the State Inventory of Historic Places.

**Temporary building, structure or use**

A building, structure or use permitted to exist during periods of construction of the principal building, structure, or use.

**Tower, Communication**

A radio, telephone, cellular telephone, or television relay structure of skeleton framework or single pole construction attached directly to the ground or to another structure and used for the transmission or reception of radio, telephone, cellular telephone, television, microwave, or any other form of telecommunications signals.

**Use**

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

**Variance**

A relaxation or modification of the requirements of this Ordinance as authorized by the Board of Zoning Appeals under the provisions of this Ordinance and Act 184 of the Public Acts of 1943, as amended.

**Vehicle**

Any device in, upon, or by which any person or property is or may be transported or drawn upon any street, highway, excepting devices exclusively moved by human power or used exclusively upon stationary rails or tracks.

**Veterinary Clinic**

A building, or any portion thereof, used for the medical treatment of domesticated animals by a Doctor of Veterinary Medicine and his or her employees, and including exterior or interior kennels or overnight lodging facilities for animals.

**Wetland**

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

**Wetland, regulated**

Certain wetlands regulated by the Michigan Department of Environmental Quality under the provisions of Act 203 of the Public Acts of 1979, as amended, and generally defined as land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support wetland vegetation or aquatic life and is commonly referred to as a bog, swamp, or marsh and which is any of the following:

- a. Contiguous to an inland lake or pond, or a river or stream;
- b. Not contiguous to an inland lake, pond, river or stream, and more than five (5) acres in size;

- c. Not contiguous to an inland lake or pond, or a river or stream; and five (5) acres or less in size if the Michigan Department of Environmental Quality determines that protection of the area is essential to the preservation of the natural resources of the state from pollution, impairment, or destruction and the department has so notified the property owner.

## **Yard**

- a. A space open to the sky and unoccupied or unobstructed, except by encroachments specifically permitted by this Ordinance, on the same lot with a building or structure. A required yard is measured between the applicable lot line and the nearest foundation line of a building or structure.
- b. **Front yard:** A yard extending across the full width of the lot, the depth of which is the distance between the frontlot line and foundation line of the building or structure. In the case of a waterfront lot, the yard on the water side shall be the front yard (See Figure 6).
- c. **Rear yard:** A yard extending across the full width of the lot, the depth of which is the distance between the rear lot line and rear foundation line of the main building (See Figure 6).
- d. **Side yard:** A yard between the foundation line of the main building and the side lot line extending from the front yard to the rear yard (See Figure 6).

## **Zoning Act**

Michigan Act 184 of 1943, as amended.

## **Zoning Administrator**

An individual appointed by the Arbela Township Board delegated to administer the Arbela Township Zoning Ordinance.

## **Zoning Board**

The Arbela Township Zoning Board created under Act 184 of the Public Acts of 1943, as amended.

## **Zoning Board of Appeals**

The Arbela Township Zoning Board of Appeals created under Act 184 of the Public Acts of 1943, as amended.

## **Zoning District**

A portion of the incorporated area of the township within which certain regulations and requirements or various combinations thereof apply under the provisions of the Zoning Ordinance.

Article 3

General and Special Requirements

Section 3.01 Scope of Regulations

The standards and regulations contained in this Ordinance shall apply to all land, buildings, structures, land uses, and land development projects that are established or commenced after the effective date of this Ordinance. Accordingly, no lots or parcels may be created or altered, nor any land use be established or commenced, nor any building or structure constructed, altered, or extended, except in a manner that complies with the provisions of this Ordinance.

Section 3.02 Lot Area, Width, and Setback Requirements

a. Lot Area, Frontage, and Width

No lot or parcel of land shall be divided, subdivided, or reduced in area, frontage, or width in any way that results in existing or newly created lots or parcels having area, frontage, or width that is less than is permitted in the zoning district in which the lot or parcel is located.

b. Setbacks

Existing uses, buildings, and structures may not be extended, expanded or added to in any way that results in a reduction of existing or required setbacks to a distance less than that permitted in the zoning district in which the use, building or structure is located.

Section 3.03 General Exceptions to Area, Height, and Use Regulations

The regulations of this Ordinance shall be subject to the following general exceptions:

- a. Essential Services. Essential services shall be permitted as authorized and regulated by law and other Township ordinances, it being the intent to exempt such essential services from the application of this Ordinance.
- b. Voting Place. The provisions of this Ordinance shall not be construed so as to interfere with the temporary use of any property as a voting place in connection with a Township or other public election.
- c. Height Limit. The height limitations of this Ordinance shall not apply to farm buildings, chimneys, church spires, flag poles, public monuments, or water towers. However, height limitations imposed by this Ordinance shall under no

circumstances be less restrictive than those specified by an established Airport Zoning Ordinance.

**Section 3.04** Uses Not Listed

If a proposed use of land or use of a building or buildings is not specifically listed in this Ordinance either by right or by special use permit, then the Zoning Administrator shall request an interpretation by the Zoning Board of Appeals as to the appropriateness of locating the use in the zoning district in which it is proposed.

**Section 3.05** No More than One Principal Use Permitted Per Lot

Deleted: 4

Unless specified by other provisions of this Ordinance, no more than one (1) principal use may be established on any lot in any zoning district.

**Section 3.06** Accessory Buildings

Deleted: 5

Accessory buildings shall be subject to the following regulations:

- a. Where an accessory building is attached to a main building, it shall be subject to and must conform to all requirements of this Ordinance applicable to the main building
- b. Detached accessory buildings are permitted in side and rear yards only.
- c. Detached accessory buildings in all zoning districts except A-1 Agricultural, shall be located no closer than ten (10) feet to any principal building.
- d. Detached accessory buildings in any Residential Zoning District shall not exceed fourteen (16) feet in height.
- e. Detached accessory buildings may occupy no more than twenty-five (25) percent of a required rear yard.
- f. Barns are permitted of any size in the Agricultural (A-1) Zoning District if they are located at least the minimum setback from any property line and not closer than one hundred (100) feet from any dwelling other than your own.
- g. If an accessory building is located on a corner lot where the side lot line is a continuation of the front lot line of the lot to its rear, then the accessory building shall not project beyond the front yard setback on the lot in the rear of such a corner lot.



- h. A building lot in any zoning district may have only one (1) detached accessory building of two hundred (200) square feet that does not require a building permit to be erected.

| Section 3.07, Home Occupations

Deleted: 6

Home occupations are permitted, subject to the following standards:

- a. The home occupation must be conducted within the principal dwelling or within a normally associated, attached accessory building.
- b. The home occupation must be clearly incidental and subordinate to the use of the dwelling for dwelling purposes.
- c. The home occupation must be limited to 25% of the dwelling space.
- d. The dwelling containing the home occupation shall have no exterior evidence that it is being used for any purpose other than as a dwelling, except for signs as permitted by this Ordinance.
- e. Home occupations shall not involve any activity or process that would constitute a nuisance or annoyance to adjoining properties by reason of noise, smoke, odor, electrical disturbance, exterior lighting, or the creation of vehicular traffic not normally associated with a residential use.
- f. There may be not more than one (1) employee not living at the dwelling.

| Section 3.08, Road Frontage Required

Deleted: 7

All lots shall have required frontage on, and direct access to, a section line public road.

| Section 3.09, Approval of Subdivisions and Site Condominiums

Deleted: 8

All subdivisions and site condominium projects must be reviewed and approved in accordance with the Arbela Township Subdivision and Site Condominium Ordinance. All subdivisions and site condominium projects must also comply with all requirements of this Zoning Ordinance.

| Section 3.10, Use of Structures as Temporary Living Quarters During Construction of a Permanent Residence

Deleted: 9

This section establishes regulations which are intended to permit the temporary placement and occupancy of structures in all zoning districts when located on the same lot on which a lot owner's permanent dwelling is being constructed, or repaired following an event that temporarily renders the dwelling unfit for occupancy. Structures may be placed and occupied as temporary living quarters, subject to the following conditions:

- a. No structure shall be placed or occupied under the provisions of this section unless authorized by the Zoning Administrator/Building Inspector by the issuance of a Temporary Dwelling Permit.
- b. Temporary permits as required by this section shall not be issued unless and until a land use permit authorizing construction of the permanent dwelling, or repair or reconstruction of a damaged, dangerous, and unsafe existing dwelling has been secured by the lot owner or his/her authorized representative.
- c. Temporary permits issued under the provisions of this section shall be valid for a period of twelve (12) months from the date of issue by the Zoning Administrator/Building Inspector.
- d. Temporary permits issued under the provisions of this section may be renewed once by the Zoning Administrator/Building Inspector for a six (6) month period, if substantial progress is being made on the permanent dwelling.

**Section 3.11**, Swimming Pools, Spas, and Hot Tubs

Deleted: 0

Swimming pools, spas, and hot tubs are permitted as an accessory use in all zoning districts subject to applicable setback regulations established for accessory uses, buildings, and structures. Swimming pools, spas, and hot tubs located outdoors, whether constructed in, on or above the ground, shall be provided with a fence or other barrier that complies with all provisions of the State of Michigan Building Code applicable to swimming pools. Fences and other barriers must be approved by the Building Inspector before a swimming pool, spa, or hot tub will be approved for use or occupancy,

**Section 3.12**, Buildings to be Moved

Deleted: 1

No building shall be moved into or within the Township until a Permit has been secured for the building to be moved.

The following standards and regulations shall apply to all dwellings that are erected in or moved into or within the Township, except those dwellings located within licensed mobile home parks:

- a. All dwellings shall comply with the dimensional requirements, including minimum floor area, of the zoning district in which they are located.
- b. All dwellings shall have a minimum width across all front, side, or rear elevations of fourteen (14) feet.
- c. All dwellings shall have a gable roof with a 3-12 minimum pitch.
- d. All dwellings shall be constructed or placed upon and anchored to a foundation that complies with the applicable provisions of the Arbelá Township Building Code.
- e. In the event a dwelling is a mobile home, it shall be installed and anchored with its wheels removed, and its towing mechanism removed or boxed in. None of the undercarriage shall be visible from outside the mobile home.
- f. In the event a dwelling is a mobile home, it shall be fully skirted with vinyl, aluminum or a comparable material, and ventilators shall be installed.
- e. All dwellings shall comply with all Tuscola County and Arbelá Township building, fire, and safety codes. Mobile homes shall be of a type and quality conforming to the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development.
- f. Permanent steps or porches are required where there is a difference in elevation between a doorway and grade level.
- g. Additions to existing dwellings shall meet all requirements of this ordinance.
- h. All dwellings shall contain a storage area in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure of standard construction similar to or of better quality than the dwelling. The storage area shall be equal to either ten (10) percent of the total area (square footage) of the dwelling, or one hundred (100) square feet, whichever is less.
- i. All dwellings shall be connected to a public sewer system and water supply system, or a well and septic system approved by the local Health Department.

Section 3.14 Restoring Unsafe Buildings

Deleted: 3

Nothing in this Ordinance shall prevent the strengthening or restoration to a safe condition of any part of any building or structure declared unsafe by the Building Official, or required to comply with his or her lawful order.

Section 3.15 Construction Begun Prior to Adoption of Ordinance

Deleted: 4

Nothing in this Ordinance shall be deemed to require any change in the plans, construction, or designed use of any building for which construction was lawfully begun prior to the effective date of this Ordinance and upon which building actual construction has been diligently carried on, and provided further that such building shall be completed within two (2) years from the effective date of this Ordinance.

Section 3.16 Approval of Land Divisions

Deleted: 5

All land divisions created after the effective date of this Ordinance shall comply with all requirements of the Michigan Land Division Act (Act 591 P.A. 1996, as amended) or the local zoning ordinance, whichever is more restrictive. All land divisions created after the effective date of this Ordinance shall also comply with the lot area, width, setback, and all other dimensional requirements of the zoning district in which such land divisions are located.

Section 3.17 Fences

Deleted: 6

All fences, walls, and similar enclosures shall conform to the following regulations:

- a. Unless prohibited by zoning district regulations, fences, walls, and similar enclosures are not subject to the setback provisions established by those regulations, except that fences may not be constructed within any public right-of-way.
- b. Fences located in front yards in the [residential] Zoning Districts shall not exceed three (3) feet in height.
- c. Fences located in side and rear yards in the [residential] Zoning Districts shall not exceed six (6) feet in height.
- d. Barbed or electric wire fences are permitted in the Agricultural Zoning Districts only. Barbed wire cradles may be placed on top of fences enclosing public utility buildings or wherever deemed necessary by the Zoning Administrator in the interest of public safety.

- e. It shall be unlawful to erect a fence consisting or constructed of tires, vehicle parts, rotting lumber, pallets, trash, or any materials capable of providing habitat for pests or vermin.
- f. Horizontal support member must face the property owner who is constructing the fence.

| Section 3.18 Clear Vision Area on Corner Lots

Deleted: 7

No sign, fence, wall, planting or other visual obstruction, more than thirty (30) inches in height shall be established or maintained in any zoning district, within an area formed by the intersection of any street center lines at a distance along each such line of sixty(60) feet from their point of intersection. See Figure 7.

| Section 3.19 Home Sales

Deleted: 21

Sales of personal property from a residential dwelling may occur not more than three (3) times per year for a period not to exceed four (4) days for each occurrence. All items displayed for sale shall be set back a minimum of 20 feet from all road rights-of-way to prevent traffic hazards. All signs advertising a sale shall be removed within 24 hours after the end of the sale.

| Section 3.20 Roadside Stands

Deleted: 22

Roadside stands are permitted in all Agricultural and Residential Zoning Districts, subject to the following requirements:

- a. One parking space off the road right-of-way shall be provided for each one hundred (100) square feet of space in the stand.
- b. The stand may have no more than two (2) signs which are not over sixteen (16) square feet per sign.

| Section 3.21 Outdoor Storage and Waste Disposal

Deleted: 23

All uses established or placed in operation in any zoning district after the effective date of this Ordinance shall comply with the following requirements:

- a. No materials or wastes shall be placed on the premises in such a form or manner that the materials may be carried off the property by natural causes or forces, such as by wind or water.
- b. All materials or equipment shall not be allowed to accumulate on any property in such a manner as to be unsightly, constitute a fire hazard, or contribute to unsanitary conditions.

**Section 3.22** Site Rehabilitation

Deleted: 24

All excavated overburden or other materials extending above the natural grade shall be leveled or removed, and the surface of the entire tract shall be restored to usable condition for development or agriculture. The excavated area shall be graded so that no gradient of the disturbed area has a slope greater than 1:3 (one (1) foot rise in three (3) feet of horizontal distance). The graded area shall be seeded with an appropriate grass type and a vegetative cover shall be established to minimize soil erosion.

**Section 3.23** Inoperative or Dismantled Vehicles

Deleted: 25

The storage of more than one inoperative, dismantled, or wrecked vehicle in any district is prohibited unless the vehicles are enclosed within a building, or provided the storage does not exceed thirty (30) days.

**Section 3.24** Outhouses, Privies and Outside Toilets Prohibited

Deleted: 26

Outhouses, privies, and pit toilets are prohibited in all zoning districts except within a campground licensed under the Michigan Public Health Code (P.A. 368 of 1978, as amended), or except those used for decorative purposes only.

**Section 3.25** Ponds

**Section 3.25.1** Minimum Lot Area and Other Dimensional Requirements

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- a. Minimum lot area and setbacks are the same as district in which the use is located.
- b. Pond banks shall have a maximum slope of one-foot vertical rise in four feet of horizontal distance extending below the water's surface to a depth of at least eight feet.
- c. Designed water depth of pond shall be at least 10 feet to ensure proper aeration and circulation of the water.

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d. Other Requirements:

- i. Use shall be established and maintained in accordance with all applicable State of Michigan statutes. If any of the requirements of this section are less than those in the applicable State statutes, the State requirements shall prevail.
- ii. Applicant must obtain permit from the Michigan Department of Environmental Quality or provide documentation that permit is not required.
- iii. Pond should be located to minimize chance of pollution from sources such as feedlots, corrals, or septic systems.
- iv. Pond excavation should not alter surface drainage or underwater aquifers in a manner that would adversely impact neighboring uses.
- v. These requirements are for ponds only. The extraction of Natural Resources, i.e., sand, gravel, topsoil, etc. shall be regulated under a special land use.

