

**Working Draft # 1**

**ZONING ORDINANCE**

**ARLINGTON TOWNSHIP**

**VAN BUREN COUNTY, MICHIGAN**

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**ARTICLE I**

**ESTABLISHING OF DISTRICTS AND  
PROVISION FOR OFFICIAL ZONING MAP**

**SECTION 1.01 OFFICIAL ZONING MAP**

- A. Arlington Township is hereby divided into zoning districts, as shown on the official zoning map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this ordinance.
- B. The official zoning map shall be identified by the signature of the township supervisor attested by the township clerk, and shall bear the seal of the township under the following words: “This is to certify that this is the official zoning map of the Township of Arlington, Van Buren County, Michigan” together with the date of the adoption of this ordinance.
- C. If, in accordance with the provisions of this ordinance, changes are made in zoning district boundaries or other matter portrayed on the official zoning map, such changes shall be entered on the official zoning map within 10 days after the amendment has been approved by the township board, with an entry on the official zoning map as follows: “On (date), by official action of the township board, the following change(s) was (were) made in the official zoning map: (brief description of changes),” which entry shall be signed by the township supervisor and attested by the township clerk. No amendment to this ordinance which involves matter portrayed on the official zoning map shall become effective until after such change and entry have been made on said map.
- D. No changes of any nature shall be made in the official zoning map or matter shown thereon except in conformity with the procedures set forth in this ordinance. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this ordinance and punishable as provided in Article XIV.
- E. Regardless of the existence of purported copies of the official zoning map which may from time to time be made or published, the official zoning map shall be located in the office of the township clerk and shall be the final authority as to the current zoning status of land and water areas, buildings, and other features and structures in the township.

**SECTION 1.02 REPLACEMENT OF OFFICIAL ZONING MAP**

- A. In the event that the official zoning map becomes damaged, destroyed, lost, or difficult to

interpret because of the nature or number of changes and additions, the township board may by resolution adopt a new official zoning map which shall supersede the prior official zoning map. The new official zoning map may correct drafting or other errors or omissions in the prior official zoning map, but no such correction shall have the effect of amending the original official zoning map or any subsequent amendment thereof. The new official zoning map shall be identified by the signature of the township supervisor attested by the township clerk, and shall bear the seal of the township under the following words: "This is to certify that this official zoning map supersedes and replaces the official zoning map adopted (date of adoption of map being replaced) of the Township of Arlington, Van Buren County, Michigan."

- B. Unless the prior official zoning map has been lost or totally destroyed, the prior map, or any significant parts thereof remaining, shall be preserved together with all available records pertaining to its adoption or amendment.

## **ARTICLE II**

### **NONCONFORMING USES AND STRUCTURES**

#### **SECTION 2.01 INTENT**

Nonconformities are uses, structures, buildings, or lots which do not conform to one or more provisions or requirements of this Ordinance or a subsequent amendment, but which were lawfully established prior to the time of adoption of the ordinance or amendment. Such nonconformities are declared by this Ordinance to be incompatible with the current or intended use of land in the district in which they are located.

Accordingly, the purpose of this Article is to establish regulations that govern the completion, restoration, reconstruction, extension, and/or substitution of nonconformities, and to specify the circumstances and conditions under which nonconformities shall be permitted to continue.

#### **SECTION 2.02 NONCONFORMING USES OF LAND**

A nonconforming use of land occurs when property is used for a purpose or in a manner made unlawful by the use regulations applicable to the district in which the property is located.

Where, on the effective date of this Ordinance, or the effective date of an amendment of this Ordinance, a lawful use of land exists that is made no longer permissible under the terms of this Ordinance as enacted or amended such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

- A. **Expansion of Use.** No such nonconforming 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. **Moving.** No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance.
- C. **Discontinuation of Use.** If such nonconforming use of land ceases for any reason for a period of more than twelve consecutive (12) months, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located. In applying this Section to seasonal uses, the time during the off-season shall not be counted, provided that the off-season time for such uses is reported to the Township.

**SECTION 2.03 CONTINUANCE OF NONCONFORMING USE OR STRUCTURE**

A nonconforming structure exists when the height, size, minimum floor area, or lot coverage of a structure or the relationship between an existing building and other buildings or lot lines does not conform to the regulations applicable to the district in which the property is located.

Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. **Expansion of Structure.** Structures, or uses nonconforming by reason of height, yards, area, or parking provisions may be extended, altered or modernized provided that no additional encroachment of the height, yard, area or parking provisions are occasioned thereby.
- B. **Moving.** Should such structure be moved for any reason for any distance whatsoever, it shall thereafter conform to the regulations for the district in which it is relocated after it is moved.

**SECTION 2.04 ALTERATIONS, REPAIRS AND MAINTENANCE**

- A. **Protecting Public Safety.** Repairs or maintenance deemed necessary by the Building Inspector to keep a nonconforming building structurally safe and sound are permitted. However, if a nonconforming structure or a structure containing a nonconforming use becomes physically unsafe and/or unlawful due to lack of maintenance and repairs and is declared as such by the Building Inspector, it shall not thereafter be restored, repaired, or rebuilt except in full conformity with the regulations in the district in which it is located.
- B. **Damage by Fire or other Natural Disaster.** Any nonconforming structure or building, but not a nonconforming use, that is damaged by fire, flood, wind or other natural means may be restored, and the conforming use or occupancy of such building or structure, or part thereof, which existed at the time of such destruction may be continued or resumed, provided that such restoration is started within a period of one year after the time of such damage or event and is diligently prosecuted to completion. A one time extension of not more than one year may be granted upon review and approval of the Planning Commission. The granting of an extension will be based upon the applicant's capability to complete the project within the allowed time frame.

- C. **Enlargement & Extension Beyond Present Building Confines.** No nonconforming use of land, except residential dwellings, shall hereafter be enlarged or extended beyond its present building confines. A nonconforming use of land may however, be expanded or extended within its present building confines. Furthermore, a residential nonconforming use may be expanded or extended up to twenty-five (25) percent of the ground floor area of the existing residence

**SECTION 2.05 TOWNSHIP REMOVAL OF NONCONFORMING USES AND STRUCTURES.**

In order to accomplish the elimination of nonconforming uses and structures which constitute a nuisance or are detrimental to the public health, safety and welfare, the Township, pursuant to Public Act 110 of 2006 as amended, may acquire by purchase, condemnation or otherwise, private property for the purpose of removal of the nonconformity.

**SECTION 2.06 CHANGE IN TENANCY OR OWNERSHIP**

There may be a change of tenancy, ownership or management of any existing nonconforming uses of land, structures and premises provided there is no change in the nature or character of such nonconforming uses except in conformity with the provisions of this Ordinance.

**SECTION 2.07 ENCUMBERING LAND REQUIRED TO SATISFY REGULATIONS**

No portion of a lot necessary for compliance with the provisions of this Ordinance in regard to area, height, bulk, and placement regulations in connection with an existing or proposed building, structure, or use, shall through sale or otherwise again be used as a part of the lot required in connection with any other building or structure or use.

**SECTION 2.08 UNLAWFUL NONCONFORMITIES**

No nonconformity shall be permitted to continue in existence if it was unlawful at the time it was established.

**SECTION 2.09 PLANS ALREADY FILED**

Where plans for a building have been filed which would conform with the zoning regulations then effective, but not with subsequently enacted regulations, and where a building permit for such building has been issued, such building may be erected provided construction is begun within three (3) months and diligently pursued to completion.

## **ARTICLE III**

### **DISTRICT REGULATIONS**

#### **SECTION 3.01 SCHEDULE OF DISTRICT REGULATIONS**

- A. District regulations shall be as set forth in the “Schedule of District Regulations” contained in the Article 3 and in “Supplementary District Regulations” contained in Article 4.

#### **SECTION 3.02 APPLICATION OF DISTRICT REGULATIONS**

- A. The regulations set forth by this ordinance shall be minimum regulations and shall apply uniformly to each class or kind of structure or land similarly situated within a district, and particularly, except as hereinafter provided:
1. No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all of the regulations herein specified for the district in which such building, structure, or land is located.
  2. No building or other structure shall hereafter be erected or altered to:
    - a. exceed the height;
    - b. accommodate or house a greater number of families;
    - c. have narrower or smaller rear yards, front yards, side yards, or other open spaces than herein required; or be erected or altered in any other manner contrary to the provision of this ordinance.
  3. No part of a yard, or other open space, or off-street parking or loading space required about or in connection with a building, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.
  4. No yard or lot existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum requirements set forth herein and yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements established by this ordinance, except when a variance is duly granted in accordance with the provisions of Article VII.



5. Essential services, as defined in Article X, shall be permitted as authorized and regulated by law and other ordinances of the township, it being the intention hereof to exempt such essential services from the application of this ordinance.

### **SECTION 3.03 DISTRICT BOUNDARY LINES**

1. Where uncertainty exists as to the boundaries of zoning districts as shown on the official zoning map, the following rules shall apply:
  1. Boundaries indicated as approximately following the center lines or right-of-way lines of streets, highways, alleys, or railroads shall be construed to follow such center or right-of-way lines;
  2. Boundaries indicates as approximately following lot or property lines shall be construed as following such lot or property lines;
  3. Boundaries indicated as approximately following municipal boundaries shall be construed as following such municipal boundaries;
  4. Boundaries indicated as following township section lines shall be construed as following such section lines;
  5. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline;
  6. Boundaries indicated as parallel to or extensions of features or lines indicated in Paragraphs 1 through 5 above shall be so construed. Distances no specifically indicated on the official zoning map shall be determined by the scale of the map;
  7. Where natural or man-made features existing on the ground are at variance with those shown on the official zoning map, or in other circumstances not covered by Paragraphs 1 through 6 above, the board of appeals shall interpret the district boundaries.