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### Section 3.26 On-Site Wind Energy Systems & Anemometer Towers

Purpose: This ordinance is to accommodate on site wind energy systems in appropriate locations in order to balance the need for clean and renewable energy sources while protecting the public's health, safety and welfare. In addition, the ordinance provides a permitting process for on site wind energy systems to ensure compliance with the provisions of the requirements and standards subject to the conditions described below:

#### Section 3.26.1 Standards:

1. On-site wind energy systems, anemometer towers, and related wind assessment devices are primarily intended to serve the needs of the on-site consumer. Unless otherwise provided, on-site wind turbine energy systems and anemometer towers shall comply with the following standards:
2. Zoning Districts: On-site wind energy systems and anemometer towers may be located in any district, provided the Wind Energy System or anemometer tower is setback from the property line a distance at least equal to the total height.
3. Maximum Height: Any proposed on-site wind energy system with a rotor tip height of 45 meters (150 feet) or less shall be considered an on site wind energy system.
4. Minimum Site Area: The minimum site area for on-site wind energy system or anemometer tower shall be three (3) acres.



5. Location: On-site wind energy systems and anemometer towers shall be located in the side or rear yard.
6. Property Setbacks: On-site wind energy systems and anemometer towers including anemometer towers used to conduct a wind site assessment for possible installation of an on-site wind energy system must conform to a height vs. setback requirement of one times the height of the tower from the property lines. No part of the on site wind energy system or anemometer, including guy wire anchors, may extend closer than (10) feet to the owner's property line.
7. Maximum Noise Levels: On site wind energy systems shall not exceed 65 dB(A) at the property line closest to the wind energy system. This sound pressure level may be exceeded during short-term events such as utility outages and/or during severe windstorms. If the ambient sound pressure level exceeds 65 dB(A), that standard shall be ambient sound level plus 5 dB(A)
8. Construction Codes, Towers & Interconnections Standards: On-site wind energy systems including towers shall comply with state construction and electrical codes and local building permit requirements. On site wind energy systems including towers shall comply with Federal Aviation Administration requirements, the Michigan Airport Zoning Act, The Michigan Tall Structures Act, and local jurisdiction airport overlay zoning regulations. An interconnected on-site wind energy system shall comply with Michigan Public Service Commission and utility interconnection requirement. Off-grid systems may be exempt from this requirement.
9. Safety:
  - a. An on site wind energy system shall have a governing, or a feathering system to prevent uncontrolled rotation or over speeding.
  - b. All wind energy towers shall have lightning protection
  - c. If a tower is supported by guy wires, the wires shall be clearly visible to a height o at least six (6) feet above the guy wire anchors and property identified.
  - d. The minimum vertical blade tip clearance from grade shall be 20 feet for a wind energy system employing a horizontal axis rotor.

Section 3.26.2 Site Permit Application: Prior to the installation of an on-site wind energy system or anemometer tower an application for a site permit must be filed and subsequently approved by the zoning administrator and shall include the following:

1. Applicant information: Name, address and contact information.

2. Project description: A general description of the proposed project including a legal description (property identification number) of the property on which the project would be located.

3. Site Plan: The site plan shall include maps or drawings showing the physical features and land uses of the project area.

The site plan shall include:

- a. The project area boundaries.
- b. The location, height, and dimensions of all existing and proposed structures and fencing.
- c. The location, grades and dimensions of all temporary and permanent on-site and access roads from the nearest county or state maintained road.
- d. Existing topography.
- e. Water bodies, waterways, wetlands, and drainage ditches (county drains).
- f. All new infrastructures above ground related to the project.
- g. Certification that applicant has complied or will comply with all applicable state and federal laws and regulations.

# **Article 4**

## **Non-Conforming Uses**

### **Section 4.01 Purpose**

Non-conforming uses are incompatible with permitted uses in the zoning districts in which they are located. Accordingly, non-conforming uses of land, structures and buildings, either singly or in combination, shall not be extended or enlarged after the effective date of this Ordinance, except in compliance with the provisions of this Article.

### **Section 4.02 Types of Non-Conforming Uses**

#### **Section 4.02.1 Non-Conforming Buildings and Structures**

Existing buildings and structures that could not be built under the provisions of this Ordinance due to their noncompliance with floor area, height, setback, or other regulations may be added to, extended, reconstructed, or altered subject to the following provisions:

- a. A non-conforming structure may be enlarged or altered so long as the alteration does not increase its non-conformity.
- b. Should any such non-conforming structure or non-conforming portion of such structure be destroyed by any means, it may not be reconstructed except as a conforming structure.
- c. Should any such structure be moved for any reason, it shall thereafter conform to the regulations for the zoning district in which it is located after it is moved.

#### **Section 4.02.2 Non-Conforming Uses of Land**

Where at the time of passage of this Ordinance the lawful use of land exists which would not be permitted by the regulations imposed by this Ordinance, the use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- a. No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance.

- b. No such non-conforming use shall be moved in whole or in part to any other portion of the lot or parcel other than that occupied by the use at the effective date of this Ordinance or its subsequent amendment.
- c. If any such non-conforming use of land ceases for any reason for a period of twelve (12) consecutive months or more, or if it is discontinued for a period of eighteen (18) months or more in any three (3) year period, the land shall be made to conform to the regulations specified by this Ordinance for the district in which the land is located.
- d. No additional structure which does not conform to the requirements of this Ordinance shall be erected in connection with a non-conforming use of land.

#### **4.02.3 Non-Conforming Uses of Structures**

The non-conforming use of a building or structure, and the land on which it is located, which would not be permitted by the regulations imposed by this Ordinance may be continued as long as it remains otherwise lawful, subject to the following provisions:

- a. A lawful non-conforming use of a structure devoted to a use not permitted by this Ordinance in the zoning district in which it is located shall not be enlarged, extended, constructed, reconstructed, moved, or structurally altered except to change the use of the structure to a use permitted in the district in which it is located.
- b. Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for the use at the time of adoption or amendment of this Ordinance, but no such non-conforming use shall be extended to occupy any land outside such a building.
- c. If no structural alterations are made, any non-conforming use of a structure, or structures, and land may be changed to another non-conforming use provided that the proposed use is equally or more appropriate to the zoning district than the existing non-conforming use.
- d. Whenever a non-conforming use is changed to a conforming use, it shall not thereafter be changed to any non-conforming use.
- e. When a non-conforming use of a structure, or a structure and land in combination, is discontinued or abandoned for twelve (12) consecutive months or more, or if it is discontinued or abandoned for eighteen (18) months or more in any three (3) year period, the structure, or structure and

land in combination, shall not thereafter be used except in conformity with the regulations of the zoning district in which it is located.

- f. Where non-conforming use status applies to a structure and land in combination, the removal or destruction of the structure shall eliminate the non-conforming status of the land. For the purpose of this Ordinance, "destruction" is defined as damage to an extent greater than one hundred (100) percent of the State Equalized Value at the time of destruction.

### **Section 4.03 Repairs and Maintenance**

For any non-conforming structure or portion of a structure containing a non-conforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing to an extent not greater than fifty (50) percent of the current State Equalized Valuation of the non-conforming structure or non-conforming portion of the structure as the case may be, provided that the total space in cubic feet that existed within the structure when it became non-conforming shall not be increased.

If a non-conforming structure or portion of a structure containing a non-conforming use becomes physically unsafe or unlawful by reason of its physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the zoning district in which it is located.

Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part of a building declared to be unsafe by the Zoning Administrator or Building Official.

### **Section 4.04 Damage of Non-Conforming Use or Building**

Any non-conforming use or non-conforming building which has been destroyed or damaged by fire, explosion, act of God, or public enemy to an extent more than sixty (60) percent of its replacement cost shall not be reconstructed except in conformity with the provisions of this Ordinance. The restoration shall be commenced within six (6) months of the date of the destruction and shall be diligently carried on to completion.

## **Section 4.05 Change in Tenancy or Ownership**

There may be a change in tenancy, ownership, or management of an existing non-conforming use, provided that there is no change in the nature or character of the non-conforming use.

## **Section 4.06 Non-Conforming Lots of Record (Substandard Lots)**

Lots of record that existed before the effective date of this Ordinance that do not comply with the lot area, width, or, other dimensional requirements established by the applicable zoning district regulations may be used, provided that:

- a. The minimum lot width shall be sixty (60) feet.
- b. The front yard setback requirements shall not be reduced.
- c. No side yard setback shall be less than three (3) feet.

## **Section 4.07 Elimination of Non-Conforming Uses**

The Township may acquire private property by purchase, condemnation, or other means for the removal of non-conforming uses. The cost of acquiring the private property may be paid from general funds or assessed to a special district, as provided in the Township Rural Zoning Act (Act 184 of 1943, as amended). The elimination of non-conforming uses and structures in a zoning district is declared to be for a public purpose and for a public use. The Township Board may institute proceedings for condemnation of non-conforming uses and structures under the power of eminent domain in accordance with the applicable Michigan statutes.

# **Article 5**

## **Site Plan Review**

### **Section 5.01 Purpose**

This article provides a review and approval process for certain land uses and land development projects. The review and approval process described in this section is intended to ensure that all land uses comply with applicable zoning district and other zoning regulations, the site plan review standards contained in this article, and other applicable county, state, and federal statutes.

### **Section 5.02 Site Plan Approval Required**

Site plan review and approval shall be required as described below. Site plan approval must be obtained before a land use-building permit can be issued, and prior to the commencement of land clearing or excavation necessary for the construction of site improvements.

Site plan review and approval is required:

- a. For all non-residential land uses permitted in all zoning districts, except home occupations and farming operations.
- b. For all special uses. A site plan shall be submitted at the time application is made for a special use permit. Review of the site plan shall be concurrent with deliberations on the application for a special use permit.
- c. For all Planned Unit Developments (PUD's), if permitted elsewhere in this Ordinance. A site plan shall be submitted at the time application is made for PUD approval. Review of the site plan shall be concurrent with deliberations on the application for the PUD.
- d. All site condominium and condominium subdivisions developed pursuant to the Condominium Act (P.A. 59 of 1978, as amended).

### **Section 5.03 Design Standards**

Prior to recommending site plan approval, the Planning Commission shall find that the land use subject to review is designed and laid out in such a manner that it complies with the following standards:

- a. All buildings, structures, and other improvements shall comply with the applicable zoning district setback requirements.
- b. All signs shall comply with the applicable area, setback, height, and lighting standards.
- c. All exterior lighting fixtures shall be of a type and quality that limits illumination to the site only, and shall be located so as not to produce glare off-site.
- d. Parking areas shall provide the number of parking spaces required for the proposed use. Parking areas shall be surfaced with compacted gravel, asphalt, or concrete, and shall be designed and constructed to provide for effective stormwater drainage. Parking areas shall be provided with a stormwater detention system that effectively holds and filters parking lot runoff.
- e. Access from adjoining roads shall be arranged to assure the safety of vehicles and pedestrians entering and leaving the site, as well as that of vehicles and pedestrians traveling on adjoining public roads and sidewalks. Driveways shall be designed and located to assure adequate clear vision areas at adjoining road right-of-way lines. Particular attention shall be paid to site access in the event of fire or other emergency.
- f. Internal roadways and sidewalks, if provided, shall be designed and constructed to assure the safe and convenient movements of vehicles and pedestrians on the site. Particular attention shall be paid to all buildings and uses on the site in the event of fire or other emergency.
- g. Loading areas shall be located at the sides or rears of buildings, and shall be screened from view from adjoining property.
- h. Areas used for outdoor storage of goods, equipment, waste materials, or other materials of any kind shall be screened from view from adjoining properties and public roadways.
- i. The site shall be improved with a storm drainage system that maintains stormwater runoff at a pre-development rate. Runoff shall be managed in a manner that prevents off-site impacts.
- j. Existing natural features, such as stands of trees, wetlands, watercourses, ponds, lakes, and topographic features shall be preserved in the design and layout of the land use or land development project.



## **Section 5.04 Submittal Requirements**

An application for site plan review and approval shall be submitted to the Zoning Administrator no less than twenty-one (21) days prior to the meeting at which the Planning Commission will consider the application. The review of applications submitted less than twenty-one (21) days prior to such a meeting will be delayed until the next regular meeting date.

Applications must be accompanied by a completed application form and application fee in the amount established by the Township Board. Three (3) copies of a site plan must be provided. The site plan shall show the following information:

### **Section 5.04.01 General Information**

- a. Scale and north arrow. The scale shall be not less than 1" = 20' for property under three (3) acres and at least 1" = 100' for parcels three (3) acres or more in size.
- b. Name, address, and phone number of the applicant(s). Name, address, and phone number of the person or firm that prepared the site plan.
- c. The date on which the site plan was prepared. In the event that revisions of the site plan are required, then the subsequent revision dates shall also be indicated.
- d. Legal description of the property subject to the application.
- e. Name and address (or approximate location) of the proposed land use or land development project.
- f. Size of the property in acres and square feet.
- g. Area in square feet to be occupied by buildings, parking areas, roadways, landscaped areas, and unimproved open space.
- h. A small-scale map (1" = 200') indicating the location of streets, highways, watercourses, and lakes located within one-half (1/2) mile of the subject property shown on the site plan. The property subject to review must be highlighted.
- i. The exterior property lines (boundaries) of the property subject to the application.
- j. The zoning classification of the property subject to review, as well as that of adjoining properties.

### **Section 5.04.2 Physical Features**

- a. The location, name, pavement width, and right-of-way width of existing and proposed streets, highways, easements, and rights-of-way that adjoin or cross the property.
- b. The location, width, and purpose of other existing and proposed easements or rights-of-way.
- c. Locations and dimensions of existing and proposed buildings and other structures. The distance between existing and proposed buildings, and existing and proposed setbacks from property lines must be indicated in feet.
- d. Location and layout of existing and proposed parking and loading areas, including proposed surface type. The direction of travel on driveways and driving lanes must be indicated. Parking spaces must be consecutively numbered.
- e. The location of existing and proposed stormwater management facilities. The Planning Commission may require that applicants submit a separate storm drainage plan.
- f. The location and height of existing fences or walls, including the type of fencing proposed.

### **Section 5.04.3 Natural Features**

- a. The location of required landscaped buffers and screening, as well as other landscape improvements. The Planning Commission may require that applicants submit a separate landscaping plan.
- b. The location and type of existing natural features on the site, including but not limited to, wetlands, watercourses, floodplains, ponds, wooded areas, major topographic features, and so forth. Indicate the location and type of existing trees and other vegetation to be retained on the site.

### **Section 5.04.4 Signs**

- a. The location, height, and design of existing and proposed signs and exterior lighting fixtures.

## **Section 5.05 Planning Commission Review**

The Planning Commission shall review the application and approve, approve with conditions, or deny applications for site plan approval within sixty (60) days of the application date.

The Planning Commission's decision shall be recorded in writing and shall be based upon the standards specified in Section 5.05.2.

Three (3) copies of an approved site plan shall be signed and dated by the Township Planning Commission Secretary and Clerk. A copy of the approved minutes of the Township Planning Commission meeting at which approval was granted shall be attached to each copy. One copy shall be returned to the applicant, one copy shall be provided to the Zoning Administrator, and one copy shall be provided to the Secretary of the Planning Commission to be placed in the permanent record of the Commission's proceedings.

### **Section 5.05.1 Standards for Site Plan Determination**

A decision to approve, approve with conditions, or deny an application shall be based on the following criteria as they apply to a site plan under consideration:

- a. There must be a proper relationship between the proposed use and existing streets and highways within the vicinity of the proposed use.
- b. Proposed driveway entrances and exits, parking areas, service drives, and other internal circulation routes must be located and arranged so as to assure the safety and convenience of pedestrian and vehicular traffic.
- c. All buildings, structures, driveways, internal circulation routes, parking areas, and storage areas must be designed and located so as to minimize potential adverse impacts on adjacent and nearby properties.
- d. As many natural features of the landscape as possible shall be incorporated into the design and layout of the site so as to buffer the site from adjacent incompatible land uses, to assist in preserving the general appearance of the surrounding area, and to help control erosion of the discharge of water. Reasonable buffer and open space areas may be required.

- e. Screening requirements: Adverse impacts upon adjoining land uses shall be minimized by appropriate screening, fencing, or landscaping. Screening shall be constructed and maintained whenever a non-residential use is established on land sharing a boundary with any residential zoning district, and whenever multi-family housing is established adjacent to a single family or two-family residential use. Screening shall be provided by one of the following:
  - i. **Wall or Fence**  
A solid wall or fence at least six (6) feet in height with a finished surface fronting on the residential district or use. Open spaces within such walls or fences shall not exceed a one (1) foot square in area.
  - ii. **Berm**  
A mound of earth at least six (6) feet in height and graded to a slope no greater than one (1) foot of rise in three (3) feet of horizontal distance. The berm shall be landscaped by planting with grasses and/or shrubs and trees.
- f. The land use subject to review and approval shall comply with all applicable provisions of this Ordinance.
- g. All buildings, structures, parking areas, and storage areas will be accessible to emergency vehicles at all times of the year.
- h. The site plan as approved must be consistent with the intent and purpose of this Zoning Ordinance to promote the public health, safety, and general welfare.