### **SECTION 3.04 SCHEDULE OF DISTRICT REGULATIONS**

#### **R-1 Residential – Low Density District**

Intent: To establish and preserve quiet single-family home districts as desired by substantial numbers of residents which are free from other uses except those which are both compatible with and for the convenience of the residents of such districts; to maintain the character and integrity of existing residential areas which are comprised predominantly of one family dwellings; and to

provide protection against contamination of soil and surface and ground water by effluent from septic tank sewage disposal systems by requiring adequately large lot sizes in areas not serviced by public sanitary sewer systems.

Minimum Lot area and Frontage Width: 17,000 square feet lot area; 100 feet frontage width.

Minimum Yard Dimensions: 30 feet front yard; 10 feet side yards; 20 feet rear yard; provided, however, that on corner lots the width of the side street yard shall be at least equal to the depth of the front street yard; and further provided that on lake or river front lots yard dimensions for that portion of the lot facing the lake or river shall be in compliance with Section 4.05.

Maximum Building Height: 2-1/2 Stories; 25 feet.

Principal Uses:

1. Detached one-family dwellings, as defined in Article X, which meet all applicable requirements and specifications of the Arlington Township Construction Code.
2. Accessory uses and structures.

Special Uses: (See Article XIII)

1. Houses of worship, parish houses, convents.
2. Educational institutions, public and private.
3. Public and private recreational uses such as parks, playgrounds, golf courses, athletic fields, stadiums, and community centers.
4. Governmental buildings, libraries, museums, public utility buildings, telephone exchange buildings, fire stations, gas regulator stations.
5. Cemeteries.

**SECTION 3.05 SCHEDULE OF DISTRICT REGULATIONS**

**R-2 – One and Two Family Residential District**

Intent: To establish and preserve relatively higher-density residential districts in appropriate areas of the township, such districts to consist primarily of two-family and multiple family dwellings with convenient access to transportation facilities, shopping areas, churches, schools, and similar amenities; and to provide protection against contamination of soil and surface and ground water by effluent from septic tank sewage disposal systems by requiring an adequately

large lot area per residential unit in areas not serviced by public sanitary sewer systems. Further, to provide for the establishment of certain uses by Special Use Permit which are deemed not incompatible with or adverse to the residential character of the neighborhood.

Minimum Lot Area and Frontage Width: For two-family dwelling: 24,000 square feet lot area; 130 feet frontage width.

For single family dwelling in this district, lot are and frontage width requirements are the same as those of the R-1 district. See Section 3.04.

Minimum Yard dimensions: Same as requirement of the R-1 district. See Section 3.04.

Maximum Building Height: 3 stories; 45 feet.

Principal Uses:

1. Two-family dwellings, as defined in Article X, which meet all requirements of the Arlington Township Construction Code.
2. Principal uses 1 and 2 in the R-1 District. See Section 3.04.
3. Accessory building, such as garages, etc., are allowed and must be constructed with side walls a maximum of 8 feet in height and must be constructed of the same or similar materials as the principal dwelling.

Special Uses: (see Article XIII)

1. Special Uses 1 through 5 specified in the R-1 District. See Section 3.04.

## **SECTION 3.06 SCHEDULE OF DISTRICT REGULATIONS**

### **MH P/S – Mobile Home Park/Subdivision District**

Intent: To provide in various appropriate locations in the township suitable areas for state-licensed mobile home parks and duly approved mobile home subdivisions.

Minimum Lot Area, Frontage Width, and Yard Requirements: Minimum parcel area for a mobile home park shall be five (5) acres and the minimum road frontage shall be two hundred (200) feet. Minimum lot area, frontage width, and yard requirements for lots in mobile home subdivisions shall be in compliance with provisions of the R-1 District, Section 3.04, pursuant to Principal Use No. 2, below.

Principal Uses:

1. State-licensed mobile home parks designed and developed in compliance with all applicable provisions and requirements of the Mobile Home Park Act, being Act 243, P.A. 1959, as amended.
2. Mobile home subdivisions, designed and developed in compliance with all applicable provisions, and requirements of the Subdivision Control Act, being Act 288, P.A. 1967, as amended, and all applicable provisions of this ordinance.

Special Uses: (See Article XIII)

NONE

Site Plan: For any mobile home park, a site plan approved by the Township Planning Commission Board and Township Board is necessary in accordance with Section V.

**SECTION 3.06 A SCHEDULE OF DISTRICT REGULATIONS**

**RM – Residential Multiple Family District**

Intent: To provide in various appropriate locations in the township, generally having the availability of public utilities and located along paved roads, for garden apartments, townhouses, attached single family dwellings, or group housing for several or more unrelated individuals.

<b>Minimum Lot Area, Frontage, and Yard Requirements</b>			
	Garden Apartments	Townhouses	Housing the Elderly
Gross Site Area	1 acre	2 acres	2 acres
Maximum Lot Coverage	.25 x Development	.25 x Development	.25 x development
Maximum Height (b)	3 Stories of 45 ft.	3 Stories or 45 ft.	4 Stories or 60 ft.
Minimum Parking	2 Spaces Per Units of 1-24 units	2 Spaces Per Unit	.75 Spaces Per Unit
	1.75 Spaces Per Units of 24+ units		
Minimum Landscaped Area	.2 x Gross Site Area	.25 x Gross Site Area	.3 x Gross Site Area
Maximum Density	14 Units Per Acre	8 Units Per Acre	25 Units Per Acre
Minimum Front Setback (a)	20 ft., 40 ft. (total two)	20 ft., 40 ft. (total two)	25 ft., 50 ft. (total two)
Minimum Rear Setback	30 feet	30 feet	40 feet
Minimum Floor Per Unit			

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Efficiency	500 sq. ft.	600 sq. ft.	500 sq. ft.
One Bedroom	650 sq. ft.	750 sq. ft.	600 sq. ft.
Two Bedroom	800 sq. ft.	900 sq. ft.	750 sq. ft.
Three Bedroom	950 sq. ft.	1200 sq. ft.	
Four Bedroom	1200 sq. ft.	1500 sq. ft.	

- (a) The required front yard shall not be used for off-street parking, loading, or unloading and shall remain as open space unoccupied and unobstructed from the ground upward except for landscaping and access drives.

Principal Uses:

1. Apartments
2. Townhouses
3. Adult foster Care Facilities (Small and Medium)
4. Accessory Uses and Buildings customarily incidental to the above Principal Permitted Uses.

Special Uses: (See Article XIII)

1. Private clubs and lodges
2. Convalescent and nursing homes
3. Housing for the elderly
4. Hospitals

Site Plan: For any multiple family dwelling or special use, a site plan approved by the Township Planning Commission Board and Township Board is necessary in accordance with Article V site plan requirements.

**SECTION 3.06 B SCHEDULE OF DISTRICT REGULATIONS**

**R-3 – Very Low Density Residential District**

Intent: To provide a residential district which recognizes the soil and on-site waste disposal limitations in the Township and yet offers possibilities for residential development on untillable land unsuited to agricultural activities. This district also provides for an alternative lot area falling between the Low Density District and the Agricultural and Horticultural Districts.

Minimum Lot Area and Frontage Width: 1 acre, 150 feet frontage width.

Minimum Yard Dimensions: 30 feet frond yard; 10 feet side yards; 20 feet rear yard; provided, however, that on corner lots the width of the side street yard shall be at least equal to the depth of

the front yard; and further provided that on lake and river front lots yard dimensions for that portion of the lots facing the lake of river shall be in compliance with Article IV.

Maximum Building Height: 2 ½ Stories; 25 feet.

Principal Uses: Same as R-1, Low Density Residential

Special Uses: (See Article XIII)

Same as R-1 Low Density Residential

### **SECTION 3.07 SCHEDULE OF DISTRICT REGULATIONS**

#### **C – Commercial District**

Intent: To accommodate a wide range of retail, business, and personal service establishments which are intended to serve a number of neighborhoods, an entire community, or larger geographical areas. The Provisions for this district are designed to encourage commercial and related developments of various typed in appropriate areas which can be economically supported by the community and the surrounding area. These districts will be conveniently located in relation to concentrations of urban development and on or near major thoroughfares to provide easy access from the areas which will serve. Further, this district is intended to encourage the exclusion of certain uses and activities which tend to disrupt the efficient functioning of commercial areas, and which function better outside or commercial areas.

Minimum Yard Dimensions: 20 feet front yard; 10 feet side yards, except no side yard shall be required for adjacent or contiguous commercial uses which share common side walls and are not exposed to a street; 20 feet rear yard, provided, however, that no building or sign shall be located closer than 25 feet to an abutting residential property line or residential zoning district boundary.

Site Plan: For any commercial use, and site plan approval by the Township Planning Commission Board and Township Board is necessary. See Article V.

Principal Uses:

1. Banks and financial institutions.
2. Business service establishments similar in character to office supply stores; typewriter and business machine sales and service stores.
3. Catering establishments.
4. Department stores.
5. Dry cleaning establishments, laundries, and laundromats.

6. Feed and garden stores, nursery stock sales, and greenhouses.
7. Funeral homes and mortuaries.
8. Gasoline stations for the sale of fuel, oil, and other automotive supplies and accessories.
9. Hotels and motels.
10. Indoor commercial recreation facilities similar in character to theaters, bowling alleys, billiard parlors and skating rinks.
11. Offices for personal or business services. General offices and professional service offices.
12. Parking garages, auto storage garages, and parking lots.
13. Passenger terminals, provided that streets upon which buses enter or exit such terminal shall be no less than 30 feet in width between curbs.
14. Personal service establishments similar in character to barber and beauty shops; health club and reducing salons, shoe repair, dressmaking, and tailor shops.
15. Plumbing, heating, electrical supply, and building materials stores.
16. Public assembly buildings such as churches, auditoriums, clubs, lodges, and fraternal organizations, provided that the water supply and waste disposal systems are approved by the county health department.
17. Public parks and other public open spaces.
18. Public owned museums, libraries, fire stations, administrative buildings, and other public buildings.
19. Radio and television studios and offices.
20. Repair shops and appliances, bicycles, furniture, and similar items.
21. Restaurants, lunch counters, cafes, taverns, and night clubs, provided that the water supply and waste disposal systems are approved by the county health department.
22. Retail and wholesale stores similar in character to those that sell dry goods and clothing; household furnishings, appliances, and supplies; medicines, drugs, and personal articles;

hardware, paint, and wallpaper; books, stationery, flowers, and gifts; automobile parts and accessories; jewelry; sports equipment; hobby and craft material; musical instruments and records; and notions and variety items.

23. Retail stores where groceries, fruits, vegetables, meats, dairy products, baked goods, beverages, or confections are sold. Foodstuffs may be prepared, processed, or manufactured on the premises as an accessory activity provided that the sale of such products is limited to said premises.
24. Secondhand merchandise stores.
25. Trade schools, business colleges, music and dance studios, and other private education institutions operated for profit, provided that the water supply and waste disposal systems are approved by the county health department.
26. New or used car, mobile home, motor home, and travel trailer sales, service, repair or collision service.
27. Car washes.
28. Hospitals, clinics, sanitariums, nursing or convalescent homes, homes for the aged, and charitable or humane institutions or agencies.
29. Shops for the manufacture of small tools, dies, gauges, molds, patterns, models, or similar light manufacturing, fabrication, or assembly.
30. Veterinary and animal boarding facilities.

Special Uses: (See Article XIII)

1. Other uses similar to principal uses which are deemed compatible with the character and intent of the district.

**SECTION 3.08 SCHEDULE OF DISTRICT REGULATIONS**

**I – Industrial District**

Intent: to encourage, facilitate, and maintain the development of industrial enterprises in appropriate areas of the township which are conducive to public health, economic stability and growth, protection from blight and deterioration, and non-industrial encroachment; and to provide for convenient transportation access and reasonable locations away from other uses which might suffer adverse effects of industrial activities. As of the date of adoption of this ordinance, there is no property in Arlington Township classified as I, Industrial.



Minimum Lot Area and Frontage Width: 1 acre lot area; 150 feet frontage width.

Minimum Yard Dimensions: 20 feet front yard; 10 feet side yards, except no side yard shall be required for adjacent or contiguous industrial uses which share common side walls and are not exposed to a street; 20 feet rear yard. provided, however, that no industrial building, sign, storage, or activity shall be located within 50 feet of an abutting residential property line or residential zoning district.

Principal Uses:

1. Generally recognized industrial activities such as manufacturing, fabrication, processing, assembling, mining and extraction, and storage and warehousing, except those special uses specified in this section, subject to the following special requirements:
  - a. Where any industrial district abuts a residential district along a common lot or property line, a substantial fence of not less than 5 nor more than 7 feet shall be constructed, and no building, storage, or industrial activity shall be located within 50 feet thereto; however, off-street parking of private passenger vehicles may be located not closer than 10 feet thereto.
  - b. Storage facilities for gasoline, oil, chemicals, and other flammable materials, shall be constructed with regulations of the state fire marshal, and any above ground storage of such materials shall be entirely enclosed within a building or substantial fence not less than 6 feet in height, and shall not be located closer than 500 feet from any residential property line or residential zoning district boundary.

Special Uses: (See Article XIII)

The following uses, and uses deemed similar thereto, may be permitted only by the issuance of a special use permit and only after demonstration through specific plans that the proposed use shall not be obnoxious, hazardous, or detrimental to the public health, safety, and general welfare. Further, no such industrial special use shall be located closer than 500 feet to a residential zoning district boundary line:

1. Junk, salvage, scrap paper or rag baling or handling.
2. Slaughter or meat packing houses or stockyards, including killing, dressing, or live storage of poultry.
3. Fertilizer manufacture.
4. Plastic manufacture or articles therefrom.
5. Food processing employing more than 10 people.
6. Concrete ready-mix plants.

**SECTION 3.09 SCHEDULE OF DISTRICT REGULATIONS**

**A – Agricultural District**

Intent: To preserve substantial portions of those lands within Arlington Township which lend themselves to production of food and fiber for the region, state and nation; to provide suitable open land areas for orderly and efficient future growth and development; to protect rural residential and agricultural properties which are presently without public water and sewage facilities and are projected to remain without such facilities for a substantial period of time; to protect the inherent rights of farmers to, but not limited to, fertilize, spray, till, cultivate, and husband traditional farm animals. Further, to protect and stabilize the essential rural characteristics of outlying areas of the Township in order to promote and encourage agricultural activity and low-density rural life, until such time as it may be deemed in the public interest to promote development of higher densities requiring higher levels of public expenditure for services and utilities.

Minimum Lot Area and Frontage Width: 2 acres lot area; 200 feet frontage width.

Minimum Yard Dimensions: 30 feet front yard; 40 feet side yards; 40 feet rear yard.

Maximum Building Height: 2 ½ stories; 25 feet.

Principal Uses:

1. Generally recognized agricultural buildings and activities, including livestock and poultry operations, dairy farming, horticulture, grain farming, forestry, gardening and similar agricultural uses of land.
2. Generally recognized recreational uses and activities including athletic fields, parks and playgrounds, nature study areas, hiking areas, golf courses and driving ranges, riding stables and bridle trails, snowmobile trails, and similar uses except those specified as special uses.
3. Principal Uses 1 and 2 in the R-1 District. See Section 3.04.
4. Mobile homes as defined in Section Article X located on individual parcels of land, provided that Article IV is complied with.
5. Houses of worship, parish homes, convents, cemeteries.

Special Uses: (See Article XIII) Permit needed yearly.

One Family Residence: upon application for a special use permit and upon a showing of hardship, such as the inability to purchase additional land; the inability to obtain financing for additional land; or, other similar reason, an applicant may apply for a special use permit to locate a single family residence on a parcel of land less than two (2) acres, but at least one (1) acre in size.

Within the Agricultural District, the following uses shall be permitted by the issuance of a special use permit.

1. Stadiums and community centers, governmental buildings, libraries, museums.
2. Hospitals, clinics, sanitariums, nursing or convalescent homes, homes for the aged, charitable, fraternal, and humane organizations, or agencies; funeral homes.
3. Recreational and primitive campgrounds, including travel trailer parks, providing all applicable requirements of P.A. 368 are complied with.
4. Professional offices such as those of doctors, dentists, lawyers and accountants.
5. Seasonal cottages intended for temporary or intermittent occupancy.
6. Public or private parking lot or ramp.
7. Veterinary and animal boarding facilities.
8. Airports, including landing fields, control towers, terminals, and customary accessory structures.
9. Agri-business operations, such as fertilizer and spray processing and sales, feed and farm supply sales and service, livestock sales lots, and other businesses related to products derived from the land.

## **ARTICLE IV**

### **SUPPLEMENTARY DISTRICT REGULATIONS**

These general provisions shall apply to all zoning districts.

#### **SECTION 4.01 THE EFFECT OF ZONING**

Zoning applies to every building, structure or use. No building, structure or land shall be used or occupied, and no building or structure or part thereof shall be erected, moved, placed, reconstructed, extended, enlarged or altered, except in conformity with this ordinance.

#### **SECTION 4.02 RESTORATION OF UNSAFE BUILDING**

Subject to the provisions of the Nonconforming Uses Article, nothing in this ordinance shall prevent the strengthening or restoring to a safe condition of any part of any building or structure which is unsafe.

#### **SECTION 4.03 AREA, HEIGHT AND USE CONDITIONS AND EXCEPTIONS**

- A. **Required area or space** – A lot or lots in common ownership or a yard court parking area or other space shall not be divided, altered or reduced so as to make it not in conformance with the minimum requirements of this ordinance. If already less than the minimum requirements of this ordinance, a lot of lots in common ownership or a yard, court, parking area or other space shall not be divided, altered or reduced so as to increase its compliance with such minimum requirements.
- B. **Existing Lots of Record** – If a lot in an Agricultural or Residential Zoning District, which is platted or parcel otherwise of record as of the effective date of this ordinance, does not comply with the area and/or width requirements of its zoning district, then such lot may be used for one family use only and then only if such one family use is first authorized by the Township Zoning Board of Appeals as a variance. If a lot in a Commercial or Industrial Zoning District, which is platted or otherwise of record as of the effective date of this ordinance, does not comply with the area and/or width requirements of the Commercial or Industrial Zoning District, then such lot may be used only if first authorized by the Township Zoning Board of Appeals as a variance.
- C. **Exceptions** – The following buildings and structures shall be exempt from height regulations in all zoning districts; parapet wall not exceeding four (4) feet in height, chimneys, cooling towers, elevator bulkheads, fire towers, grain elevators, silos, stacks, elevated water towers, stage towers, scenery lofts, monuments, copulas, domes, spires, penthouses housing necessary mechanical appurtenances, and television and radio reception and transmission antennas and towers which do not exceed fifty (50) feet in height. Additions to existing buildings and structures which do not exceed the height

limitations of their zoning district up to the height of an existing building or structure on the same lot are permitted if the lot is large enough to encompass a circular area with a radius at least equal to the height of the structure or building.

**SECTION 4.04 ESSENTIAL SERVICE**

The erection, construction alteration or maintenance by public utilities or governmental units, boards or commissions of overhead or underground gas, electrical, steam or water distribution, transmission, collection, communication, or supply systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, poles, electrical substations, gas regulator stations, utility pump and metering stations, and other similar equipment and accessories in connection therewith which are reasonably necessary for the furnishing of adequate service by such public utility or municipal department or commission or for the public health, safety or general welfare is permitted in any zoning district.