### **Section 5.05.2 Record of Determination**

In making a decision to approve, approve with conditions, or deny a site plan, the Township Planning Commission shall record the basis for its determination in writing. The Standards for Site Plan Approval shall be incorporated by reference into the record of determination.

### **Section 5.06 Compliance with Approved Site Plan**

The construction of buildings, structures, and other improvements following approval of a site plan shall be accomplished in full compliance with the approved site plan and any conditions of approval.

## **Section 5.07 Expiration of Approved Site Plan**

Site plan approval shall be valid for a maximum period of one (1) year from the date approval was granted. If the actual physical construction of the buildings and improvements shown on the approved site plan has not commenced in a substantial way during this period, approval shall become null and void, unless a time extension is granted. The Zoning Administrator may, at his or her discretion, grant a one-time extension of up to one (1) year for good cause.

## **Section 5.08 Appeals**

The Township Planning Commission's decision on applications for proposed site plans may be appealed to the Zoning Board of Appeals.

# **Article 6**

## **Zoning Districts**

### **6.01 Division of the Township**

For the purposes of this Ordinance, Arbelá Township, Tuscola County, Michigan, is divided into the following zoning districts:

A-1 Agricultural

RR-1 Rural Residential

RC-1 Residential Cluster

MHP Mobile Home Park

C-1 Commercial

I-1 Light Industrial

### **Section 6.02 Official Zoning Map**

The boundaries of these zoning districts are hereby defined and established on a map entitled, "Zoning District Map of Arbelá Township," which accompanies this Ordinance. This map, with all explanatory matter thereon, is hereby made a part of this Ordinance. The official Zoning District Map shall be kept and maintained by the Clerk of the Township.

### **Section 6.03 Zoning District Boundaries**

The following rules shall be used in interpreting the boundaries shown on the Official Zoning Map:

- a. Boundaries appearing to follow the centerline of a street or highway shall be interpreted to follow that centerline.
- b. Boundaries appearing to follow a Township boundary line shall be interpreted to follow that boundary line.
- c. Boundaries appearing to follow the exterior property lines of a platted subdivision shall be interpreted to follow those property lines.

- d. Boundaries appearing to follow platted property lines shall be interpreted to follow those property lines.
- e. Boundaries appearing to follow the exterior property lines of a Planned Unit Development shall be interpreted to follow those exterior property lines.
- f. Boundaries appearing to follow the centerline of a stream or the ordinary high water mark of a lake shall be interpreted to follow that centerline or ordinary high water mark.
- g. Boundaries appearing to follow property lines, or interior or exterior section lines, shall be interpreted as following those property or section lines.

If the Zoning Administrator finds these standards to be inadequate for the purpose of interpreting the location of a zoning district boundary in any case, or if a property owner wishes to dispute the Zoning Administrator's interpretation of the location of a district boundary, the Zoning Board of Appeals may interpret the Zoning Map under the provisions of Article 11.

## **Section 6.04 Table of District Regulations**

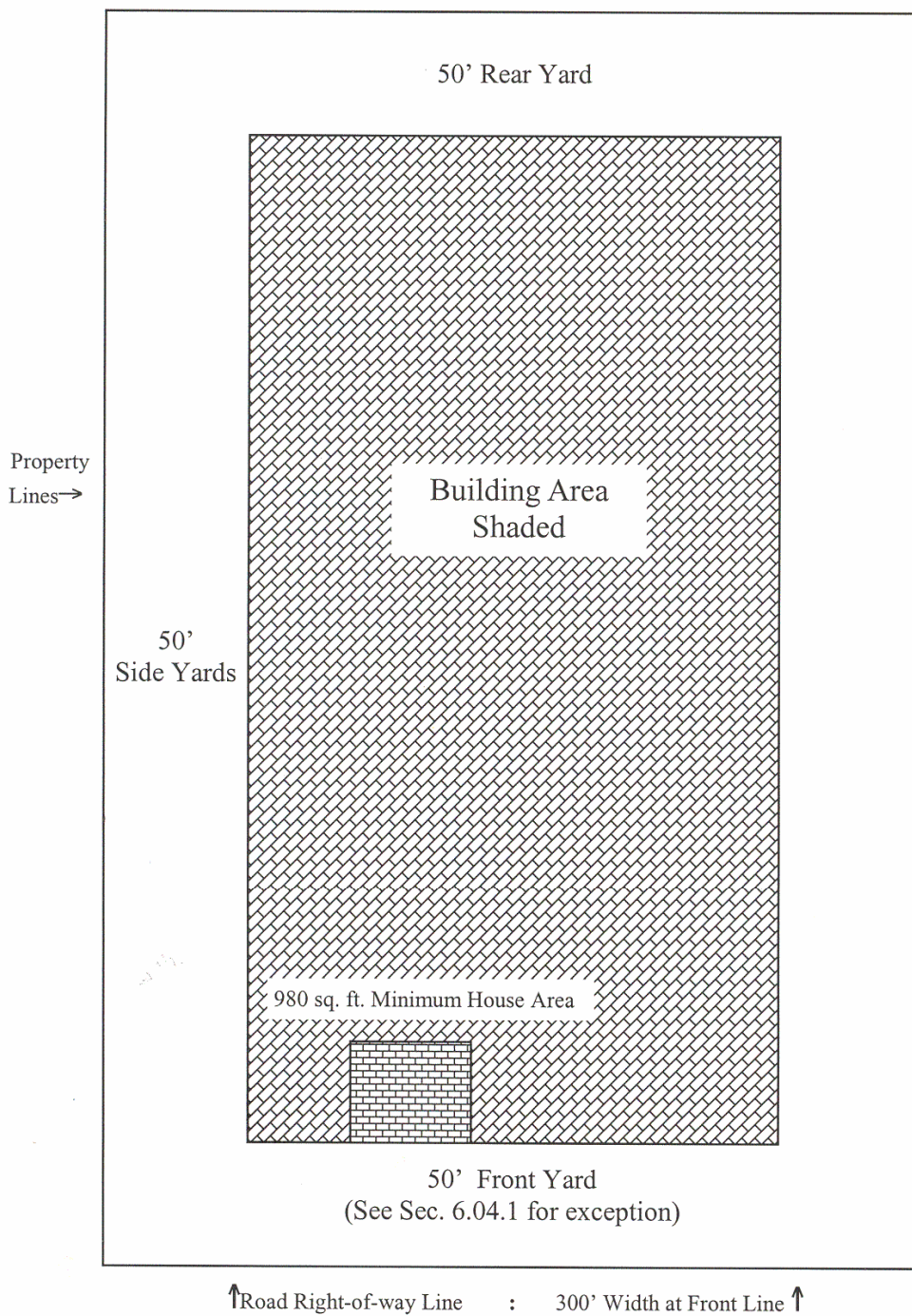
The following charts identify the intent and purpose, uses permitted by right, uses permitted by special use permit, and the dimensional requirements for each zoning district of Arbelá Township as described in Section 6.01.

## Section 6.04.1

<b>A-1 Agricultural Zoning District Regulations</b> <b>Intent and Purpose:</b>	
1. To preserve, enhance, and stabilize areas that are currently used for general farming. 2. To conserve lands best suited to farming due to their physical characteristics. 3. To protect agricultural lands from premature urban development. 4. To preserve the essential rural character and economic value of the Township's agricultural lands.	
Permitted Uses	Special Uses Subject to Review and Approval as Specified in Article 7
1. Farms and general farming operations 2. Single Family Dwellings 3. Home Occupations 4. Churches 5. Public parks 6. Cemeteries 7. Public & private schools 8. Family child care homes 9. State licensed residential facilities 10. Bed & breakfast establishments 11. Accessory Uses & Structures	1. Agricultural storage facilities, terminals, and processing facilities 2. Veterinary clinics & kennels 3. Natural resource extraction: sand, gravel, clay, or topsoil extraction 3. Towers 4. Junkyards 5. Funeral homes 6. Correctional facilities, including juvenile detention facilities 7. Correctional facilities, including juvenile detention facilities 8. Commercial wind energy systems
<b>Minimum Lot Size</b> Area: 10 acres Width: 300 feet of continuous frontage	<b>Minimum Setbacks</b> Front: 70 feet if frontage on Bray, Birch Run, Belsay or Millington Roads; 50 feet on all other roads. Front setbacks are measured from the road right-of-way. Side: 50 feet each side Rear: 50 feet  <b>Maximum building height:</b> 2 stories, 30 feet for residences
<b>Minimum Floor Area:</b> 980 square feet for dwellings	<b>Off-Street Parking Requirements:</b> See Article 8
<b>Screening/Buffering Requirement:</b> See Article 3, Section 3.21	<b>Sign Regulations:</b> See Article 9
<b>Other District Requirements:</b> All new or expanding livestock production facilities shall comply with the "Generally Accepted Agricultural and Management Practices for Site Selection and Odor Control" as adopted by the Michigan Commission of Agriculture, June 2000 for a Category 1 or Category 2 site.	<b>Other District Requirements, Continued:</b> Any new or expanding livestock production facility shall furnish its plans to the Township, regardless of whether MDA verification is required.



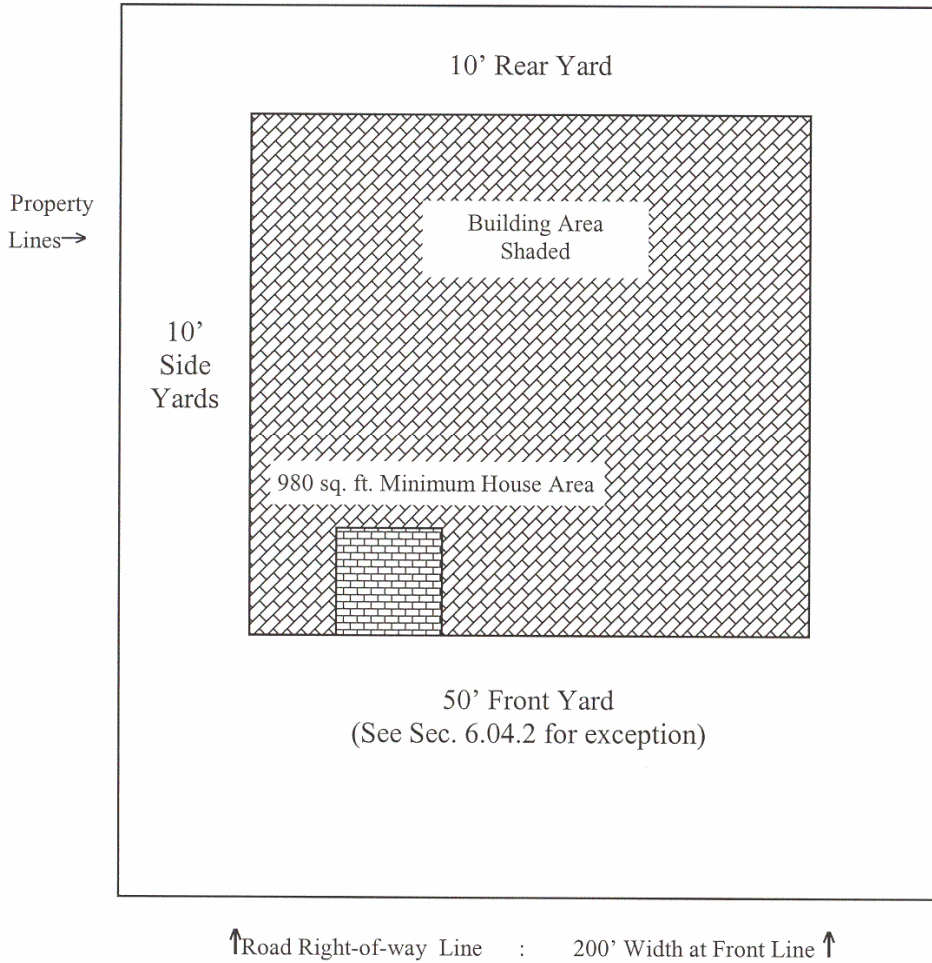
A-1 Agricultural Zoning District  
Minimum Yard Area is 10 Acres



## Section 6.04.2

<p><b>VI. RR-1 Rural Residential Zoning District Regulations</b></p> <p><b>Intent and Purpose:</b></p> <ol style="list-style-type: none"> <li>To provide for the satisfactory use of land areas not ideally suited to agriculture or intensive residential development.</li> <li>To permit single family residential development in a rural setting.</li> <li>To serve as a land reserve for open space areas, idle cropland, and wetlands.</li> <li>To serve as a buffer between agricultural areas and more intensive land uses.</li> </ol>	
<p><b>Permitted Uses</b></p> <ol style="list-style-type: none"> <li>Single Family &amp; Two Family Dwellings</li> <li>Home Occupations</li> <li>Accessory Uses &amp; Structures</li> <li>Churches.</li> <li>State-licensed residential facilities</li> <li>Public parks.</li> <li>Bed &amp; breakfast establishment</li> <li>On-site wind energy systems</li> </ol>	<p><b>Special Uses Subject to Review and Approval as Specified in Article 7</b></p> <ol style="list-style-type: none"> <li>Public &amp; private schools</li> <li>Family child care homes</li> <li>Cemeteries</li> <li>Medical clinics</li> </ol>
<p><b>Minimum Lot Size</b>            Area: One (1) acre            Width: 200 feet of continuous frontage</p>	<p><b>Minimum Setbacks</b>            Front: 70 feet if frontage on Bray, Birch Run, Belsay or Millington Roads; 50 feet on all other roads. Front setbacks are measured from the road right-of-way.</p> <p>Side: 10 feet each side            Rear: 10 feet</p> <p><b>Maximum building height:</b>            2 stories, 30 feet for residences</p>
<p><b>Minimum Floor Area:</b>            980 square feet for dwellings</p>	<p><b>Off-Street Parking Requirements:</b>            See Article 8</p>
<p><b>Screening/Buffering Requirement:</b>            See Article 3, Section 3.21</p>	<p><b>Sign Regulations:</b>            See Article 9</p>
<p><b>Other District Requirements:</b>            Farm recreation animals, as defined by this Ordinance, may be kept in accordance with the Arbela Township Animal Control and Farm Recreation Animal Maintenance Ordinance</p>	

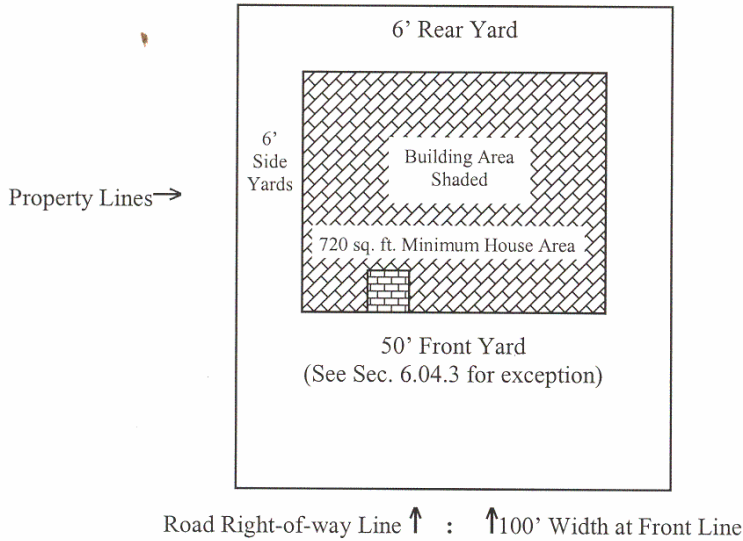
RR-1 Rural Residential Zoning District  
Minimum Yard Area is 1 Acre



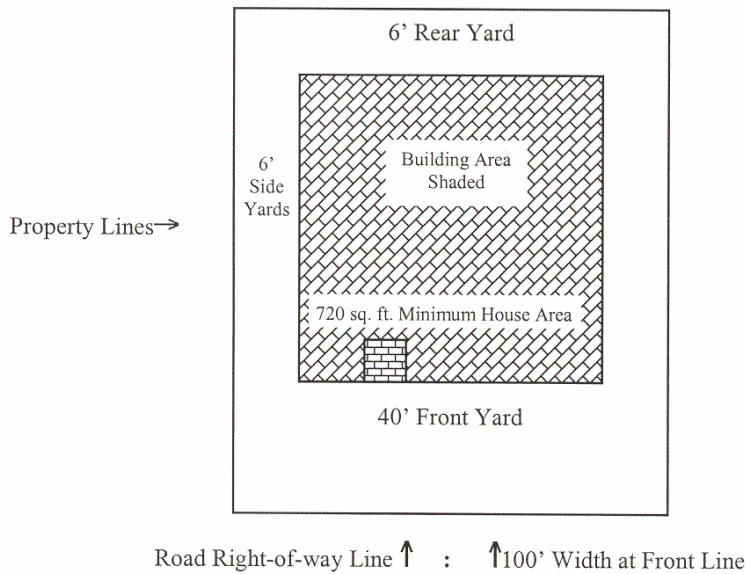
### Section 6.04.3

<b>RC-1 Residential Cluster Zoning District Regulations</b>	
<p><b>Intent and Purpose:</b></p> <p>1. Medium-density residential development on small lots (less than one acre). Includes all state platted subdivisions.</p>	
<p><b>Permitted Uses</b></p> <ol style="list-style-type: none"> <li>1. Single Family Dwellings</li> <li>2. Home Occupations</li> <li>3. Accessory Uses &amp; Structures</li> <li>4. Family child care homes</li> <li>5. State-licensed residential facilities</li> <li>6. Public parks</li> </ol>	<p><b>Special Uses Subject to Review and Approval as Specified in Article 7</b></p> <ol style="list-style-type: none"> <li>1. Group child care homes</li> <li>2. Child care centers</li> </ol>
<p><b>Minimum Lot Size</b> Area: 11,700 square feet Width: 100 feet of continuous frontage</p>	<p><b>Minimum Setbacks</b> Front: 70 feet if frontage on Bray, Birch Run, Belsay or Millington Roads; 50 feet on section-line road; 40 feet on subdivision street. Front setbacks are measured from the road right-of-way. Side: 6 feet each side Rear: 6 feet <b>Maximum building height:</b> 2 stories, 30 feet for residences</p>
<p><b>Minimum Floor Area:</b> 720 square feet for dwellings</p>	<p><b>Off-Street Parking Requirements:</b> See Article 8</p>
<p><b>Screening/Buffering Requirement:</b> See Article 3, Section 3.21</p>	<p><b>Sign Regulations:</b> See Article 9</p>
<p><b>Other District Requirements:</b> Farm recreation animals, as defined by this Ordinance, may be kept in accordance with the Arbela Township Animal Control and Farm Recreation Animal Maintenance Ordinance</p>	

RC-1 Residential Cluster Zoning District  
 When Located on a Section Line Road  
 Minimum Yard Area is 11,700 sq. ft.