Notwithstanding the exceptions contained in the immediately preceding sentence:

- A. Electrical substations and/or gas regulator stations shall be enclosed with a fence or wall six (6) feet high and adequate to obstruct passage of persons or materials.
- B. Public utility facilities in any zoning district are required to be constructed and maintained in a neat and orderly manner. Any building which is constructed shall be landscaped and shall conform with the general character of the architecture of the surrounding neighborhood.

**SECTION 4.05 REQUIRED YARD OR LOT**

All lots, yards, parking areas or other spaces created after the effective date of this ordinance shall comply with the minimum requirements of the zoning district in which they are located.

**SECTION 4.06 CONTROL OF HEAT, GLARE, FUMES, DUST, NOISE, VIBRATION AND ODORS**

Every use shall be so conducted and operated that it is not obnoxious or dangerous by reason of heat, glare, fumes, odors, dust, noise or vibration beyond the lot on which the use is located.

**SECTION 4.07 TEMPORARY USES OR STRUCTURES REQUIRING ZONING ADMINISTRATOR AUTHORIZATION**

- A. Upon application, the zoning administrator shall issue a permit for a temporary office building or yard for construction materials and/or equipment which is both incidental and necessary to construction at the site where located. Each permit shall be valid for a period of not more than six (6) calendar months and shall be renewed by zoning inspector for four (4) additional successive periods of six (6) calendar months or less at the same

location if such building or yard is still incidental and necessary to construction at the site where located.

- B. Upon application, the zoning inspector shall issue a permit for a temporary office which is both incidental and necessary for the sale or rental of real property in a new subdivision or housing project. Each permit shall specify the location of the office and area and shall be valid for a period of not more than six (6) calendar months and shall be renewed by the zoning inspector for four (4) additional successive periods of six (6) calendar months or less at the same location if such office is still incidental and necessary for the sale or rental of real property in a new subdivision or housing project.

#### **SECTION 4.08 ACCESORY USES**

- A. In any zoning district, accessory uses, incidental only to a permitted use, are permitted when located on the same lot provided, however, that such accessory uses shall not involve the conduct of any business, trade or industry.
- B. Recreational vehicles are permitted within any zoning district as a detached temporary accessory use, provided that the use shall be subject to the requirements of Section 4.08A and provided further that:
  - 1. The use or occupancy of a recreational vehicle as an accessory use shall not continue for a period of more than 180 consecutive days.
  - 2. A recreational vehicle shall contain fresh water storage and self-contained sanitary facilities with no sanitary discharge on the site.
  - 3. A recreational vehicle shall be placed or located a minimum of 100 feet from any lake, river, pond, stream or other body of water.
  - 4. If the recreational vehicle uses an electrical service or hook-up outside of said vehicle then, and in that event, said electrical hook-up or service shall be approved by the township electrical inspector prior to its use.

#### **SECTION 4.09 ACCESSORY BUILDINGS**

- A. In any zoning district an accessory building may be erected detached from the permitted principal building or as an integral part of the permitted principal building. When erected as an integral part of the permitted principal building, it shall comply in all respects with the requirements of this ordinance applicable to the permitted principal building. The architectural character of all accessory buildings shall be compatible and similar to the principal building.
- B. Detached accessory buildings shall not be located closer than five (5) feet to the rear lot line or closer than forty (40) feet to the waters' edge in the case of a waterfront lot

(except that pumphouses may be located within forty (40) feet of the waters' edge if they do not exceed three (3) feet in height) and shall not occupy more than thirty percent (30%) of any required rear yard space; they shall not be closer to any side lot line or front lot line than the principal building is permitted.

- C. The distance between a detached accessory building and any principal building shall not be less than ten (10) feet. Accessory buildings shall be considered as attached to a principal building when the distance between the two (2) buildings is solidly covered by a breezeway, portico, covered colonnade or similar architectural device.
- D. A garage may be constructed, erected and placed in the front yard of any waterfront lot which is platted or otherwise of record as of the effective date of this ordinance if it is an accessory building and if it is located not less than ten (10) feet from the edge of the street.
- E. No accessory building or structure shall include residential or living quarters for human beings except a guest house located in the R-1 of R-2 Zoning Districts.

#### **SECTION 4.10 PRINCIPAL BUILDING ON A LOT**

In the R-1, R-2 and R-3 Residence Zoning Districts, no more than one (1) principal building shall be placed on a lot.

#### **SECTION 4.11 DOUBLE FRONTAGE LOTS**

Building on lots having frontage on two (2) intersecting or nonintersecting streets shall comply with front yard requirements on both such streets.

#### **SECTION 4.12 SIGNS**

It is hereby determined that regulation of the location, size, placement and certain features of signs is necessary to enable the public to locate goods, services and facilities without difficulty and confusion, to promote traffic safety, safeguard public health and welfare, and facilitate police and fire protection. In addition, it is the intent of this Ordinance to assure the continued attractiveness of the total community environment through the adoption of discretionary controls designed to preserve scenic, aesthetic and economic values within the Township.

These regulations are designed to permit maximum legibility and effectiveness of signs and to prevent their over-concentration, improper placement and excessive height, bulk and area. In general, it is intended that signs of a general commercial or industrial nature be prohibited in districts where commercial or industrial activities are prohibited and that signs in residential districts be limited to those directly related to activities on the premises.

- A. **Computation of Sign Area:** For the purposes of this Ordinance, the total area of a sign shall



be expressed in square feet and shall be computed as follows:

1. **Single-Face Sign:** The total area of a single-face sign shall be computed as the number of square feet within any single or combination of geometric shapes -- such as a square, rectangle, triangle or circle -- encompassing the extreme limits of an individual letter(s), word(s), message(s), representation, emblem or any similar figure, including open space(s), together with any frame or other material forming an integral part of display used to differentiate such sign from the background against which it is placed.
2. **Double-Face Signs:** For double-face signs having two (2) faces of equal size arranged and/or positioned back to back, parallel to each other, with no more than a two (2) foot space between the two faces; the area of the sign shall be computed as one-half (½) the total area of the two (2) faces. When the faces of such a sign are not of equal area, then the area of the sign shall be computed as the total area of the largest face.
3. **Three Dimensional Signs:** For signs which are designed as a three dimensioned geometric form such as a sphere, cone, cylinder, or cube; the area shall be computed as one half (½) the total surface of the geometric form.

**B. Permit Required:**

1. **Sign Erection Permit:** It shall be unlawful for any person to construct, erect, re-erect, move, alter, enlarge, or illuminate, any sign unless a permit shall have been first obtained from the Zoning Administrator, except as provided in Section 4.2D (Signs Exempt from Permit Requirement). Any sign that makes use of electricity, shall, in addition to a sign permit, require an electrical permit, regardless of size.
2. **Sign Maintenance or Change of Message:** No permit shall be required for ordinary servicing, repainting of existing sign message, or cleaning of a sign. No permit is required for change of message of a sign designed for periodic message change without change of structure, including a bulletin board or billboard, but not including a sign to which a new permanent face may be attached.
3. **Planning Commission Approval:** All subdivision/development signs, time/date/temperature signs, or any type of sign not explicitly defined herein, must be approved by the Arlington Township Planning Commission before a permit shall be issued.
4. **Permit Applications:** Applications for sign permits shall be made upon forms provided by the Zoning Administrator for this purpose and shall contain the following information:

- a. Name, address and phone number of applicant.
  - b. Location of the building, structure, or lot on which the sign is to be attached or erected.
  - c. Position of the sign on the building, structure or lot on which the sign is to be attached or erected.
  - d. Position of the sign in relation to nearby buildings, structures, signs, property lines, and rights-of-way, existing or proposed.
  - e. Zoning district in which the sign is to be located.
  - f. Two (2) copies of the sign plans and specifications for construction, and attachment to the building or ground. The sign plans shall include all pertinent data including highest point, low point clearance, face outline and total face area with method of calculation. When public safety so requires, the specifications shall include the certificate or seal of a registered structural or civil engineer as a condition to the issuance of a permit.
  - g. Name and address of the sign erector.
  - h. Such other information as the Zoning Administrator may require to show full compliance with this and all other applicable laws of the Township and the State of Michigan.
5. **Sign Erection Permit Expiration.** A sign permit shall become null and void if the work for which the permit was issued is not completed within 90 days of the date of issue.
6. **Certification:** All signs shall be inspected at original installation and if found to be in full compliance with the provisions of this Article, shall be issued a Zoning Permit.

### **C. General Sign Provisions**

1. **Public Rights-of-Way:** No sign (or any pole or support cable of any nature) except those established and maintained by the township, county, state, or federal governments, shall be located in, project into, or overhang a public right-of-way or dedicated public easement, unless otherwise authorized in this Ordinance.
2. **Sign Heights:** The highest point of any sign shall not exceed twenty-five (25) feet

above the ground or grade level.

3. **Traffic Interference.** No advertising device shall be erected or maintained which simulates or imitates in size, color, lettering, or design any traffic sign or signal or other word, phrase, symbol, or character in such manner as to interfere with, mislead, confuse or create a visual impediment or safety hazard to pedestrian or vehicular traffic.
4. **Clear Corner Vision:** No sign above a height of thirty (30) inches shall be located within, project into, or overhang the triangular area formed at the intersection of any two street right-of-way lines (existing or proposed) by a straight line drawn between said right-of-way lines at a distance along each line of twenty-five (25) feet from their point of intersection, unless visual under clearance can be assured on the plans.
5. **Proximity to Electrical Conductors:** No sign shall be erected so that any part including cables, guys, etc., will be within ten (10) feet of any electrical conductor, electric light pole, street lamp, traffic light, or other public utility pole or standard.
6. **Illumination:** All illuminated signs shall be so arranged or shielded so as not to interfere with the vision of persons on adjacent thoroughfares. In no event shall light from an illuminated sign shine on adjacent property which is used for residential purposes.
7. **Fire Escapes:** No signs of any kind shall be attached to or placed upon a building in such a manner as to obstruct any fire escape.
8. **Wall Signs:** No wall sign shall project beyond or overhang the wall, or any permanent architectural feature and shall not project above or beyond the highest point of the roof or parapet.
9. **Freestanding Signs:** With respect to freestanding signs, components (supporting structures, backs, etc.) not bearing a message shall be constructed of materials that blend with the natural environment or shall be painted a neutral color to blend with the natural environment.
10. **Liability Insurance:** If the height of a proposed or existing sign is such that if it fell or could fall into the public right-of-way or adjacent property, the owner of said sign shall carry sufficient liability insurance to protect the public and adjacent property owners from damage and injury from the fallen sign.

**D. Signs Exempt from Permits:** No sign permit is required for signs listed below. Such exemptions, however, shall not be construed to relieve the owner for its proper location, erection, and maintenance.

1. **Government Signs.** Signs erected by or on behalf of or pursuant to the authorization of a government body, including legal notices, informational signs, directional, or regulatory signs.
2. **Flags:** Flags, pennants or insignia of any governmental or nonprofit organization when not displayed in connection with a commercial promotion or as an advertising device.
3. **Address Signs:** Signs not exceeding two (2) square feet in area and bearing only property numbers, post box numbers, names of occupants of premises, or other identification of premises not having commercial connotations.
4. **Street Signs:** Signs erected by the township, county, state, or federal government for street names, traffic control, or direction and information.
5. **Private Traffic Signs:** Signs directing and guiding traffic and parking on private property that do not exceed four (4) square feet each and bear no advertising matter.
6. **Handicapped Signs:** Not exceeding four (4) square feet each and bearing no advertising matter.
7. **Architectural Features/Artwork:** Integral decorative or architectural features of buildings or works of art, so long as such features or works do not contain letters, trademarks, moving parts, or lights.
8. **Small Accessory Signs:** Any accessory sign erected on a premise which is no more than four (4) square feet in area, such as no trespassing signs, garage sale signs, and signs warning of animals.
9. **Temporary Signs, Banners, Flags:** Temporary signs, not specifically regulated in any other section of this Ordinance, including but not limited to: political or campaign signs, real estate signs, signs for special events or activities, air or gas filled signs, banners, flags, and the like shall be permitted subject to the following conditions:
  - a. No temporary sign or devices shall be located in the public right-of-way, attached to any utility pole, or located within five (5) feet from any street right-of-way.
  - b. All temporary signs must be removed within fourteen (14) days of the conclusion of the event, activity, election, sale, etc., for which the temporary sign is displayed.

- c. The total area and height of temporary signage shall not exceed the following standards:
  - i. In residential districts, temporary signage shall be limited to six (6) square feet in area and six (6) feet in height.
  - ii. In all commercial and industrial districts, temporary signage shall not exceed thirty-two (32) square feet of total sign area per side or a height of eight (8) feet.

10. Seasonal produce and farm product stands.

**E. Signs Prohibited Throughout the Township:** The following signs are prohibited throughout the Township, notwithstanding anything to the contrary in this Article.

- 1. **Unsafe Signs:** Any sign which is structurally or electrically unsafe.
- 2. **Utility Poles and Landscaping:** Any sign erected on a utility pole, directional sign post, or landscaping including trees. Prohibited signs shall not include street signs erected by the township, county, state, or federal government or a public transit agency.
- 3. **Businesses No Longer Existing (Abandoned Signs):** Any business sign or sign structure now or hereafter existing which advertises a business conducted or a product sold, which no longer exists or is no longer in business on the premises on which the sign is located. Such sign shall be considered abandoned and shall, within 30 days after such abandonment, be removed by the sign owner, owner of the property where the sign is located, or other party having control over such sign.
- 4. **Sign Structure Without Sign:** Any sign structure or frame no longer supporting or containing a sign. The owner of the property where the sign is located shall, within 30 days of the removal of the message portion of the sign, either replace the entire message portion of the sign or remove the remaining components of the sign. This subsection shall not be construed to prevent the changing of the message of a sign.
- 5. **Other Signs Prohibited:** Other signs not expressly permitted shall be prohibited.

**F. District Regulations**

- 1. **Signs Permitted in Agricultural and Residential Districts:**
  - a. For each dwelling unit, one (1) address sign

- b. Small accessory signs no more than four (4) square feet in area, such as no trespassing signs, garage sale signs, and signs warning of animals. The total area of all small accessory signs on one premise shall not exceed eight (8) square feet.
- c. One (1) subdivision entrance sign per vehicle entrance may be permitted on private property in compliance with the corner clearance provisions and shall not exceed twenty-four (24) square feet in area or a height of six (6) feet above grade. The location and appearance of all subdivision/condominium signs shall be subject to review and approval by the Planning Commission at the time of site plan review, provided that such signs shall be located no closer than twelve (12) feet from any property line. Adequate provisions shall also be made at the time of site plan review to insure continued maintenance of the sign.
- d. No more than one (1) freestanding and one (1) wall institutional sign for schools, churches, libraries, or similar institutions having an area of no more than thirty-two (32) square feet, having a height of no more than six (6) feet above the established grade, and located no closer than ten (10) feet from any property line.
- e. Signs of a combined area of not more than thirty-two (32) square feet advertising the name and activities of a permitted nonresidential use or legal non-conforming use. Said sign shall be located on the same parcel as the use. Signs for discontinued legal non-conforming uses shall be removed as provided for in this Article.
- f. Customary farm and crop signs on active farms.

**2. Signs Permitted in the C Commercial District**

- a. The total sign area for an occupied parcel of property in the C Commercial District shall not exceed 125 square feet per 100 feet of street frontage with the total sign area for any parcel not to exceed 200 square feet.
- b. One (1) freestanding sign may be allowed per property. Such sign shall not exceed twenty-five (25) feet in height and 100 square feet in area.
- c. In addition to the signs allowed in paragraphs 1 and 2 above, wall sign(s) may be erected on the rear or parking lot side of a premises not exceeding one-half ( $\frac{1}{2}$ ) square foot for each linear foot of the rear length of the principle building(s), provided that the total sign area shall not exceed thirty-two (32) square feet.

- d. Gasoline service stations shall be permitted signs on each pump island indicating the prices and types of gasoline and the type of service. The aggregate area of such signs shall not exceed twenty (20) square feet per pump island. In no event shall the total area of all such signs exceed one-hundred twenty (120) square feet.

**3. Signs Permitted in the I Industrial District:**

- a. One (1) wall sign may be erected per building face up to one-hundred (100) square feet in area or 10% of the total facade area of the building whichever is less.
- b. One (1) freestanding (ground or pole mounted) sign may be erected provided said sign does not exceed one-hundred (100) square feet of display area per side. Such sign shall have a height of no more than twenty (20) feet above the established grade and be erected no closer than twenty (20) feet from any property line.
- c. In addition to signs permitted in paragraph 1 above, one (1) wall sign shall be permitted for each tenant having an individual means of entranceway into the side or rear of a building. Such sign shall not exceed six (6) square feet in area, and shall be erected not less than four (4) feet nor more than twelve (12) feet above the established grade.
- d. Directional signs, up to four (4) square feet in area, designating entrances, exits, parking and unloading areas, shipping docks, and similar internal traffic control signs shall be permitted and located no closer than within five (5) feet of any property line.

**G. Construction and Maintenance Standards**

- 1. **Materials and Design:** All signs shall be designed, constructed and maintained in conformity with the provisions for materials, loads, and stresses of the latest adopted edition of the Building Code and requirements of this Article.
- 2. **Fastenings:** All signs must be erected in such a manner and with such materials to remain safe and secure during the period of use, and all bolts, cables, and other parts of such signs shall be kept painted and free from corrosion. Any defect due to the fault of the erector shall be repaired by the erector.
- 3. **Freestanding Signs:** Freestanding signs shall be securely fastened to the ground or to some other substantial supportive structure so that there is no danger that either the

sign or the supportive structure may be moved by the wind or other forces and cause injury to persons or property.

4. **Sanitation/Landscaping:** Property surrounding any freestanding sign shall be kept clean, sanitary and free from obnoxious and offensive substances, weeds, debris, rubbish, and flammable material. All plant materials and other landscaping surrounding a freestanding sign shall be maintained on a regular basis, including pruning, mowing, watering, fertilizing and replacement of dead and diseased materials.
5. **Maintenance:** All signs and all components thereof, including without limitation supports, braces, and anchors, shall be kept in a state of good repair. Peeling or missing paint, holes, broken, cracked, bent, warped, rotted, discolored, sagging, out-of-plumb, worn, rusted or missing material parts shall be repaired within fifteen (15) days of written notification of the Township Zoning Administrator.

#### **H. Nonconforming Signs:**

1. **Intent:** It is the intent of this Article to encourage eventual elimination of signs that as a result of the adoption of this Article become non-conforming, to administer this Article to realize the removal of illegal non-conforming signs, and to avoid any unreasonable invasion of established private property rights.
2. **Lawful Existing Signs:** Any sign lawfully existing at the time of the adoption of this Article which does not fully comply with all provisions shall be considered a legal non-conforming sign and may be permitted to remain as long as the sign is properly maintained and not detrimental to the health, safety and welfare of the community except as hereafter provided.
3. **Continuance:** A non-conforming sign shall not:
  - a. Be expanded or changed to another nonconforming sign;
  - b. Be relocated.
  - c. Be structurally reconstructed so as to prolong the life of the sign; or so as to change the shape, size, type, placement, or design of the sign's structural parts; or so as to add illumination;
  - d. Be repaired or re-erected after being damaged if the repair or re- erection of the sign, within any 12-month period, would cost more than fifty (50%) percent of the cost of an identical new sign. If deemed necessary by the Zoning Administrator, the cost of an identical new sign shall be



determined as the average of no less than three (3) cost estimates obtained from three (3) contractors.