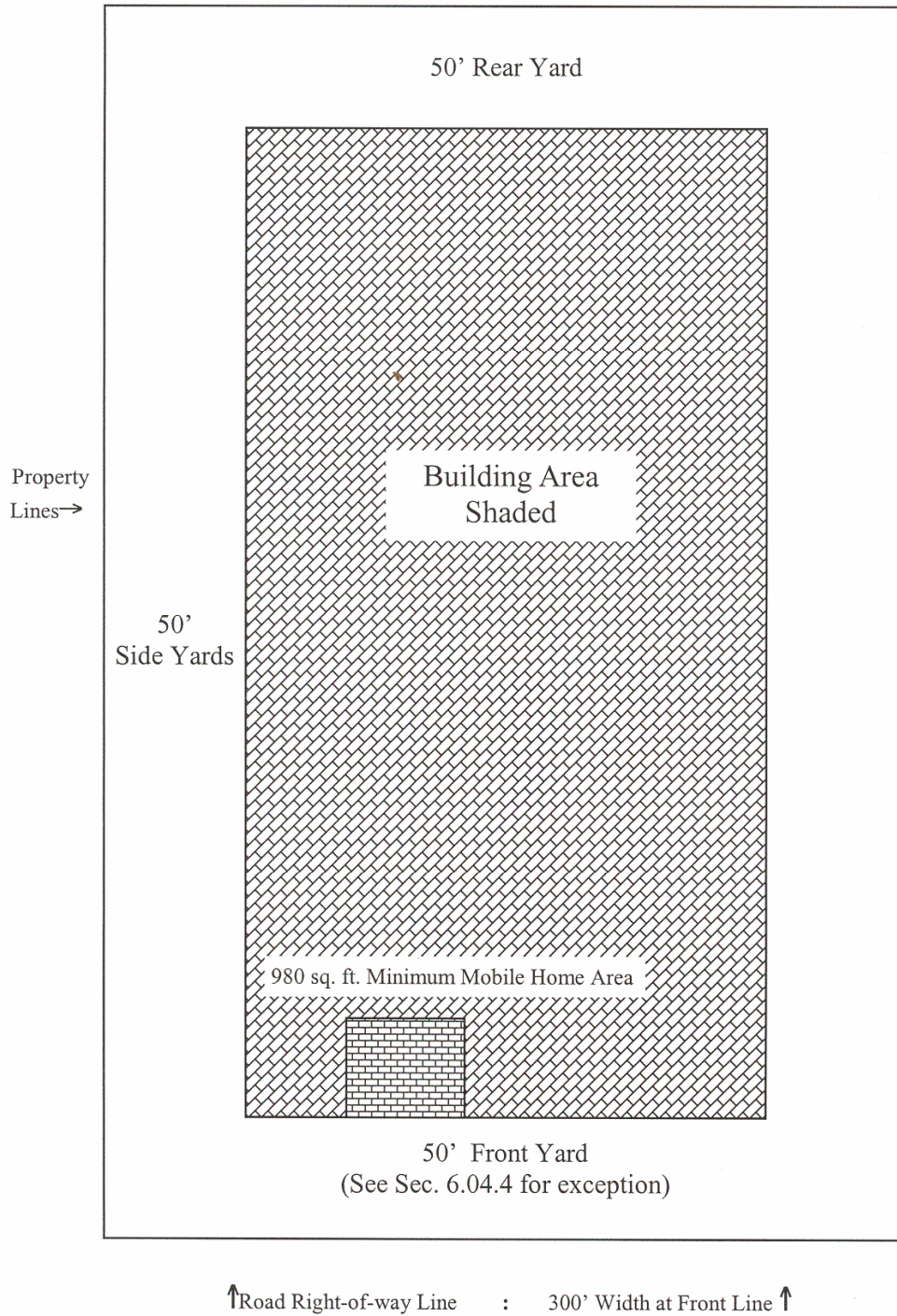
RC-1 Residential Cluster Zoning District  
 When Located Within a Platted Subdivision  
 Minimum Yard Area is 11,700 sq. ft.



## Section 6.04.4

<b>MHP Mobile Home Park Zoning District Regulations</b>	
<p><b>Intent and Purpose:</b></p> <ol style="list-style-type: none"> <li>1. To adequately provide for the establishment of licensed mobile home parks that will comply with all State of Michigan requirements.</li> <li>2. To provide for the development of permanent sites for mobile homes in a manner similar to a residential subdivision.</li> </ol>	
<p><b>Permitted Uses</b></p> <ol style="list-style-type: none"> <li>1. Mobile home parks that are licensed by the State of Michigan and that comply with all requirements of the Mobile Home Commission Act and its Administrative Rules/</li> </ol>	<p><b>Special Uses Subject to Review and Approval as Specified in Article 7</b></p> <p>None permitted</p>
<p><b>Minimum Lot Size</b>            Area: 40 acres for licensed mobile home park            Width: 300 feet of continuous frontage</p>	<p><b>Minimum Setbacks of overall Park area (not individual lots)</b>            Front: 70 feet if frontage on Bray, Birch Run, Belsay or Millington Roads; 50 feet on other section line roads; 40 feet on subdivision street. Front setbacks are measured from the road right-of-way.            Side: 50 feet each side            Rear: 50 feet  <b>Maximum building height:</b>            2 stories, 30 feet for residences</p>
<p><b>Minimum Floor Area:</b>            980 square feet for dwellings</p>	<p><b>Off-Street Parking Requirements:</b>            See Article 8</p>
<p><b>Screening/Buffering Requirement:</b>            See Article 3, Section 3.21</p>	<p><b>Sign Regulations:</b>            See Article 9</p>

MHP Mobile Home Park Zoning District  
Minimum Park Area is 40 Acres : Yards are for overall park area.

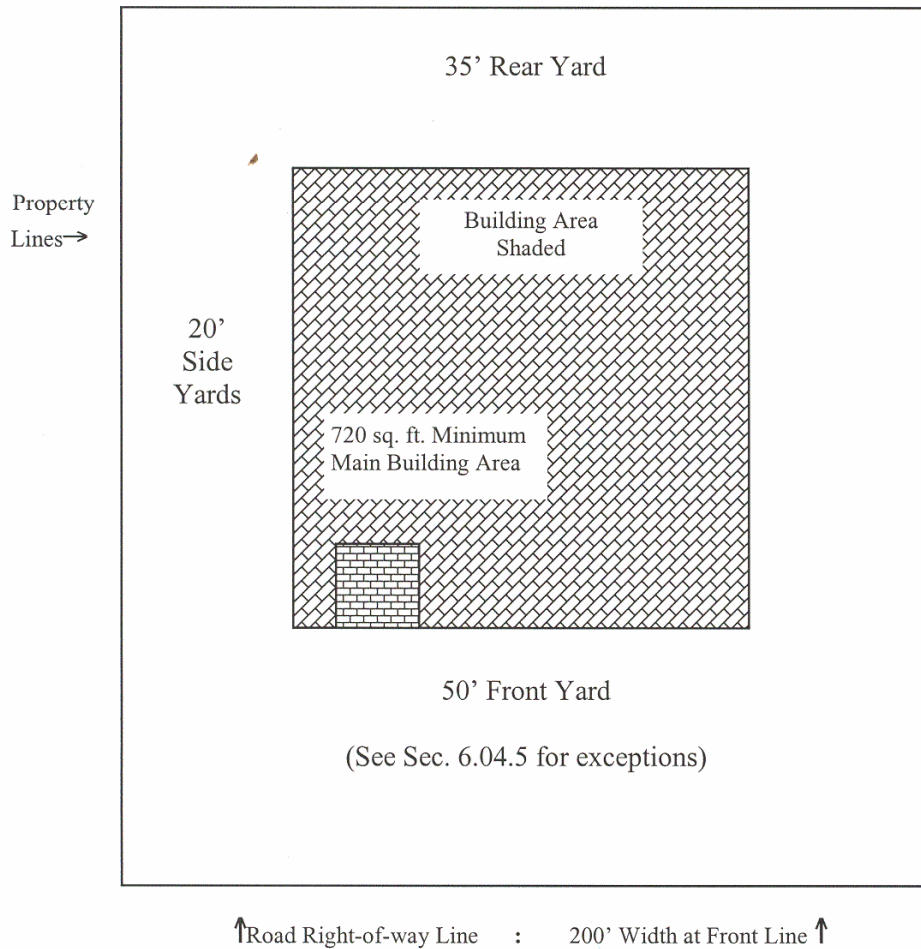


## Section 6.04.5

<b>C-1 Commercial Zoning District Regulations</b> <b>Intent and Purpose:</b>	
<ol style="list-style-type: none"> <li>To provide convenient retail shopping, office, and service businesses for residents of the Township.</li> <li>To minimize the impacts of commercial activities on surrounding residential areas.</li> <li>To promote the development of commercial use clusters, promote traffic safety, and minimize adverse impacts on adjacent land uses.</li> </ol>	
<p style="text-align: center;"><b>Permitted Uses</b></p> <ol style="list-style-type: none"> <li>Retail businesses</li> <li>Retail food establishments</li> <li>Office buildings for financial, real estate, insurance, legal, accounting, and similar services</li> <li>Restaurants, not including drive-in or drive-thru or drinking establishments</li> <li>Personal service establishments</li> <li>Medical clinics</li> <li>Storage yards, including self-service storage facilities</li> <li>Funeral homes</li> </ol>	<p style="text-align: center;"><b>Special Uses Subject to Review and Approval as Specified in Article 7</b></p> <ol style="list-style-type: none"> <li>Commercial recreation facilities</li> <li>Drive-in &amp; drive-thru restaurants, and drinking establishments</li> <li>Institutions for health care, education, social, cultural, and religious purposes</li> <li>Building supply establishment</li> <li>Motor vehicle service, sales and repair facilities, including convenience stores with gasoline sales</li> <li>Warehouses and wholesale businesses</li> <li>Motor freight (truck) terminals Clubs and lodges</li> </ol>
<p><b>Minimum Lot Size</b>            Area: One acre.            Width: 200 feet of continuous frontage</p>	<p><b>Minimum Setbacks</b>            Front: 70 feet if frontage on Bray, Birch Run, Belsay or Millington Roads; 50 feet on all other roads. Front setbacks are measured from the road right-of-way.            Side: 20 feet each side; may be reduced to 10 feet if next to another business or industrial use. No side yard required if attached to another business with approved firewall in between.            Rear: 35 feet</p> <p><b>Maximum building height:</b>            2 stories, 30 feet</p>
<p><b>Minimum Floor Area:</b>            720 square feet for main buildings</p>	<p><b>Off-Street Parking Requirements:</b>            See Article 8</p>
<p><b>Screening/Buffering Requirement:</b>            See Article 3, Section 3.21</p>	<p><b>Sign Regulations:</b>            See Article 9</p>



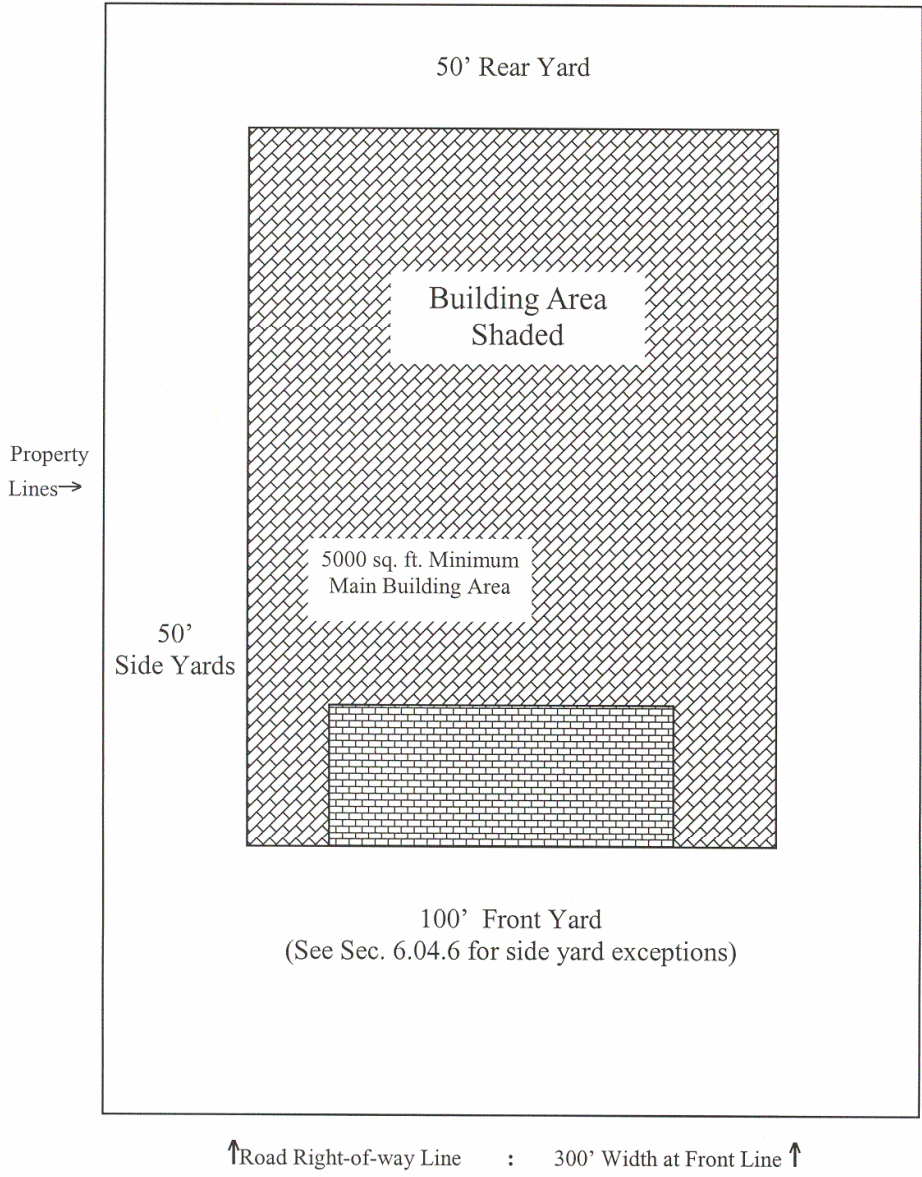
C-1 Commercial Zoning District  
Minimum Yard Area is 1 Acre



## Section 6.04.6

<b>I-1 Light Industrial Zoning District Regulations</b>	
<b>Intent and Purpose:</b>	
<ol style="list-style-type: none"> <li>To provide suitable locations for light industrial, wholesale, and storage uses.</li> <li>To prevent conflicts between industry and incompatible land uses.</li> </ol>	
<p style="text-align: center;"><b>Permitted Uses</b></p> <ol style="list-style-type: none"> <li>Manufacturing, processing, assembly, packaging, or use of previously prepared materials</li> <li>Building supply establishment</li> <li>Storage yards, including self-service storage facilities</li> </ol> Warehouses and wholesale businesses	<p style="text-align: center;"><b>Special Uses Subject to Review and Approval as Specified in Article 7</b></p> <ol style="list-style-type: none"> <li>Motor vehicle service, sales and repair facilities</li> <li>Junkyards</li> <li>Adult entertainment business</li> <li>Drive-in or drive-thru restaurants</li> </ol> Motor freight (truck) terminals
<p><b>Minimum Lot Size</b></p> Area: Five (5) acres Width: 300 feet of continuous frontage	<p><b>Minimum Setbacks</b></p> Front: 100 feet; Front setbacks are measured from the road right-of-way. Side: 50 feet each side; may be reduced to 20 feet if next to another business or industrial use. No side yard required if attached to another industrial use with approved firewall in between. Rear: 50 feet
<p><b>Minimum Floor Area:</b></p> 5,000 square feet for main buildings	<p><b>Off-Street Parking Requirements:</b></p> See Article 8
<p><b>Screening/Buffering Requirement:</b></p> See Article 3, Section 3.21	<p><b>Sign Regulations:</b></p> See Article 9

I-1 Light Industrial Zoning District  
Minimum Yard Area is 5 Acres



# Article 7

## Special Uses

### **Section 7.01 Purpose**

In addition to the uses permitted by right in each zoning district, this Ordinance allows the establishment of special land uses subject to the procedures, standards, and regulations described in this Article. Applications for special use permits may be filed by any person who owns or has an interest in the property subject to the application.