- e. Be altered unless the alteration or reconstruction be in compliance with the provisions of this Article. For the purpose of this Article only, the term "altered" or "reconstructed" shall not include normal maintenance; changing of surface sign space to a lesser or equal area; landscaping below the base line; or changing electrical wiring or devices, backgrounds, letters, figures, or characters.
- 4. **Termination of Business:** Nonconforming signs and sign structures shall be removed or made to conform within 60 days of the termination of the business or use to which they are accessory.
  - 5. **Change of Property:** If the owner of a sign or the premises on which a sign is located, changes the location of a building so that any sign on the premises is rendered nonconforming, such sign must be removed or made to conform to this Article.
  - 6. **Administration:** The Zoning Administrator shall keep complete records of all communications and other actions taken with respect to such nonconforming signs.

#### **SECTION 4.13 STORM WATER MANAGEMENT FOR DEVELOPMENTS**

Single family developments consisting of five (5) or more single family dwellings on a private road, or all proposed site developments and redevelopments subject to site plan review, except in order to assess storm water management.

#### **SECTION 4.14 MINIMUM PUBLIC STREET OR APPROVED PRIVATE ROAD FRONTAGE**

Every principal building and use shall be located on a lot having: (a) A minimum of fifty feet of frontage on a public street or (b) A minimum of fifty feet of frontage on a private road. The following paragraphs include the minimum standards which need to be met in order to obtain a building permit on a private road within Arlington Township:

- A. A private road authorized under this section shall have a right-of-way of at least sixty-six (66) feet in width, and it shall meet all standards and specifications required by Township regulations and ordinances.
- B. Building setbacks shall be measured from the outside edge or boundary of the private road right-of-way.

- C. The layout of the private roads shall be compatible with the general pattern established by adjacent roads and streets. All intersections shall be at ninety degree (90) angles.
- D. Regulation Michigan State Highway stop signs shall be positioned and installed in accordance with the Michigan State manual of Uniform Traffic Control Devices on all private roads where such roads intersect public roads.
- E. All roads ending in a dead end shall end in a standard sized and designed cul-de-sac to allow adequate ingress and egress.
- F. An easement shall be provided for gas, electric, and telephone utilities to each parcel.
- G. A special assessment district for the purpose of road maintenance may be established, and shall include all parcels which will be benefitted by such road maintenance.
- H. All new private roads shall have standard Van Buren County Road Commission name identification and stop signs at intersections with any public road. The road name shall be approved by the Van Buren County Road Commission.

#### **SECTION 4.15 GOVERNMENTAL IMPROVEMENTS**

The provisions of this ordinance shall be applicable to and enforceable against the township itself and all other governmental agencies and units, federal, state or local.

#### **SECTION 4.16 HEALTH DEPARTMENT APPROVAL**

No permit shall be issued for the construction of a building or structure which is to have drinking water and/or sanitary facilities located therein and which is to be located on a lot which is not served by both public water and sewer facilities if its water supply and/or sewage disposal facilities, as the case may be, does not comply with the ruled and regulations governing waste and sewage disposal of Van Buren County.

#### **SECTION 4.17 DUMPING RUBBISH AND WASTE MATTER AND WASTE WATER**

It shall be unlawful throughout the township to permit waste water from sinks or other similar drains, and sewage to drain onto land, yard, or other spaces from dwellings, business places of all types, and accessory buildings thereto, and to throw any such waste water and sewage onto said land; and it shall be unlawful for any person or organization to throw or dump empty cans, food containers, broken or whole bottles, crockery or utensils of any kind, automobile bodies or parts, old tires, or stoves, discarded furniture or household furnishings and utensils, junk, parts of machinery or appliance or any litter, flammable matter or substances, offal, ashes, clinkers, cinders, night soil, or any other similar waste objects, used concrete, bricks and other forms of masonry, either upon land owned, occupied or used by any individual or company or upon any land in any public place, or privately owned by another, unless such place has been designated as a public dumping ground by the township; and it shall be unlawful to drain any waste water, water containing waste or foreign substances or otherwise contaminated, or any sewage, raw or

treated from any dwelling or place of business of any kind or from any accessory building or open ditch or by any pipes or by throwing or dumping the same into any ditch, creek or stream, of any kind in the township.

**SECTION 4.18 MINIMUM REQUIREMENTS FOR DWELLING OUTSIDE OF MOBILE HOME PARKS**

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

- A. All dwelling units shall provide a minimum height between the floor and ceiling of seven and one half (7.5) feet; or if a mobile home, it shall meet the requirements of the United States Department of Housing and Urban Development Regulation, entitled Mobile Home Construction and Safety Standards, effective June 15, 1976, as amended.
- B. The minimum width of any single family dwelling unit shall be 14 feet.
- C. All dwellings shall be firmly attached to the foundation so as to be watertight as required by the construction code adopted by the township or, if a mobile home, shall be anchored to the foundation by an anchor system designed and constructed in compliance with the United States Department of Housing and Urban Development Regulations entitled “Mobile Home Construction and Safety Standards.”
- D. The wheels, pulling mechanism, and tongue of any mobile shall be removed prior to placement on a foundation.
- E. All dwellings shall be connected to a sewer system and water supply system approved by the County Health Department.
- F. All dwellings shall provide steps or porch areas, attached to the foundation where there exists an elevation differential of more than one (1) foot between any door and the surrounding grade. All dwellings shall provide a minimum of two points of ingress and egress.
- G. All additions to dwellings shall meet all the requirements of this ordinance.
- H. Prior to issuance of a building permit for any dwelling unit, construction plans, including a plot plan adequate to illustrate compliance with the requirements of this ordinance, shall be submitted to the building inspector. If the dwelling unit is a mobile home, there shall also be submitted adequate evidence to assure that the dwelling complies with the standards applicable to mobile homes set forth in the section.
- I. All mobile homes shall meet the standards for mobile home construction contained in the United States Department of Housing and Urban Development Regulations entitled “Mobile Home Construction and Safety Standards”: effective June 15, 1976 , as

amended. All other dwellings shall meet the requirements of the construction code adopted by the township.

#### **SECTION 4.19 AESTHETIC COMPATIBILITY OF MOBILE HOMES**

The placement and use of a mobile home in any zoning district within the township shall be aesthetically compatible in design and appearance with conventionally on-site constructed single-family dwellings, including, where appropriate, a front and rear or front and side exterior side door, and steps or porch areas where an elevation differential requires the same. At a minimum, the wheels and towing mechanisms of any mobile home located in the AG, R-1, R-2 and R-3 Zoning Districts shall be removed, and the underside of chassis of such mobile home shall be completely enclosed and connected to the foundation, and said mobile home shall be placed upon the property in such a way that its appearance shall be compatible with single-family dwellings constructed on-site within said districts. The compatibility of design and appearance shall be determined in the first instance by the township zoning inspector upon review of the plans submitted for a particular dwelling subject to appeal by and aggrieved party to the Zoning Board of Appeals within a period of fifteen (15) days from the receipt of notice and said zoning inspector's decision.

#### **SECTION 4.20 MINIMUM WIDTH**

Each mobile home located in Arlington Township shall have an exterior measurement of not less than fourteen (14) feet in width.

#### **SECTION 4.21 ADDITIONS TO MOBILE HOMES**

All pre-manufactured rooms or other area additions to a mobile home shall comply with the standards of construction provided for herein for mobile homes, and shall be installed upon a permanent foundation as provided herein for mobile homes. Conventionally constructed additions to mobile homes shall comply with all respects with the applicable Building Codes.

#### **SECTION 4.22 CERTIFICATE OF APPROVAL**

No person shall occupy any mobile home as a dwelling within the township outside of a licensed mobile home park until a certificate of approval shall be issued by the building official or zoning administrator, which permit shall indicate satisfactory compliance with all requirements of the township zoning ordinance and building code.

#### **SECTION 4.23 EXOTIC, DANGEROUS, OR WILD ANIMALS – KEEPING OF**

It is the intent of this section to prohibit the keeping, selling, boarding, housing, possession or maintenance of dangerous animal (see definition) within the Township of Arlington, either temporarily or permanently, except under the conditions enumerated below:

- A. The keeping of an animal or animals is carried out by a veterinarian licensed in the State of Michigan for treatment of injuries, or to temporarily harbor an animal until permanent quarters are found.
- B. The keeping of the animals is a part of a special event such as a circus or carnival as appropriately licensed by the State of Michigan.
- C. Animals regulated by the Michigan Department of Natural Resources native to the State of Michigan.

**SECTION 4.24 NECESSARY TEMPORARY HOUSING** Within the A-1, R-1, R-2, and R-3 Districts, the Planning Commission may authorize by special use, one (1) accessory building as a temporary dwelling for a physically handicapped or an elderly and health impaired immediate family member or members under the following conditions:

- A. The building must be at least seven hundred and twenty (720) square feet at the time of construction or manufacture
- B. The non-transferable permit must be renewed annually by the Zoning Administrator at a fee commensurate with the current fee for zoning permits
- C. The renewal permit shall include evidence that the terms of the Ordinance are being met.
- D. Time limits and conditions, if applied, shall be determined by the Planning Commission.
- E. Removal of the dwelling shall be accomplished within sixty (60) days of the expiration of the permit. Expiration shall occur when the time limit is met or when the circumstances of the occupants change so as to no longer require temporary housing.

**SECTION 4.25 OUTDOOR STORAGE OF RECREATION AND OTHER VEHICLES AND EQUIPMENT IN RESIDENTIAL AND AGRICULTURAL DISTRICTS**

The outdoor storage and parking of any airplane, antique or racing automobiles, boat, boat hoist or dock, float, trailer, trailer coach camping trailer, motorized home, vacant or unused mobile homes, dismountable travel equipment of the type adaptable to light duty trucks, or other equipment or vehicles of a similar nature (not including typical farm equipment) shall be prohibited for a period of greater than forty-eight (48) hours in all residential and agricultural districts, except where the following minimum conditions are met:

- A. All such vehicles or equipment shall be placed within a completely enclosed building or located behind the required front building line (rear or side yard) but no closer than five (5) feet from the rear or side property line.

B. Storage or parking shall be limited to a lot or parcel upon which is located an inhabited dwelling unit and the vehicle or equipment is owned by the occupant. Vehicles may not be stored on vacant lots, parcels or property.

C.. Trailer coaches, motor homes and other vehicles or equipment designed or adaptable for the sleeping purposes may be utilized for up to one hundred and eighty (180) days during the course of one (1) year for visitors. They shall otherwise remain unoccupied and shall not be connected to sanitary sewer facilities, water, or gas.

D. Such vehicles so kept or stored shall be in good repair. Open storage or partially or dissembled component parts of said uses (recreational vehicles and equipment) is prohibited. This provision shall not pertain to farm implements, machinery and equipment utilized for permitted agricultural operations.

E. The storage of vacant mobile homes in any district shall be prohibited; with the exception of approved and permitted sales and service facilities located in a designated commercial district.

F.. No more than two (2) inoperable passenger vehicles may be kept on any lot or parcel in any zoning district. The vehicles shall be licensed to the owner of the property on which the vehicles are located. The vehicles must be stored in the rear or side yard of the parcel and screened by landscaping, privacy fencing or structures from adjacent properties and from view of any public road.

#### **SECTION 4.26 SWIMMINGPOOLS**

A. Permit Application. It shall be unlawful for any person to construct or maintain an outdoor swimming pool without first making application to the Zoning Administrator and obtaining a permit. Application for such permit shall show the name of the owner, a plot plan of the property showing the location of such a swimming pool, a detailed plan and specifications for such swimming pool and full information as to the type, height and location of the fence surrounding the pool and the number of gates.

B. Location. Outdoor swimming pools may be erected in the side or rear yard only, provided that they are located no closer than ten (10) feet from the side or rear lot lines. No such pool or part thereof shall be installed within twenty-five (25) feet of a side street.

C. Fencing. All below ground swimming pools shall have locking gates, removable ladders, or a fence of not less than (4) feet in height to restrict unauthorized access.

#### **SECTION 4.27 MOVING OF BUILDINGS**

Any building or structure (except agricultural buildings) that has been partially or wholly erected on any premises located within the Township shall not be moved to and placed upon any other premises in the Township until a building permit for such removal has been secured according to

the requirements of this Ordinance. Any such building or structure shall fully conform to this Ordinance in the same manner as a new building or structure.

Before a permit may be issued for moving a building or structure, the Building Inspector shall inspect the same and determine if it is safe to move, whether or not it may be reconditioned to comply with the building code and other requirements for the use and occupancy for which it is to be used, and whether or not it will be of similar character with the buildings in the area where it is to be moved. In addition, clearances shall be obtained from all utility companies ensuring that utilities are discontinued and all facilities accounted for. Special inspection fees as determined by the Township or the County may be charged to cover costs of inspecting the old site and the new site of such building or structure. If these conditions can be complied with, a building permit shall be issued for the moving of such a building or structure.

#### **SECTION 4.28 ADULT REGULATED USES AND SEXUALLY ORIENTED BUSINESSES**

A. Authorization In the preparation, enactment and enforcement of this section, it is recognized that there are some uses relating to sexual material which, because of their very nature, have serious operational characteristics that have a deleterious effect on residential, office, and commercial uses. Because certain forms of expression relating to sexual material have particular functional and inherent characteristics with a high potential of being injurious to the surround properties by depreciating the quality and value of such property, it is the intent of this section to provide a framework of reasonable regulatory standards which can be used for approving or disapproving the establishment of this type of use in a viable and accessible location where the adverse impact of their operations may be minimized.

However, it is recognized that these specific controlled uses have legitimate rights under the United States Constitution as well as locational needs similar to many other retail establishments. Special designation and regulation in the I-Industrial District is therefore necessary to ensure that adverse effects of such uses will not contribute to the degradation of adjacent parcels and the surrounding area. Furthermore, these controls are intended to provide commercially viable locations within the Township where these uses are considered more compatible and less deleterious.

B. Uses Specified. Uses subject to these controls as defined herein as "adult only businesses" are as follows:

1. Adult regulated businesses
2. Adult motion picture theaters
3. Adult book and video stores
4. Adult cabarets

5. Nude artist and photography studios

C. Site Location Principles The following principles shall be utilized to evaluate the proposed location of any such use. These principles shall be applied by the Planning Commission as general guidelines to help assess the impact of such uses in the I-Industrial District.

1. No adult only business shall be located within one thousand (1000) feet, as measured from the outer most boundaries of the lot or parcel on which it is proposed, of a residential zoning district, church, monastery, temple, or similar place of worship, cemetery, school, public park or playground, non-commercial assembly facility, public office building, licensed day care facility or arcade.
2. An adult only business shall be located as a special use in the I-Industrial District.
3. No adult only business shall be permitted within a one thousand (1000) foot radius of an existing adult only business. Measurements of the one thousand (1000) foot radius shall be made from the outer most boundaries of the lot or parcel upon which the proposed adult use will be situated.

D. Site Development Requirements

1. The site layout, setbacks, structures, function and overall appearance shall be compatible with adjacent uses and structures.
2. Windows, displays, signs, and decorative structural elements of buildings shall not include or convey examples of a sexual nature. All such displays and signs shall be in conformance with this Ordinance and shall be approved by the Planning Commission prior to their use.
3. All building entries, windows, and other such openings shall be located, covered, or screened in such a manner as to prevent viewing into the interior from any public or semi-public area as determined by the Planning Commission.
4. No loud speakers or sound equipment shall be used by an adult only business that projects sound outside of said business so that sound can be discerned by the public from public or semi-public areas.
5. An adult only business shall clearly post at the entrance to the business or that portion of the business utilized for adult only purposes, that minors are excluded.

E. Use Regulations.



1. No person shall reside in or permit a person to reside on the premises of an adult only business.
2. No person shall operate an adult only business unless there is conspicuously placed in a room where the business is conducted a notice indicating the process for all services performed therein. No person operating or working at such a place shall solicit or accept fees for services except for indicated on the notice.
3. The owners, operators or persons in charge of an adult only business shall not allow entrance into such building or any portion of a building used for such use to any minors as defined by MCL 722.51 et seq., as amended.
4. No adult only business shall possess or disseminate or permit persons therein to possess or disseminate on the premises any obscene materials as defined by MCL 752.361 et., as amended.
5. No person shall operate an adult personal service establishment without obtaining a current zoning and occupancy permit. Such licenses shall be issued by the Zoning Administrator to determine compliance with relevant ordinances of Arlington Township. Such license shall be subject to all regulations of federal, state, and local governments.
6. No person shall lease or sublease nor shall anyone become the lessee or sub-lessee of any property for the purposes of using the property for an adult entertainment business without the express written permission of the owner of the property upon having obtained the appropriate licenses and permits from Arlington Township, Van Buren County, and the State of Michigan.

F. Conditions and Limitations. Prior to the granting of any permit provided herein, the Planning Commission or Township Board may impose any such reasonable conditions or limitations upon the location, construction, maintenance or operation of the establishment or regulated use, as may be its judgment, necessary for the protection of the public interest. Failure to follow such limitation or condition will act to immediately terminate any permit or license.

G. No application for an adult use which has been denied wholly or in part shall be resubmitted for a period of one (1) year from the date of order of denial, except on the grounds of new information not previously considered or proof of a change in conditions from the original request.

## **SECTION 4.29 CONDOMINIUM DEVELOPMENT STANDARDS**

### **A. Purpose and Scope**

1. Site condominium projects are condominium developments in which each condominium unit consists of an area of vacant land and a volume of vacant airspace within which a building or other improvements may be constructed by the condominium owner. Each site condominium unit may also have an appurtenant limited common element reserved for the exclusive of the owner of the condominium unit. Either the condominium unit by itself, or the condominium unit taken together with contiguous and appurtenant common element, shall be considered to constitute a building site which is the equivalent of a "lot" for the purposes of this ordinance and other applicable laws, ordinances and regulations.

Site condominium projects may also include general common elements consisting of common open space, recreational areas, streets, and other areas available for the use by all owners of condominium units within the project. Subject to the district zoning provisions applicable to the project's location, any land use permitted by this Ordinance may be permitted in a site condominium project.

2. The purposed of this section is to ensure that the plans for development within Arlington Township proposed under the provisions of the Condominium Act. PA 59 of 1978 as amended shall be reviewed with the objective and intent of achieving the same characteristics as if the development and improvements herein were being proposed under the Subdivision Control Act PA 288 of 1967 as amended. It is further the intent of this Section to ensure that such development is in conformance with the requirements of this Ordinance as well as other applicable Township ordinances and state and federal regulations.

#### **B. Site Condominium Review and Approval Procedures (Step 1 Review)**

An application for review and approval of a site condominium subdivision shall be in accordance with the following procedures:

1. Prior to the formal application for a site condominium development, the developer shall meet with the Planning Commission. The purpose of this meeting is to inform the Planning Commission of the applicant's intent to initiate a site condominium project. On or before the meeting the applicant shall submit the following to the Zoning Administrator who shall distribute the information to the Planning Commission.

a. A sketch drawn to scale indicating the general location and configuration of the property to be developed; the alignment of streets and building sites; and the relationship of the proposed project to adjacent streets and neighboring properties.

b. A statement regarding the provision of sewer service and water supply

2. During the preliminary meeting, the Planning Commission, based on the information available, shall inform the applicant of the following:

- a. General requirements of this section and other applicable provisions of this Ordinance.
- b. Planned or anticipated sites of parks and recreation areas and other public uses.
- c. Utility system capabilities
- d. Planned or anticipated public improvements, including streets, utility systems and the like.
- e. Street plans and potential problems relative to the natural features in the area including but not limited to floodplains, soil conditions, topography and ground water tables.
- f. Additional information which will assist the applicant in proceeding in a reasonable and sound manner toward the final approval of the project.