### **Section 7.02 Application Procedures**

Application for special use permits shall be submitted to the Zoning Administrator no less than twenty-one (21) days prior to the meeting at which the Planning Commission will consider the application. The review of applications submitted less than twenty-one (21) days prior to such meetings will be delayed until the next scheduled meeting.

Applications must be accompanied by the materials and information described below:

- a. A completed Special Use Permit application form and application fee.
- b. Three (3) copies of a site plan prepared as specified in Article 5.
- c. A written statement (preferably typewritten) describing how the proposed special use will comply with the general standards for special use approval listed under Section 7.05.2.

When a complete application is submitted, the Zoning Administrator shall confer with the Chairperson of the Planning Commission to schedule a public hearing on the application.

### **Section 7.03 Public Hearing**

#### **Section 7.03.1 Notice of Public Hearing**

Notice of the public hearing on the special use application must be published in a newspaper not more than fifteen (15) days and not less than five (5) days before the date of the meeting at which the public hearing will be held.

Notice of the hearing must also be delivered, either by mail or by personal delivery, to the applicant and all owners and occupants of property located within three hundred (300) feet of the property subject to the application for the special use permit. These notices must describe:

- a. The special use being requested;
- b. The property subject to the request (address, tax number, and/or legal description);
- c. The date, time, and place of the public hearing;
- d. Where and when the application, site plan, and other materials may be inspected by the public; and
- e. Where and when written comments on the application will be received.

**Section 7.03.2 Public Hearing and Review Procedures**

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The Planning Commission shall hold the public hearing on the proposed special use, and shall review the site plan and other materials submitted with the application.

Following the public hearing, the Planning Commission shall make a decision based on whether or not the proposed special use is consistent with the specific standards applicable to the special use described in Section 7.08, as well as the general standards described in Section 7.05.1. If it is found that the proposed special use is consistent with these standards, the Planning Commission must approve the proposed special use.

If the Planning Commission finds that the proposed special use is not consistent with the standards in Sections 7.05.2 and 7.08.1, then it may approve the use with conditions, or it may deny the proposed use altogether. In any event, the decision to approve, approve with conditions, or deny the application must be made within sixty (60) days of the date of the public hearing.

At any point during its review of an application, the Planning Commission may request that the applicant modify the site plan, or present additional information deemed necessary before making a decision on the proposed special use. In such cases, the Planning Commission shall table consideration of the application until the applicant provides the amended site plan or additional information.

**Section 7.04 Appeals**

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The Township Planning Commission's decision on applications for proposed special uses may be appealed to the Zoning Board of Appeals.

## **Section 7.05, Determination of Application**

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### **Section 7.05.1 General Standards for Approval of Special Uses**

Prior to approving, approving with conditions, or denying an application under the provisions of this Article, the Planning Commission must find that a proposed special use complies with the standards listed in this section:

- a. The property subject to the application is located in a zoning district in which the proposed special use may be established.
- b. The special use, as proposed, complies with the specific standards applicable to that special use as listed under the regulations for that zoning district.
- c. The proposed special use will be consistent with the intent and purpose of the Township Master Plan, as well as the intent and purpose of the zoning district in which the proposed use will be located.
- d. The proposed special use will not result in a material burden on police and fire services, nor on other public services and facilities.
- e. The proposed special use will not diminish the opportunity for adjacent property owners to use and develop their properties as zoned.
- f. The proposed special use will be designed, constructed, operated, and maintained so as not to negatively impact the character of land uses in the surrounding area.
- g. The proposed special use will not involve uses, activities, processes, materials, or equipment that will create a nuisance for other properties in the vicinity by reason of traffic, noise, smoke, fumes, glare, odors, or the accumulation of scrap or waste materials.

### **Section 7.05.2 Basis for Determination**

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In rendering its decision on a proposed special use, the Planning Commission shall make specific reference to the standards in Section 7.05.1, Section 7.08, and the basis in fact for any conditions attached to the approval of a special use.

**Section 7.06 Performance Guarantee**

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The Planning Commission may require a performance guarantee in the form of cash, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Township, covering the estimated cost of improvements associated with an approved special use to assure that the use complies with approval as granted.

If required as a condition of approval, a performance guarantee shall be provided at the time approval is granted by the Planning Commission. If the performance guarantee is a cash deposit, it shall be rebated periodically by the Township on application by the depositor in reasonable proportion to amount of work completed on the required improvements. The Zoning Administrator shall certify in writing to the Township Treasurer that the required conditions have been met prior to such disbursements.

**Section 7.07 Special Use Permit Requirements**

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An approved special use shall be developed, constructed, operated, and maintained in strict compliance with the terms of the special use permit, including the approved site plan and any attached conditions of approval. All improvements and other functional elements shall be constructed as proposed by the applicant and approved by the Planning Commission.

**Section 7.07.1 Certificate of Compliance**

If the functional elements or improvements associated with a special use were designed by an architect or engineer, the applicant shall, following completion of construction, provide a statement prepared by the architect or engineer certifying that all improvements have been constructed in compliance with the special use permit as granted.

**Section 7.07.2 Expiration of Permit**

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If a use established under a Special Use Permit is discontinued for one (1) year, the Special Use Permit shall expire. To re-establish the use after such expiration, a new Special Use Permit is required, beginning with a new application to the Township.

**Section 7.08, Table Showing Specific Standards, Requirements, Conditions and Districts for Special Land Use Permits**

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The following charts specify the standards, requirements, and conditions for the various special land uses permitted by this Ordinance. The following items should also be noted:

- a. The granting of a Special Use Permit requires Site Plan Review and a public hearing.
- b. A Special Use Permit is a privilege granted by the Township when certain conditions are met. A special land use is not allowed “by right.”
- c. The Township will revoke a Special Use Permit for failure to maintain compliance with the terms of the permit.
- d. Each special use must meet the minimum requirements for the Zoning District in which it is located, except as specifically noted in this section.
- e. This section lists the standards and additional requirements for uses that may be authorized by Special Use Permit. These standards supercede the District Regulations.
- f. The Planning Commission may, at its discretion, attach additional conditions to the approval of a special use. These conditions shall be reasonably related to the general standards specified in Section 7.05.1



## Section 7.08.1 Special Land Use Requirements

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Special Land Use	Minimum Lot Area and Other Dimensional Requirements	Other Requirements
Agricultural products storage, terminals, and processing facilities	<ol style="list-style-type: none"> <li>1. Site shall be minimum of 10 acres in area.</li> <li>2. All buildings and structures shall be at least 50 feet from adjacent property lines.</li> </ol>	<ol style="list-style-type: none"> <li>1. Mechanical, electrical, or other hazardous areas shall be enclosed by a 6 foot high fence.</li> <li>2. Must meet all state and local standards for noise, dust, and lighting. Planning Commission may attach conditions in absence of other standards.</li> </ol>
Veterinary clinics Kennels	<ol style="list-style-type: none"> <li>1. Minimum lot area required shall be the same as for the district where the use is located.</li> <li>2. All buildings and outdoor pens or enclosures shall be no closer than 50 feet to any property or road right-of-way line.</li> </ol>	<ol style="list-style-type: none"> <li>1. Operation shall include proper control of animal waste, odor, and noise.</li> <li>2. Outdoor exercise areas shall be enclosed by a solid wall or chain link fence at least 6 feet high.</li> </ol>
Medical clinics	<ol style="list-style-type: none"> <li>1. Minimum area shall be 20,000 square feet.</li> <li>2. Main building setbacks shall be 50 feet on all sides.</li> </ol>	<ol style="list-style-type: none"> <li>1. Must provide an obscuring fence 6 feet high on all sides adjacent to parcels zoned RR-1 or RC-1.</li> </ol>
Clubs and lodges	<ol style="list-style-type: none"> <li>1. Minimum site area shall be three (3) acres.</li> <li>2. Main building setbacks shall be 50 feet on all sides.</li> </ol>	<ol style="list-style-type: none"> <li>1. Must provide an obscuring fence 6 feet high on all sides adjacent to parcels zoned RR-1 or RC-1.</li> </ol>
Public parks	<ol style="list-style-type: none"> <li>1. Minimum site area shall be 5 acres.</li> </ol>	<ol style="list-style-type: none"> <li>1. The site shall include adequate vehicle access and parking facilities.</li> <li>2. Planning Commission may require a fence up to 6 feet in height around the perimeter of the site.</li> </ol>

**Section 7.08,1, Continued Special Land Use Requirements**

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Special Land Use	Minimum Lot Area and Other Dimensional Requirements	Other Requirements
Bed & Breakfast establishment	1. Same as Zoning District in which site is located.	<ol style="list-style-type: none"> <li>1. Must provide at least one bathroom for each two sleeping rooms provided for guests.</li> <li>2. Must provide one off-street parking space for the inn plus one space for each sleeping room.</li> <li>3. There shall be no separate cooking facilities for guests.</li> </ol>
Group child care home	1. Same as Zoning District in which site is located.	1. Must be licensed by Michigan Family Independence Agency.
Child care center	1. Same as Zoning District in which site is located.	<ol style="list-style-type: none"> <li>1. Must be licensed by Michigan Family Independence Agency.</li> <li>2. Must provide adequate off-street parking for all employees.</li> <li>3. All outdoor play areas shall be enclosed by a fence at least 6 feet in height.</li> </ol>
Funeral home	1. Same as Zoning District in which site is located.	<ol style="list-style-type: none"> <li>1. All activities related to operation of funeral home shall be conducted in main building.</li> <li>2. Owner's or operator's residence may be located on the site, provided that all required setbacks are maintained.</li> </ol>

Section 7.08,1, Continued Special Land Use Requirements

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Special Land Use	Minimum Lot Area and Other Dimensional Requirements	Other Requirements
Motor vehicle service facilities	<ol style="list-style-type: none"> <li>1. Same as district in which facility is located.</li> </ol>	<ol style="list-style-type: none"> <li>1. Driveways shall be at least 60 feet from the right-of-way line of the nearest intersecting road.</li> <li>2. If there is more than one driveway, they shall be at least 60 feet from one another at the nearest edges.</li> <li>3. If drive-through washing or oil change facilities are included, the site must provide a holding area for at least 4 vehicles to wait off the public right-of-way.</li> </ol>
Commercial recreation facilities	<ol style="list-style-type: none"> <li>1. Site shall be a minimum of three (3) acres in size.</li> <li>2. Site shall be at least 100 feet from any residence or residential zoning district.</li> </ol>	<ol style="list-style-type: none"> <li>1. Planning Commission may determine the need for a fence or berm.</li> <li>2. Planning Commission may limit hours of operation and impose other conditions as necessary to control noise &amp; other off-site impacts.</li> </ol>
Institutions for health care, educational, social, cultural, and religious purposes	<ol style="list-style-type: none"> <li>1. Site shall be a minimum of two acres in area.</li> <li>2. All buildings shall be set back at least 50 feet from any property line or road right-of-way line.</li> <li>3. Structures over 30 feet in height shall be set back one additional foot for each foot of height over 30 feet.</li> </ol>	<ol style="list-style-type: none"> <li>1. Site shall have a main access.</li> </ol>
Building supply establishments Warehouses and wholesale businesses Motor freight (truck) terminals	<ol style="list-style-type: none"> <li>1. Site shall be a minimum of five (5) acres in size.</li> <li>2. Site must be at least 100 feet from any residential zone or property.</li> </ol>	<ol style="list-style-type: none"> <li>1. Site must have direct access.</li> <li>2. Must have an obscuring fence or berm at least 8 feet high on all sides abutting any RR-1 or RC-1 districts</li> <li>3. Planning Commission may limit hours of operation.</li> </ol>

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**Section 7.08, 1, Continued Special Land Use Requirements**

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Special Land Use	Minimum Lot Area and Other Dimensional Requirements	Other Requirements
Junkyards	<ol style="list-style-type: none"> <li>1. Site shall have a minimum area of 10 acres.</li> <li>2. Active area shall be at least 200 feet from all property and road right-of-way lines.</li> </ol>	<ol style="list-style-type: none"> <li>1. The active area shall be surrounded by a solid fence or wall that is at least 8 feet high.</li> <li>2. All storage, salvage, and other activities shall be confined to the enclosed area.</li> </ol>
Correctional facilities, including juvenile detention facilities.	<ol style="list-style-type: none"> <li>1. Site shall have a minimum area of 40 acres.</li> <li>2. All structures shall be set back at least 100 feet from all property lines and road right-of-way lines.</li> <li>3. Structures over 30 feet in height shall be set back one additional foot for each foot of height over 30 feet.</li> </ol>	<ol style="list-style-type: none"> <li>1. Site shall have at least one property line abutting.</li> <li>2. All access to the off-street parking area shall be directly from the county primary road.</li> </ol>
Adult entertainment businesses	<ol style="list-style-type: none"> <li>1. No adult entertainment business may be established on a parcel that is within 1,000 feet of any parcel zoned RR-1, or RC-1.</li> <li>2. No adult entertainment business may be established on a parcel that is within 1,000 feet of any parcel containing a church, school, or public park.</li> <li>3. No adult entertainment business may be established on a parcel that is within 1,000 feet of any parcel that contains another adult entertainment business.</li> </ol>	<ol style="list-style-type: none"> <li>1. Window displays, signs, decorative, or structural elements shall not include or convey any specific examples of adult entertainment uses.</li> </ol>

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**Section 7.08,1, Continued Special Land Use Requirements**

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Special Land Use	Minimum Lot Area and Other Dimensional Requirements	Other Requirements
Communication Towers	<ol style="list-style-type: none"> <li>1. It is the Township's policy to encourage the co-location of multiple antennas on a single tower to the greatest extent possible. The applicant must demonstrate that co-location on an existing tower is not feasible before an application for a new tower may be considered.</li> <li>2. Any tower structure must be centrally located on a parcel having dimensions not less than the one and one-half times the height of the tower, as measured from the base of the tower to all points on each property line.</li> <li>3. A tower must meet the minimum yard setback requirements for the zoning district in which it is located, except that no portion of any tower, including guy wires and support structures, shall be located closer than fifty (50) feet to any property line.</li> <li>4. The minimum spacing between communications tower locations shall be three (3) mile to prevent a concentration of towers in any single area.</li> <li>5. Tower height must comply with any Tuscola County Airport Zoning Regulations that are in effect.</li> </ol>	<ol style="list-style-type: none"> <li>1. The base of any tower shall be enclosed with a security fence at least six (6) feet in height.</li> <li>2. All towers shall meet the standards of the Federal Aviation Administration and the Federal Communication Commission.</li> <li>3. All towers shall be constructed in compliance with all applicable local statutes, regulations, and standards, including design requirements for withstanding wind loading and grounding for lightning strike protection.</li> <li>4. Towers shall not be artificially lighted unless required by the Federal Aviation Administration.</li> <li>5. Towers shall not display advertising or identification of any kind, except as required for emergency purposes.</li> <li>6. Accessory structures associated with a tower shall not exceed six hundred (600) square feet in area.</li> <li>7. The Township may require a performance bond to ensure the proper construction and maintenance of a tower.</li> </ol>

Special Land Use	Minimum Lot Area and Other Dimensional Requirements	Other Requirements
<p>Natural Resources Extraction: Sand, gravel, clay, and topsoil mining or removal.</p>	<ol style="list-style-type: none"> <li>1. Minimum site area shall be 40 acres.</li> <li>2. Minimum width (frontage) shall be 250 feet.</li> <li>3. No extractive or processing operations shall be conducted within 500 feet of a residence that existed at the time of application for a permit.</li> <li>4. All fixed equipment and machinery shall be located at least 200 feet from any property or road right-of-way line.</li> <li>5. No cut or excavation shall be made closer than 100 feet to any property or road right-of-way line.</li> </ol>	<ol style="list-style-type: none"> <li>1. Owner or agent must obtain and maintain compliance with a Michigan Soil Erosion and Sedimentation Control Act Permit (Act 347).</li> <li>2. Site plan shall include a Mining Operations Plan that shows a chronological plan for the extractive use and all other land disturbing activities, and the restoration of the site to a usable condition for agriculture or development.</li> <li>3. Excavated areas shall be restored so that no finished grade is greater than one foot of vertical rise in three feet of horizontal distance. A vegetative cover consisting of appropriate grass types shall be established on all graded areas to minimize soil erosion. All slopes shall be treated in conformance with the Michigan Soil Erosion and Sedimentation Control Act.</li> <li>4. As part of Site Plan Review, Planning Commission may require fencing, beams, landscaping, or other means to adequately screen the use from adjacent properties, and to minimize public hazards.</li> <li>5. Applicant shall provide a date for completing the mining operation, based on the volume of material to be extracted and the average annual extraction rates. The Special Use Permit shall expire upon that date. Any extension of operations beyond that date shall require the issuance of a new Special Use Permit.</li> </ol>

**ANEMOMETER TOWER** means a freestanding tower containing instrumentation to determine the force or speed and direction of the wind. It is an accessory land use to a WIND ENERGY SYSTEM.

**dB(A)** means the sound pressure level in measured in decibels and is a numerical expression of the relative loudness of a sound.

**COMMERCIAL WIND ENERGY SYSTEM** a method for generating power by use of the wind and is designed and built to provide electricity to the electric utility grid. See also WIND ENERGY SYSTEM

**ON SITE WIND ENERGY SYSTEM** means a method for generating electric power from the wind and is intended to primarily serve the needs of a home, farm, or small business consumer at that site. See also WIND ENERGY SYSTEM

**ROTOR** means a component of a wind energy system that is often referred to as a blade. It acts as a rotating multi-bladed airfoil assembly extracting kinetic energy directly from the wind.

**SHADOW FLICKER** means alternating changes in light intensity caused by the moving rotor or blade of a wind energy system casting visible shadows on the ground and objects.

**SOUND PRESSURE LEVEL** means the sound pressure mapped to a logarithmic scale and reported in decibels (dB).

**WIND ENERGY SYSTEM** a method for generating power by use of the wind utilizing a wind turbine generator consisting of a turbine, blades, and tower as well as related electrical equipment. This does not include wiring to connect the wind energy system to the grid.

**WIND SITE ASSESSMENT** means a time based assessment to determine the available wind speeds at a specific site. See ANEMOMETER TOWER. Collected data is used to determine that sufficient wind resources are available for the operation of the proposed wind energy system.

### **Section 7.13.5 Commercial Wind Energy Systems & Anemometer Towers**

7.13.6 Purpose: In order to balance the need for clean and renewable energy sources and the necessity to protect the public health, safety and welfare of the community, the Township of Arbela finds that these regulations are necessary in order to establish uniform rules and policies to ensure Commercial Wind Energy Systems are properly designed, sited, and installed.

### **Section 7.13.7 Review Standards:**

Unless otherwise provided, all commercial wind turbine energy systems and anemometer towers shall comply with all of the following standards:

**Zoning District:** A commercial wind energy system or anemometer tower shall be permitted after site plan and special land use approval in A-1 Agriculture Section 6.04.1 of the Arbela Township Ordinances.

**Sufficient Wind Resources:** The proposed site shall have documented annual wind resources sufficient for the operation of the proposed commercial wind energy system. However, this standard shall not apply to an anemometer tower. No commercial wind energy system shall be approved without submission of a wind resource study documenting wind resources on the site over a minimum of one year. Said study shall indicate the long-term commercial economic viability of the project. Prior to acting on the application for special use permit, the Township may retain the services of an independent recognized expert to review the results of a proprietary wind resource study conducted by the applicant.

**Spacing and Density:** Commercial wind towers should have adequate spacing to avoid objectionable density and not be sited so the closely as to interfere with the operation of other individual wind turbines. The minimum spacing distance between each individual wind tower shall be three rotor diameters. Documents shall be submitted by the developer/manufacturer confirming specifications for tower separation based on the characteristics (prevailing wind, topography, etc.) of the particular site.

**Minimum Site Area:** The minimum site area of a single parcel or combination of adjoining land areas for a commercial wind energy system or an anemometer tower shall be 40 acres. When a proposed the site area is a combination or assembly of leased properties, the applicant must also submit documentation indicating the properties and individuals participating in the proposed project. The locations of any temporary off site staging areas to be used during the projects' construction phase must also be provided.

**Setbacks:** All proposed commercial wind energy systems or anemometer towers shall meet the following applicable setback requirements so that each commercial wind



energy system shall be set back from any adjoining lot line a distance equal to 1-1/2 times the height of the tower. Setback shall be measured from the outermost point on the base of the tower. The amount of setback relief approved by the planning commission will be based on data provided by the applicant and prepared by a qualified professional. Such data shall satisfy the planning commission that any potential blade and ice throw will not cross the property line and that sound levels will not exceed 65 decibels on the dB(A) scale at the property line from the proposed setback. Data provided shall be specific to the proposed tower in the proposed location taking into consideration prevailing winds, topography, existing vegetation, and other relevant factors.

In addition, a request for reduction from the required 1-1/2 times the tower setback shall be granted if the planning commission finds one or more of the following:

Such reduction will allow an increased setback from roadways.

The property adjacent to the reduced setback is under the same ownership.

The reduced setback otherwise greatly lessens impacts on a residential area or benefits the interests of the township residents as a whole.

**Maximum Height:** The maximum wind turbine rotor tip height of a commercial wind energy system or an anemometer tower shall be 300 feet. The planning commission may approve an increased height for a commercial wind energy tower or an anemometer tower, not to exceed 400 feet, if all of the following conditions are met:

The increased height will result in the preservation of a substantial stand of trees, existing land forms or structures that would otherwise be removed to increase wind velocity.

The increased height is the minimum necessary to achieve a reasonable rate of return on the operation of the wind turbine given the documented wind speeds and other site conditions. A reasonable rate of return is not equivalent to maximizing economic return to the operator. The planning commission shall not grant the increased height if economic return is not met due to the use of inefficient equipment that does not utilize current commercial technologies.

The increased height will not result in increased intensity of lighting on the tower due to FAA requirements.

**Minimum Rotor or Blade Clearance:** The lowest point of the arc created by rotating rotors or blades on a commercial wind energy system shall be no less than twenty (20) feet. Additional clearance may be required by the planning commission if potential safety concerns are identified.

**Maximum Noise Levels:** Any proposed commercial wind energy system shall produce sound levels that are no more than 65 decibels as measured on the dB(A) scale at the property lines of the site in question. A noise report shall be submitted with any application for an anemometer tower or wind turbine generator tower. A noise report shall be prepared by a qualified professional and shall include the following, at a minimum.

A description and map of the project's noise producing features, including the range of noise levels expected, and the basis of the expectation.

A survey and report prepared by a qualified engineer that analyzes the pre-existing ambient noise (including seasonal variation) and the affected sensitive receptors located within two (2) miles of the proposed project site. Potential sensitive receptors at relatively less windy or quieter locations than the project shall be emphasized and any problem areas identified.

**Maximum Vibrations:** Any proposed commercial wind energy system shall not produce vibrations Humanly perceptible beyond the property on which it is located.

**Transmission Lines:** The on site electrical transmission lines connecting the commercial wind energy system to the public utility electricity distribution system shall be located underground up to the property line and shall utilize industry standards and good utility practice to minimize, to the extent practical, the impact, if any, of electrical discharges and/or EMF on adjacent property/non-participation property.

**Interference with Residential Reception:** All commercial wind energy systems shall be constructed and operated so that they do not interfere with television, microwave, navigational or radio reception to neighboring areas.

**Insurance:** Proof of the applicant's public liability insurance.

**Submittal of as-built documentation:** The Planning Commission may require the applicant to notify the Township Administrator within a reasonable time frame of any change during the projects' construction phase that modifies the tangible portions of the finished work. The Administrator shall schedule a review of the applicants special land use permit and site plan by the Planning Commission when a significant design change occurs due to differing site conditions, material availability, contractor-requested changes, value engineering, and impacts from third parties. After final completion of a newly constructed commercial wind energy system, a set of drawings or documentation prepared by the general contractor or construction manager, which includes any revisions in the working drawings and/or specifications during construction, shall be provided to the administrator as a final record to indicate how the project was actually constructed.

Performance Bond: The Planning Commission may require a performance guarantee to ensure completion of the proposed project.

State or Federal Requirements: Any proposed commercial wind energy system or anemometer tower shall meet or exceed any standards and regulations of the FAA, the Michigan Public Service Commission, and National Electric Safety Code. This may also include any other agency of the state or federal government with the authority to regulate wind turbine generators or other tall structures in effect at the time the special use permit is approved.

Soil Conditions: A proposal for any commercial wind energy system or anemometer tower shall be accompanied by a report of the soils present on the site based on soil boring, and a description of the proposed foundation size, materials, and depth. Such foundation shall be installed below plow depth to allow for feasible future reuse of the land unless the applicant provides a financial assurance that the foundation will be removed in the event that the tower is removed.

Visual Impacts: This ordinance recognizes that wind energy systems may pose some visual impacts. Any proposed commercial wind energy system shall meet the following requirements:

Each commercial wind energy system or anemometer tower shall be a monopole or monotube style construction (as distinguished from a lattice-style tower) and shall not utilize guy wires.

Each commercial wind energy system, including all accessory structures, including anemometer towers shall, to the extent possible, use materials, and colors that will blend them into the natural setting and surrounding buildings. A medium gray shade or galvanized steel finish, subject to any applicable standards of the FAA is the preferred color for any wind generator or anemometer tower. However, the Planning Commission may approve an alternate color if the facility is suspected to be located within an avian migratory route or if an alternate color would otherwise benefit the community.

Each wind turbine generator or anemometer tower shall be sited on the property in a location that reduces to the maximum extent possible any adverse impacts on significant view corridors from adjacent properties, while at the same time maintaining contact with economically viable wind resources

All proposed buildings of a commercial nature, including areas necessary for vehicle parking, outdoor storage of materials, replacement parts, equipment, and turbines awaiting repair, shall be appropriately sited on the property in locations that minimizes any adverse impacts to adjacent properties.

The planning commission may require design changes in order to lessen the visual clutter associated with multiple wind turbines with non-complementary, inconsistent design within sight of each other.

The planning commission may require landscaping.

16. Lighting: Each commercial wind energy system or anemometer tower shall not be artificially lighted, unless required by the FAA or other applicable governmental authority. If lighting is required, the lighting alternatives and design chosen;

Shall be the lowest intensity allowable under FAA regulations.

Shall not be strobe lighting or other intermittent white lighting fixtures, unless expressly required by the FAA. Such intermittent lighting shall be alternated with steady red lights at night if acceptable to the FAA

May be a red top light that does not pulsate or blink.

All tower lighting required by the FAA shall be shielded to the extent possible and acceptable to the FAA to reduce glare and visibility from the ground.

Where acceptable to the FAA, the Township will approve white lights over red lights and steady lights over a strobe or intermittent lighting.

17. Signs: A sign no more than four (4) square feet in area, non illuminated, displaying an address and telephone number for emergency calls and informational inquiries shall be posted at the wind turbine generator or anemometer tower. The emergency telephone number shall allow a caller to contact a responsible individual to address emergencies at any time during or after regular business hours, on weekends or holidays. No wind turbine generator tower or anemometer tower site shall include any advertising sign.

18. Shadow Flicker: The applicant shall provide shadow flicker modeling data for any proposed commercial wind energy system and shall include:

Map and describe within a one-mile radius of the proposed project site the topography, existing residences and location of their windows, locations of other structures, wind speeds and directions, existing vegetation and roadways. The model shall represent the most probable scenarios of wind constancy, sunshine constancy, and wind directions and speeds;

Calculate the locations of shadow flicker caused by the proposed project and the expected duration's of the flicker at these locations. Calculate the total number of hours per year of flicker at all locations.

Identify problem areas where shadow flicker will interfere with existing or future residences and roadways and describe proposed measures to mitigate these problems, including, but not limited to, a change in the site of the facility, a change in the operation of the facility, or grading or landscaping mitigation measures.

The facility shall be designed such that shadow flicker will not fall on, or in, any existing dwelling. Shadow flicker expected to fall on a roadway or a portion of a residential parcel may be acceptable under the following circumstances:

1. The flicker will not exceed 30 hours per year; and
2. The flicker will fall more than 100 feet from an existing residence; or
3. The traffic volumes are less than 500 vehicles per day on the roadway.

19. Hazard Planning and Safety: An application for a special use permit for a commercial wind energy system shall be accompanied by a hazard prevention plan. Such plan shall address the following at a minimum:

Certification that the electrical wiring between turbines and the utility right-of-way does not pose a fire hazard.

Any landscape plan accompanying the application shall be designed to avoid spread of fire from any source on the turbine; such preventative measures may address the types and location of vegetation below the turbine and on the site.

A Hazardous Materials Waste Plan shall be provided with a listing of any hazardous fluids that may be used on site

Certification that the turbine has been designed to contain any hazardous fluids

A statement certifying that the turbine shall be routinely inspected to ensure that no fluids are released from the turbine.

20. Removal of Abandoned or Unsafe Wind Turbine Generators or Anemometer Towers: Any wind energy system or anemometer tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned. Any tower found to be unsafe or not in compliance with the special land use conditions related to noise or shadow flicker placed upon it by the Planning Commission, shall be found to be in violation of the special land use permit. The owner of any wind turbine generator tower or anemometer tower that is abandoned or in violation of the special land use permit shall remove the same within ninety (90) days of receipt of notice from the Township of such abandonment or violation. In addition to removing the wind turbine generator or anemometer tower, the owner shall restore the site of the wind turbine generator or anemometer tower to its original condition, subject to reasonable wear and tear. Any foundation associated with a wind generator or anemometer tower shall be removed to minimum depth of five (5) feet below the final grade and site vegetation

shall be restored. Failure to remove an abandoned wind energy system or anemometer tower within the ninety (90) day period provided in this subsection shall be grounds for the Township to remove the wind turbine generator or anemometer tower at the owner's expense. The Planning Commission may require the applicant to file a bond equal to the reasonable cost of removing the wind turbine generator or anemometer tower and attendant accessory structures as a condition of a special use permit given pursuant to this section.

21. New Technology: These regulations pertaining to commercial wind energy systems and anemometer towers are intended to respond to equipment available at the time of adoption. Arbela Township recognizes that this is an emerging technology and that new means of collecting with energy, including but not limited to vertical axis wind turbine generators, are under development. Arbela Township, therefore, reserves the right to withhold approval on any wind turbine generator or anemometer tower utilizing technology and equipment not widely in use as of this date, July 13, 2009, and not addressed in this ordinance, pending appropriate study and, if necessary, alteration of these regulations.

# **Article 8**

## **Off-Street Parking And Loading Space Requirements**

### **Section 8.01 Purpose**

Before any building or use is occupied, or is enlarged or increased in capacity, off-street parking spaces for motor vehicles must be provided and maintained as described in this Article.

### **Section 8.02 General Requirements**

- a. If the use of a building or premises changes, the parking requirements applicable to the new use shall apply. If a building or use is enlarged, the parking requirements shall apply to the total area of the structure or premises. A structure or premises shall not be used or enlarged unless the required parking is provided.
- b. In the Residential (RR-1 and RC-1) Zoning Districts, no parking area shall be used for storing of any commercial vehicle exceeding one ton in capacity. The storage of merchandise, motor vehicles for sale (other than a resident's private vehicles), or the repair of vehicles exceeding one ton capacity is prohibited in any required parking area.

### **Section 8.03 Parking Requirements for Uses Not Specifically Mentioned**

In the case of unique uses that are not specifically mentioned in this Article, the requirements for a use that is mentioned and to which the proposed use is similar in character in terms of parking demand shall apply.

### **Section 8.04 Mixed Uses Within the Same Building**

In the case of mixed uses in the same building, the required number of parking spaces for each use shall be determined and provided separately. The parking spaces for one use shall not be considered as providing required spaces for any other use, except as provided in Section 8.05.

## **Section 8.05 Parking Reductions**

### **a. *Joint Provision of Parking***

Where two or more abutting parcels in the C-1 and I-1 Zoning Districts provide vehicular access between parking areas in a manner which allows travel from one parcel to another without the use of a public street, the total number of off-street parking spaces required for each parcel may be reduced by ten percent (10%), in addition to reductions allowed by other provisions of this Article.

### **b. *No Driveway Onto Major Road***

In the C-1 and I-1 Zoning Districts, uses on parcels fronting on county primary roads may reduce the required number of off-street parking spaces by ten percent (10%) if the parcel has no driveway openings onto the major road. This reduction is in addition to reductions allowed by other provisions of this Article.

## **Section 8.06 Driveway Spacing Requirements**

Each parcel in the C-1 and I-1 Zoning Districts shall have no more than one driveway entrance and exit opening to a public road for each three hundred (300) feet of frontage or fraction thereof. Where more than one driveway is allowed, the driveways shall be located at least fifty (50) feet apart. No driveway shall be located within twenty-five (25) feet of a neighboring property line, or within fifty (50) feet of a street intersection.

## **Section 8.07 Parking Space Dimensions**

Each parking space (also known as a "parking stall") shall be a minimum of nine (9) feet wide and eighteen (18) feet long. Barrier free parking spaces shall comply with the size requirements of the State of Michigan Barrier Free Code.

## **Section 8.08 Off-Street Parking**

### **Section 8.08.1 Table of Off-Street Parking Requirements**

The number of off-street parking spaces for specific uses is shown in "Table of Off-Street Parking Requirements," which appears at the end of this Article.



## **Section 8.08.2 Off-Street Loading Spaces**

Off-street loading spaces shall be provided and maintained for buildings (including additions to existing buildings) that are occupied by uses that require the receipt or distribution of goods and materials in vehicles. The number of loading spaces required shall be based on the gross floor area of a building or addition as follows:

- a. Up to and including twenty thousand (20,000) square feet — one (1) space;
- b. More than twenty thousand (20,000) square feet, but less than fifty thousand (50,000) square feet —two (2) spaces; and
- c. Fifty thousand (50,000) square feet and greater — three (3) spaces plus one (1) space for each additional fifty thousand (50,000) square feet or fraction thereof.

# Article 9

## Signs and Billboards

### Section 9.01 Intent and Purpose

The intent of this article is to regulate the type, number, physical dimensions, erection and placement of signs in Arbela Township. The purpose of these regulations is to:

- a. Promote the public health, safety, and welfare of residents and visitors;
- b. Reduce hazardous distractions to motorists, pedestrians, and air traffic;
- c. Protect commercial districts from visual clutter and chaos;
- d. Protect property values;
- e. Protect the rural character and natural beauty of Arbela Township.

### Section 9.02 Definitions

- a. **Billboard:** A billboard is an outdoor sign, structure, or symbol advertising services or products which are not made, produced, assembled, stored, or sold upon or from the lot or premises upon which the billboard is located. Billboards are also known as "off-premise signs" and "outdoor advertising."
- b. **Sign:** A sign is the use of any words, numerals, figures, devices, designs, or trademarks which constitute a name, identification, description, display, or illustration which is affixed or applied to or represented directly or indirectly upon a building structure, or zoning lot, and which directs attention to an object, product, service, activity, person, institution, organization, or business.
- c. **Sign Area:** The area of a sign shall be computed as the entire area circumscribed by a parallelogram, triangle, circle, or semi-circle, or any combination of these figures, which includes all of the display area of the sign including frames surrounding display areas. For signs that consist of individual letters attached or painted on the wall of a building, with only the wall as background and no added decoration or border, the sign area shall be the geometrical shape formed by an imaginary line along the exterior perimeter of the work, or words as a whole. For purposes of computing sign area, only one side of a sign shall be used.

- d. **Canopy Sign:** A sign that is incorporated into the fabric or material of a canopy with the canopy being attached to an exterior wall or surface of a building. A canopy sign shall be considered a wall sign for purposes of determining sign area. In determining said area, only that portion of the canopy containing lettering or message shall be used as a basis for computation.
- e. **Directional Sign:** A sign directing and guiding vehicular or pedestrian traffic or parking, but bearing no advertising matter except for the "logo" of the business for which the directional signs are associated.
- f. **Flashing Sign:** Any illuminated sign on which the artificial light is not maintained stationary or constant in intensity or color at all times while in use.
- g. **Freestanding Sign:** A sign supported by one or more uprights, braces or pylons located in or upon the ground or to something requiring location on the ground. Freestanding signs are commonly referred to as "pole" signs. Freestanding signs include billboards.
- h. **Ground Sign:** A freestanding sign of limited height firmly attached to the ground throughout its base or supported by one or more uprights or braces which are typically less than two (2) feet in height when measured from the ground surface to the base of the sign. Ground signs are also commonly referred to as "monument" signs.
- i. **Illuminated Sign:** Any sign designed to give forth artificial light, or designed to reflect any such light given from any source which is intended to cause such light or reflection.
- j. **Political Sign:** Any sign displaying a message and/or image associated with an election, referendum, election campaign, or similar event.
- k. **Portable Sign:** Any sign constructed so as to be readily movable from one location to another and not permanently affixed to a building or the ground. Portable signs include "trailer" signs.
- l. **Real Estate Sign:** A sign advertising that the premises on which the sign is located is for sale, lease, or rent.
- m. **Wall Sign:** A sign attached to or placed flat against the exterior wall or surface of any building, no portion of which projects more than twelve (12) inches from the wall. (See also "canopy sign.")

## **Section 9.03 Billboards.**

Billboards, as defined by this Ordinance, are prohibited in Arbela Township.

## **Section 9.04 Zoning Permit Required**

Unless a sign is exempt from permit requirements as specified in Section 9.04.1, a Zoning Permit must be obtained from the Township Zoning Administrator prior to the construction or placement of any sign.

### **Section 9.04.1 Signs and Activities Exempt From Permit**

Subject to the standards as noted and other applicable ordinance requirements, the following signs and related activities are permitted by right and are exempt from the permit requirements of this Ordinance.

- a. **Temporary Construction Signs:**  
One (1) construction sign for each street frontage at a construction project, not to exceed thirty-two (32) square feet in sign area per sign. Such signs may be erected no more than thirty (30) days prior to commencement of construction and must be removed no longer than thirty (30) days after completion of construction.
- b. **Directional Signs:**  
On-premise directional signs, not to exceed four (4) square feet per sign, shall be permitted as a means of directing traffic to parking, loading, customer service, and related areas.
- c. **Political Signs:**  
Political signs shall not exceed thirty-two (32) square feet in area per sign. Such signs shall be placed only on private property and only with permission of the property owner. Signs must be removed within fourteen (14) days following the election or referendum.
- d. **Public Signs or Notices:**  
Public signs or notices of Arbela Township, Tuscola County, the State of Michigan, or the United States of America may be erected as deemed necessary and appropriate by the unit of government.
- e. **Real Estate Signs:**
  - i. For parcels less than two (2) acres, one (1) non-illuminated real estate sign not to exceed four (4) square feet in area is permitted.

- ii. For parcels two (2) acres or more, one (1) non-illuminated real estate sign not to exceed thirty-two (32) square feet in area, or one (1) non-illuminated sign per two hundred (200) feet of lot frontage provided the total area of all such signs shall not exceed sixteen (16) square feet.
  
- f. **Name Plates:**  
One (1) nameplate sign per premises not to exceed two (2) square feet in sign area.
  
- g. **Home Occupation Signs:**  
One sign per dwelling unit not to exceed four (4) square feet in sign area. The sign shall be non-moving and non-illuminated.
  
- h. **Garage or Yard Sale Signs:**  
Two (2) signs not to exceed four (4) square feet in sign area per sign. Signs shall be removed within twenty-four (24) hours after the sale. The sign shall be non-moving and non-illuminated.
  
- i. **Retail Fuel Pricing Signs:**  
Retail fuel pricing signs typically and historically displayed by service stations and convenience stores with fuel sales which indicate the per gallon and/or per liter price of fuel.
  
- j. **Corporate Logo Signs:**  
Corporation logo signs of less than five (5) square feet and independent of other advertising of messages. The number of such signs shall be limited to one (1) per street frontage.
  
- k. **Historic Sites:**  
Signs designating sites recognized by the State Historical Commission.
  
- l. **"No Hunting" and "No Trespassing" Signs:**  
Placards posted to control or prohibit hunting or trespassing on public or private property.
  
- m. **Replacement of Copy:**  
The replacement or changing of copy on an approved sign does not require a Zoning Permit. However, if the replacement creates a sign that violates the provisions of this Chapter, it shall be deemed a violation of this Ordinance and any Zoning Permit issued for the sign shall be invalidated.

- n. **Maintenance:**  
Painting, cleaning, light bulb replacement, and other normal maintenance or repair of a sign or its supporting structure does not require a Zoning Permit. However, any structural change or relocation of a sign or its supporting structure does require a Zoning Permit.

## Section 9.05 Prohibited Signs

Signs listed in this section are prohibited in all zoning districts.

- a. Abandoned signs or signs in disrepair that have become safety hazards.
- b. Flashing and intermittently illuminated signs, provided however, time and temperature signs and similar signs displaying a genuine, non-commercial, public message may be permitted subject to Planning Commission approval.
- c. Signs, that by their location, cause a hazard to pedestrian or vehicular traffic by depriving the pedestrian or driver of a clear and an obstructed view of approaching, intersecting, or merging traffic.
- d. Except for billboards, signs advertising a commodity or service not available within Arbela Township.
- e. Signs that do not comply with the Building and Safety Codes of Tuscola County or Arbela Township.
- f. Signs, other than public signs or notices, placed in a designated public right of way unless permission to authorize such placement has been given, in writing, by the public agency having jurisdiction over said right of way. A copy of such written permission shall be provided to the Township prior to placement of such sign.
- g. Signs imitating or resembling official traffic or government signs or signals.
- h. Signs that by their location and character cause a hazard to air traffic.
- i. Signs, other than billboards, that do not advertise or identify a product, service, or establishment located on the parcel to which the sign is attached.
- j. Billboards

## **Section 9.06 Sign Standards**

### **Section 9.06.1 Standards Applicable to all Zoning District**

- a. All signs shall be subject to the Building and Safety Codes of Tuscola County and Arbela Township.
- b. All signs shall be set back 43 feet from the front lot line (the center line of the County road) and ten (10) feet from all other lot lines, except where otherwise required by this Ordinance.
- c. No sign shall exceed the height limitation of the district in which it is located or as otherwise regulated by this Ordinance; provided, however, that ground mounted signs shall not exceed six (6) feet in height.
- d. No signs shall be placed in required clear vision areas.
- e. No person shall erect or relocate or cause to be erected, any sign or billboard without first obtaining a Zoning Permit.
- f. No person shall repair or alter, or cause to be repaired or altered, any sign or billboard without obtaining a Zoning Permit if one-half (1/2) of the replacement value of the sign or billboard will be exceeded.

### **Section 9.06.2 Standards Specific to a Zoning District**

#### **a. Agricultural Zoning District (A-1 District)**

Signs as permitted by Section 9.04.1 and 9.06 are permitted along with signs permitted by this section, as follows:

- i. One (1) on premise, non-illuminated, sign of not more than four (4) square feet advertising a permitted non-residential use or an authorized special use.
- ii. One (1) on-premise, non-illuminated, sign displayed on a seasonal basis advertising the sale of farm produce to the general public. The sign shall not exceed four (4) square feet in sign area and shall be displayed only during the seasonal period of time which sales occur. The sign shall be removed within fourteen (14) days of the closure of the public sales.

#### **b. Residential Zoning Districts (RR-1 and RC-1 Districts)**

Signs as permitted by Section 9.04.1 and 9.06 are permitted along with signs permitted by this section, as follows:

- i. One (1) on premise, non-illuminated, sign of not more than four (4) square feet advertising a permitted non-residential use or an authorized special use.
- ii. Ground signs located at the entrance to platted subdivisions, residential site condominiums, multiple family housing developments, mobile home parks, or residential PUD's. No more than one sign not exceeding thirty-two (32) square feet in area, nor more than six (6) feet in height may be erected at any single entrance.
- iii. Directional signs in parking areas, provided no single sign exceeds two (2) square feet in area.

**c. Commercial and Industrial Zoning Districts (C-1 and I-1 Districts)**

Signs as permitted by Section 9.04.1 and 9.06 are permitted along with signs permitted by this section, as follows:

- i. One freestanding sign per establishment or use, not exceeding one hundred (100) square feet in area, nor more than twenty-five (25) feet in height.

No portion of a freestanding sign shall be located closer than ten (10) feet to any property line.

- ii. Wall signs, provided that such signs do not exceed ten (10) percent of the area of the wall face upon which the sign or signs are attached or painted, or one hundred (100) square feet, whichever is greater. Wall signs shall be attached and parallel to the face of the building wall.
- iii. Signs may be attached to or painted on a marquee or canopy, provided that such signs are at least ten (10) feet above grade.
- iv. No sign shall project above the roof line of the building to which it is attached.
- v. One portable sign not to exceed thirty-two (32) square feet, provided:
  - (1) The sign must meet required setbacks.
  - (2) The sign shall be properly anchored and wired and shall meet all County and Township Building and Safety Codes.



- (3) The sign shall possess a nameplate or other such identification area indicating the name, address, and telephone number of the sign owner.
- vi. Pennants and banners may be displayed on commercial property of a retail sales nature provided that they shall be securely anchored.
- vii. Ground signs not exceeding thirty two (32) square feet in area nor six (6) feet in height.

### **Section 9.07 Non-Conforming Signs**

A non-conforming sign or sign structure existing and in place as of the date of the enactment of this Article may continue to have the copy or message on the sign changed and may also have normal maintenance performed. However, a non-conforming sign existing on the day of enactment of this Chapter shall not:

- a. Be changed to another non-conforming sign;
- b. Be structurally altered so as to prolong the life of the sign or change the shape, size, location, type, or design of the sign;
- c. Be re-established after the activity, business, or use to which it relates has been discontinued for thirty (30) days or longer; or
- d. Be re-established after damage by any means if the damage is in excess of the State Equalized Value (SEV) of the sign, as determined from its most recent assessed valuation.

# **Article 10**

## **Zoning Ordinance Text And Map Amendments**

### **Section 10.01 Purpose**

The regulations and provisions stated in the text of this Ordinance and the boundaries of zoning districts shown on the Zoning District Map may be amended, supplemented, or changed by ordinance by the Township Board in accordance with the applicable enabling legislation of the State. Procedures for amending the text of this Ordinance and for rezoning property are described in this Article.

Proposals for amendments, supplements, or changes may be initiated by the Township Board, by the Planning Commission, or by petition of one (1) or more owners of property in the Township.

### **Section 10.02 Procedures**

#### **10.02.1 Application**

Each petition by one (1) or more owners or their agents, for an amendment shall be submitted upon an application of standard form to the Township Clerk. A fee as established by the Township Board shall be paid at the time of application to cover costs of necessary advertising for public hearings and processing of the amendment request. The Township Clerk shall transmit the application to the Planning Commission for recommended action.

#### **Section 10.02.2 Re-Submittal of Application**

No application for a rezoning that has been denied by the Township Board shall be re-submitted 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 which, upon inspection by the Township Board, are found to be valid.

#### **Section 10.02.3 Public Hearing Notification Requirements**

Before voting on any proposed amendment to this Ordinance, the Planning Commission shall conduct a public hearing, with notice being given by the Township as follows:

- a. **Published Notice**  
Notice shall be given by two (2) publications in a newspaper of general circulation in the community, the first to be printed not more than thirty (30) days nor less than twenty (20) days and the second not more than eight (8) days before the date of such hearing.
  
- b. **Notice to Property Owners and Occupants**  
In any instance involving the rezoning of one or more parcels, or when the owner or other party having an interest in any parcel has requested a text change which will affect use of that parcel, a notice stating the time, place, date, and purpose of the public hearing must also be given, by mail or personal delivery, to the petitioner and to all owners and occupants of property located within three hundred (300) feet of the property or properties subject to the rezoning request. If the notice is delivered by mail, an affidavit of mailing shall be filed with the Planning Commission before the public hearing. The notices shall include the places and times at which the tentative text and any maps of the proposed zoning amendment may be examined.
  
- c. **Notification of Railroads and Public Utilities**  
Not less than twenty (20) days notice of the time and place of the hearing shall also be given to each electric, gas, pipeline, and telephone public utility company, and to each railroad operating within the district or zone affected, that registers its name and mailing address with the Planning Commission for the purpose of receiving the notice. An affidavit of mailing shall be maintained. The notices shall include the places and times at which the tentative text and maps of the proposed amendment may be examined.

#### **Section 10.02.4 Planning Commission Recommendation**

The Planning Commission shall consider each proposed amendment in terms of the likely effect of such proposal upon the development plans for the community as well as in terms of the merits of the individual proposal. The Planning Commission may recommend any additions or modifications to the original amendment petition.

#### **Section 10.02.5 Tuscola County Planning Commission Recommendation**

Following the conclusion of the Public Hearing, the proposed amendment and any applicable zoning district map shall be submitted to the Tuscola County Planning Commission for their review. The approval of the County Planning Commission shall be conclusively presumed unless such Commission notifies the Township Board of its approval or disapproval within thirty (30) days of its receipt of the amendment.

### **Section 10.02.6 Township Board Action**

Upon receipt of the County Planning Commission's recommendation, the Township Board shall review the County's recommendation and the recommendation of the Township Planning Commission.

The Township Board shall grant a hearing on the proposed amendment to any party who has filed a written request to be heard with the Township Clerk. The request must be received prior to the meeting at which the proposed amendment would first be considered by the Township Board. The Planning Commission shall be requested to attend the hearing, which may be held at a regular meeting or at a special meeting called for that purpose.

If the Township Board deems advisable any changes to the amendment recommended by the Planning Commission, it shall refer these changes back to the Planning Commission for a report on the desired changes within thirty (30) days.

The Township Board may deny or adopt the amendment with or without changes, by a majority vote of its membership, following the Board's standard procedures for adoption of ordinances.

### **Section 10.02.7 Amendments to Conform With Court Decree**

An amendment for the purpose of conforming a provision of the Zoning Ordinance to the decree of a court of competent jurisdiction as to any specific lands may be adopted by the Township Board and the notice of the adopted amendment published without referring the amendment to any other board or agency provided for in this Ordinance.

# ARTICLE 11

## ADMINISTRATION

### Section 11.01 Zoning Administrator

Arbela Township shall appoint a Zoning Administrator to act as its officer for the proper administration and enforcement of this Ordinance. The Zoning Administrator shall be appointed by the Township Board for such term, subject to such conditions, and at such rate of compensation as the Board shall determine.

### Section 11.02 Permits

#### Section 11.02.1 Zoning Permit

- a. No building or structure of any kind that is greater than 120 square feet in area shall be erected, moved, enlarged, substantially altered, or demolished until the owner or occupant has applied for and obtained a Zoning Permit from the Zoning Administrator.
- b. No permit shall be issued to erect, move, enlarge, substantially alter, or demolish a building or structure unless the request is in conformance with the provisions of this Ordinance.
- c. No building or structure shall be used, or be subject to a change in use or occupancy, until the owner has applied for and obtained a Zoning Permit from the Zoning Administrator.
- d. The Zoning Administrator may revoke a Zoning Permit in the case of failure or neglect to comply with any of the provisions of this Ordinance, or in the case of any false statement or misrepresentation made in the application for the permit. The owner shall be notified of such revocation in writing.
- e. If construction is not started within one year of the date a permit is issued, the Zoning Permit shall become void and a new permit application must be filed with the Zoning Administrator.

#### (i) Application for Zoning Permit

In addition to the Zoning Permit application, the Zoning Administrator may require the applicant to submit one copy of a plot plan drawn to scale and showing:

- a. The location, shape, area, and dimensions of the lot involved.
- b. The locations of water and septic systems proposed and existing in the general area.

- c. The size, shape, dimensions, and location of any existing or proposed structures to be situated on the parcel.
- d. The existing and proposed use of the parcel and all structures upon it.
- e. The location and dimensions of any existing and proposed yard, open space, and parking areas.
- f. Proposed setbacks of structures from property lines, roads, lakes, and streams.
- g. Estimated construction costs.
- h. Any other information deemed necessary by the Zoning Administrator for the proper enforcement of this Ordinance.

**(ii) Zoning Permit Required to Obtain Building Permit**

The Zoning Permit shall be required to secure a required building permit issued by Arbelá Township.

**Section 11.02.2 Other Permits and Approvals Required**

The following permits or approvals, where required, shall be completed before a Zoning Permit may be issued:

- a. Wastewater disposal system permit, obtained from the County Health Department,
- b. Water well permit, obtained from the County Health Department,
- c. Soil erosion control measures approval, obtained from the County Soil Erosion Control Agency,
- d. Driveway permit, obtained from the County Road Commission, and
- e. Any other permits required by state or local laws.
- f. Health Department Approval Required

Zoning Permits shall not be issued for the construction or establishment of buildings or uses requiring water or wastewater systems unless and until an applicant provides copies of the appropriate well and septic permits issued by the District Health Department.

**Section 11.02.3 Fees**

The Township Board shall, by resolution, establish a schedule of fees for all permit applications required by this Ordinance. These fees shall be used for the purpose of defraying the cost of administering this Ordinance.

#### **Section 11.02.4 Enforcement**

The Zoning Administrator shall enforce the provisions of this Ordinance. Violations of any of the provisions of this Ordinance shall be a nuisance per se. Any action which is thought to be in violation shall be reported to the Zoning Administrator.

##### **a. Inspection of Violation**

The Zoning Administrator shall inspect each alleged violation and shall order a correction in writing for all conditions found to be in violation of this Ordinance.

##### **b. Correction Period**

All violations shall be corrected within sixty (60) days following the receipt of an order to correct from the Zoning Administrator. However, in those instances where, in the opinion of the Zoning Administrator, a longer time for correction is required, up to six months may be granted. Any correction period that extends beyond the standard sixty (60) day period shall be clearly stated in writing by the Zoning Administrator on the order for correction, along with the reason for the extended correction period.

##### **c. Penalties**

For each day that a violation continues beyond the correction period, a separate offense shall be declared. Any person who violates or refuses to comply with any provisions of this Ordinance or any permit, license or exception granted hereunder, or any lawful order of the Zoning Administrator, Zoning Board of Appeals, Planning Commission or the Township Board issued in pursuance of this Ordinance shall be guilty of a misdemeanor.

Upon conviction thereof before any court having jurisdiction, he or she shall be punishable by a fine not to exceed five hundred dollars (\$500.00) or by imprisonment not to exceed ninety (90) days, or both, at the discretion of the court.

The imposition of any sentence shall not exempt an offender from compliance with the provisions of this Ordinance. The foregoing penalties shall not prohibit the Township from seeking injunctive relief against a violator or other appropriate relief as may be provided by law.

## **Section 11.03 Planning Commission**

The Arbela Township Board has properly established a Township Planning Commission in accordance with the Township Planning Act (P.A. 168 of 1959, as amended). Furthermore, the Township Board has previously designated the Planning Commission as the organization to function in the capacity of the Zoning Commission identified in the Township Rural Zoning Act (P.A. 184 of 1943, as amended).

The Planning Commission shall be responsible for the following administrative and enforcement activities under this Ordinance:

**a. Site Plan Approval**

The Planning Commission shall review site plans and recommend approval, conditional approval, or denial of same as provided by Article 5, Section 5.05.

**b. Special Use Permits**

The Planning Commission shall conduct a public hearing on any application for a Special Use Permit. Following a public hearing, the Planning Commission shall review the application and recommend approval, conditional approval, or denial of the application. The Planning Commission shall also initiate any necessary action to revoke a Special Use Permit.

**c. Rezoning or Amendment**

The Planning Commission shall conduct public hearings on proposals to rezone property or amend the text of this Ordinance as provided by Article 10, Section 10.02. Following a public hearing, the Planning Commission shall make its recommendation regarding the proposed rezoning or text change to the Township Board. The Planning Commission may initiate a text change or rezoning, subject to the requirements for notice, hearing, and Township Board approval.

**d. Legal Counsel**

The Township Attorney shall act as legal counsel for the Planning Commission and shall be present at meetings as requested by the Commission.

## **Section 11.04 Zoning Board of Appeals**

There is hereby established a Zoning Board of Appeals (ZBA), which shall perform its duties and exercise its powers as provided by the Township Rural Zoning Act (Act 184 of 1943, as amended) in such a way that the objectives of this Ordinance shall be attained, public safety secured, and substantial justice done.



### **11.04.1 Administration of the Zoning Board of Appeals**

#### **a. Continuation of Current ZBA.**

Upon adoption of this Ordinance, the Zoning Board of Appeals previously created shall continue to function, and all its members shall remain in office.

#### **b. Membership**

The ZBA shall consist of five (5) regular members and two (2) alternate members:

- i. The first member shall be a member of the Township Planning Commission.
- ii. The remaining four (4) members must be selected from electors of the Township residing outside of incorporated cities and villages. One member may be a member of the Township Board, provided that an elected officer cannot serve as chairperson of the ZBA
- iii. The two (2) alternate members shall be selected and appointed in the same manner and for the same term of office as regular members. An alternate member may be called to serve in the absence of a regular member if the regular member is absent from or will be unable to attend two (2) or more consecutive meetings of the ZBA, or is absent from or will be unable to attend meetings for a period of more than thirty (30) consecutive days. An alternate member may also be called to serve as a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member shall serve in the case until a final decision is made. An alternate member has the same voting rights as a regular member of the ZBA.
- iv. An employee or contractor of the Township cannot serve as a member or employee of the ZBA.
- v. Members of the ZBA may be removed by the Township Board for non-performance of duty, or for misconduct in office upon written charges and after public hearing by the Township Board.

#### **c. Membership Terms**

The term of each member of the ZBA is three (3) years. Of the first members appointed, two (2) serve for two (2) years and the remaining members for three (3) years. A successor shall be appointed not more than one month after the term of the preceding member has expired. All vacancies for unexpired terms shall be filled for the remainder of the term.

**d. Rules of Procedure**

The ZBA shall adopt its own rules of procedure as may be necessary to conduct its meetings and carry out its function. The Board shall choose its own chairperson and, in the chairperson's absence, an acting chair.

**e. Meetings**

The ZBA shall not conduct business unless a majority of its members are present. All meetings shall be open to the public, and shall be held at the call of the chairperson and at such other times as the ZBA may determine. The ZBA may declare any meeting or part of a meeting a workshop to pursue matters of business without comment from the public in attendance.

**f. Records**

Minutes shall be recorded of all proceedings which shall contain evidence and data relevant to every case considered together with the votes of the members and the final disposition of each case. These minutes shall be filed in the office of the Township Clerk, and shall be made available to the public in accordance with Section 9 of the Open Meetings Act (P.A. 267 of 1976, as amended).

**g. Legal Counsel**

The Township Attorney shall act as legal counsel for the ZBA and shall be present at meetings as requested by the Board.

**h. Hearings**

The ZBA shall fix a reasonable time and place for the hearing of an appeal. Notice of the hearing shall be given to the parties concerned and placed in a newspaper of general circulation in the Township at least five (5) days prior to the hearing and not more than fifteen (15) days prior to the hearing. The notice shall contain the address, if available, and location of the property which is the subject of the appeal, as well as a brief description of the nature of the appeal.

**i. Decisions**

The ZBA shall return a decision on a case within ninety (90) days after a request or appeal has been filed, unless a further time is agreed upon by the parties concerned. Any decision of the ZBA shall not become final until the expiration of five (5) working days after the date of the decision, unless the ZBA certifies on the record that the decision must be given immediate effect for the preservation of property or personal rights. No permit authorized by such a decision shall be issued until the decision has taken effect.

**j. Majority Vote Required**

The concurring vote of a majority of the members of the ZBA shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator or to decide in favor of the applicant on any matter upon which the ZBA is required to pass, or to effect any variation in this Ordinance.

**Section 11.04.2 Authority of the Zoning Board of Appeals**

The Zoning Board of Appeals (ZBA) may grant variances, hear appeals of administrative actions, and make interpretations of this Ordinance as follows:

**a. Variance.**

The Zoning Board of Appeals is empowered to grant variances to such requirements as lot area and width regulations, yard and depth regulations, and off-street parking and loading space requirements. Any requirement of this Ordinance that can be expressed in terms of numbers may be brought before the Zoning Board of Appeals to be considered for a variance. The Board of Appeals may grant any variance it deems reasonable, subject to the rules outlined in Section 11.04.3.

**b. Appeals of Administrative Actions**

The Zoning Board of Appeals is empowered to review and reverse or modify any order, decision or determination made by the Zoning Administrator. The Board is also empowered to review decisions of the Township Board regarding Special Use Permits and Site Plan Review.

**i. Request for Appeal.**

An Administrative Review by the Zoning Board of Appeals may be requested by any aggrieved person, or by any officer, department, or board of the local government. Any such request must be made in writing not more than ten (10) days after the date of the Zoning Administrator's decision. The request shall be filed with the Zoning Administrator and shall specify the grounds for the review. The Zoning Administrator shall immediately transmit to the Chairperson of the Board of Appeals any papers constituting the record upon which the action being reviewed was taken.

**ii. Appeal Stays Proceedings**

An appeal shall stay all proceedings in furtherance of the action being reviewed, except as follows. If the Zoning Administrator certifies in writing to the Zoning Board of Appeals, after a request for an appeal has been filed, that a stay would cause imminent peril to life or property, the proceedings shall not be stayed unless a restraining order is issued by the Zoning Board of Appeals or by court action.

### **iii. Interpretation**

The Zoning Board of Appeals may interpret provisions of this Ordinance as outlined below. Each such interpretation shall establish the precedent for future treatment of the issue being addressed. To achieve the objective of consistent enforcement of this Ordinance, whenever an interpretation question arises which has been addressed previously by the Zoning Board of Appeals, the earlier interpretation shall apply without requiring further action by the Board. The Zoning Administrator shall keep a concise record of all interpretations made by the Zoning Board of Appeals to facilitate such reference.

- a. The ZBA may determine the precise location of the boundary lines between zoning districts.
- b. The ZBA may classify any activity that is not specifically mentioned in the District Regulations (Article 6, Section 6.04) for any Zoning District as a Use by Right or Special Use within at least one Zoning District, provided that the classification shall be consistent with the classification of similar uses and with the purpose and intent of each Zoning District.
- c. The ZBA may determine the off-street parking and loading space requirements of any use for which these requirements cannot be readily determined using the information provided in this Ordinance.
- d. The Board may interpret any portion of this Ordinance when the Zoning Administrator is unable to clearly determine its intent or effect.

### **Section 11.04.3 Rules for Variances**

- a. The ZBA may not, under any circumstances, grant a variance that permits the establishment of a land use or activity that is not permitted in the zoning district in which the applicant's property is located.

The ZBA may grant variances when the literal enforcement of the provisions of this Ordinance would result in practical difficulties or cause unnecessary hardships created by the lay of the land, or by the location of buildings and structures existing before the effective date of this Ordinance. These practical difficulties are to be evaluated in terms of the applicant's ability to physically locate a permitted use on the particular parcel of land. They must not have resulted from any act of the applicant or property owner.

- b. Prior to granting a variance, the ZBA must find that the following conditions and circumstances exist:

1. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in the surrounding neighborhood or area; (plight is due to circumstances unique to the property.)
2. That the requested variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone and vicinity.
3. That the granting of a variance will not be detrimental to the public welfare, nor injurious to the property or improvements in the neighborhood or area in which the property is located.
4. That the granting of such variance will not adversely affect the purposes or objectives of this Ordinance.
5. Need for variance was not self created.
6. Not alter the essential character of the area.

**a. Voiding of Variance**

Each variance granted under the provisions of this Ordinance shall become null and void unless:

1. The construction authorized by such variance or permit has been commenced within six (6) months after the granting of the variance and pursued diligently to completion;
2. The occupancy of land, premises, or buildings authorized by the variance has taken place within two (2) years after the granting of the variance.

**b. Re-application**

No application for a variance which has been denied wholly or in part by the ZBA shall be resubmitted for a period of one (1) year from the date of the last denial. However, if new evidence or changed conditions are found, the ZBA may elect to rehear a case.

**Section 11.04.4 Conditions**

The ZBA may attach any reasonable conditions to the approval of any request to secure the objectives and purposes of this Ordinance. The breach of any such condition shall automatically invalidate any permit granted pursuant to the Zoning Board of Appeals action. When it attaches any conditions to the approval of a request, the Board of Appeals may require that a bond of ample sum be furnished to ensure compliance with the conditions imposed.

**Section 11.04.5 Filing Fee**

Applications for hearings before the ZBA shall be accompanied by a fee as established by the Township Board.

**Section 11.04.6 Appeals**

A decision of the ZBA may be appealed by the owner to the State Court System, beginning with Circuit Court.