3. This review is intended for information purposes only and does not constitute a binding commitment on the part of the Township. Neither does it imply tentative approval of any proposed project. Furthermore, such discussions shall not carry the authority to proceed with construction or to sell or transfer the property.

4. Following preliminary review, the applicant shall submit the site condominium plans to the following agencies for their approval.

- a. Michigan Department of Natural Resources and Environment
- b. Van Buren County Drain Commissioner
- c. Van Buren County Road Commission
- d. Other appropriate state and county review and enforcement agencies having direct approval or permitting authority over all or part of the project's constructions phases.

**C. Site Condominium Review and Approval Procedures (Step II Review)**

1. An application for preliminary review of a site condominium project shall be made to the Zoning Administrator along with the appropriate fees as required by Township Board resolution. The application shall, at a minimum, contain the following information:

- a. Application for certificates of zoning compliance which upon issuance shall ensure that the project as proposed is capable of being developed in conformity with the standards and regulations applicable to the zoning district in which the project is located, subject to the customary procedures applicable to the Township approvals of individual uses on individual building sites.
- b. The applicant's name, address, and phone number.
- c. Proof that the applicant is the owner of the property or has legal or financial interest in the property such as a purchase agreement.
- d. The name, address, and phone number of the owner(s) of record, if different from that of the applicant.
- e. The legal description, address and tax parcel number of the property
- f. Project description, including the number of structures, dwelling units, square feet of building sites, open spaces, and estimated inhabitants, phasing, etc.
- g. Gross and net size of the parcel in acres.
- h. Written comments and/or approvals from the above list of agencies resulting from their review of the site condominium plans, as applicable.
- i. A copy of the proposed deed restrictions or covenants for the site condominium subdivision.
- j. A copy of any preliminary agreements which may be required before final plan approval.
- k. A copy of the proposed master deed of the project and the supportive information which is intended to be recorded with the Register of Deeds as required by state law.

2. The applicant shall provide at least ten (10) copies of the preliminary site condominium project plan and additional copies, if required by the Zoning Administrator. The plans at the time of their submittal shall contain the information required for preliminary site condominium plans as required by this Ordinance.

3. The application and plans shall be submitted at least thirty (30) days before the next regularly scheduled meeting of the Planning Commission.

4. Upon receipt of the preliminary site condominium project plans, the Zoning Administrator shall forward one (1) copy to each member of the Planning Commission and outside consultants (if necessary) for consideration at the next regularly scheduled meeting of the Planning Commission.

5. The Zoning Administrator shall notify by mail, all members of the Planning Commission that a meeting will take place at a specified time concerning the property proposed for the site condominium project. At this meeting or a subsequent meeting, a public hearing shall be held. Notice of said hearing shall be given at least fifteen (15) days prior to the hearing by one (1) publication in a newspaper of general circulation in the Township and by mail to each public utility company within the geographical sections or divisions of the Township affected by the proposed development. Notices of said hearing shall also be sent, not less than fifteen (15) days prior to the hearing to the applicant and to all property owners within three hundred (300) feet of the subject property. The Zoning Administrator shall give notices of the meeting as required by the Open Meetings Act. In reviewing the preliminary plan, the Planning Commission shall give particular attention to all information required to accompany the submission, in particular the deed restrictions and covenants in an effort to determine that they are adequate to ensure ultimate completion of the project in accordance to the proposed project plan. If the preliminary plan meets the requirements of this Ordinance and all other local, state, county, and federal regulations, the Planning Commission shall grant it preliminary approval.

If the plan does not meet the requirements of the Ordinance, the Planning Commission shall:

- a. Recommend denial of the preliminary plan, setting forth the reasons in writing, or
- b. Recommend granting of preliminary plan approval upon completion of the revisions noted.

D. Setbacks and Boundaries. The setback requirements for the condominium buildings shall be determined as follows:

1. Single Family Units

- a. The front yard setback shall be one half (1/2) of the approved or recorded street ROW, plus the current setback of the respective zoning district in which the project is located.
- b. The side yard setbacks shall be twice the minimum required within the zoning district. The distance from the unit to the limit of development

shall meet the minimum required side yard setback within the zoning district.

c. The rear yard setback between the rear of two (2) units shall be twice the minimum rear yard setback of the zoning district. The distance from the rear of the unit to the limits of the development shall meet the minimum rear yard setback of the zoning district.

2. Multiple family units shall meet the standards of the RM Residential District.

3. The relocation of boundaries as defined in Section 148 of the Michigan Condominium Act, shall conform to all setback requirements of this Section, of the district in which the project is located, shall be submitted to the Planning Commission for review and approval, and these requirements shall be made part of the by-laws and recorded as part of the master deed.

E. Common Elements. After construction of a condominium unit, the undeveloped area of a unit shall become a common element.

F. Encroachment. A condominium project shall not be constructed in a manner that intentionally creates an encroachment.

G. Subdivision of Unit Sites. Subdivision of condominium unit sites is permitted following review and approval, contingent upon the submission of an amended master deed to determine the effect of the subdivision on the conditions of zoning or development plan approval, and shall be made part of the by-laws and recorded as part of the master deed.

H. Conformance with Subdivision Regulations. All condominium project plans shall conform to the plan preparation requirements, design layout, and improvement standards as established within this Ordinance or with the Township's Code of Ordinances.

I. Water and Waste Water. The condominium project shall comply with and meet all federal, state, and county standards for a fresh water system and waste water disposal.

J. Expansion and Conversion. Prior to expansion or conversion of a condominium project to additional land and new phases, it must be reviewed and approved by the Planning Commission.

K. Master Deed. The project developer shall furnish the Township with one (1) copy of the proposed consolidated master deed, one (1) copy of the by-laws, and two (2) copies of the proposed plans. The proposed plans shall be reviewed for compliance with this Ordinance to ensure that an assessment mechanism has been included to guarantee adequate maintenance of common elements.

L. As-Built Plans and Occupancy. Submission of an as-built plan of a condominium unit is required prior to occupancy. The Building Inspector may allow occupancy of the project before all improvements are installed provided that an escrow is submitted to the Township, sufficient in amount and type to cover the cost of installation of the improvements before the expiration of the temporary occupancy permit without expense to the Township. The amount and form of the escrow shall be determined by the Township Planning Commission. Fees for these reviews shall be established by the Township Board.

M. Final By-laws, Consolidated Master Deed, and Site Plan. Upon approval of the development the applicant shall furnish the Township a copy of the by-laws and the consolidated master deed. The development plan shall be provided on a sheet 24'x36' and in electronic format.

N. Compliance with other Statutes and Ordinances. All condominium projects shall comply with pertinent federal, state, and local laws, statutes and ordinances.

#### **SECTION 4.30 WIRELESS COMMUNICATION FACILITY REQUIREMENTS.**

A. **Intent.** Regulation of commercial wireless communication service towers is necessary to protect the public health, safety and welfare while meeting the communication needs of the public. The intent of the Ordinance is to minimize adverse visual effects of towers and to avoid interference with adjacent property while adequately serving the community.

B. **Permitted as Principal Uses.** In the following circumstances, a new wireless communication facility shall be a principal permitted use, or a permitted accessory use, subject to site plan approval and also subject to the conditions set forth in subparagraph (D) below:

1. Attached wireless communication facilities within all districts where the existing structure is not, in the discretion of the Planning Commission, proposed to be either materially altered or materially changed;
2. Colocation of an attached wireless communication facility which has been previously approved for collocation by the Planning Commission;
3. Wireless communication facilities attached to a utility pole located within a right-of-way, where the existing pole is not modified to materially alter the structure and/or result in an impairment of sight lines of other safety interests; or
4. Wireless communication facilities with monopole support structures of no more than two-hundred-fifty (250) feet in height within the I-1 and C-1 zoning districts.

C. **Permitted as Special Land Uses.** Wireless communication facilities with monopole tower support of 250 ft. or less in the AG District shall be permitted as a special land use. Wireless communication facilities with monopole or lattice tower support structures with a height of

greater than two-hundred-fifty (250) feet shall be permitted as special land uses or special accessory uses only in the C and I zoning districts, except that they shall not be located within five-hundred (500) feet of and R-1 or R-2 zoning district, or within a distance equal to the height of the support structure from the right-of-way line of any interstate or limited –access highway or other major thoroughfare. If located on the same parcel with another permitted use, such facilities and any other structures connected therewith shall not be located in a front yard.

**D. Permitted as Special Land Uses in Other Districts.**

If an applicant can demonstrate to the satisfaction of the Planning Commission that a location permitted in subparagraphs (a) and (b) above cannot reasonably meet the coverage and/or capacity needs of the applicant, and the applicant can demonstrate that it has reasonably exhausted all efforts to locate its facility in accordance with subparagraphs (a) or (b) above, a wireless communication facility may be permitted as a special land use or a special accessory use within all other zoning districts, subject to the standards of Section 10.18 Special Land Uses, and further subject to the following conditions:

1. Such wireless communication facilities shall be located on a priority basis only on the following sites: a) governmentally owned sites; b) religious or other institutional sites; c) public or private school sites; or d) public parks and other large permanent open space areas when compatible.
2. Wireless communication support structures in such locations shall be of an alternative or stealth design such as incorporation into a steeple, water tower, bell tower, or other form which is compatible with the existing character of the proposed site, the adjacent neighborhoods, and the general area, as approved by the Planning Commission.

**E. Required Standards for Wireless communication Facilities in All Districts.**

**1. Required Information.**

- a. Site Plan. A site plan for only new location prepared in accordance with Section 10.24, Site Plan Review, also showing as-built drawing for all proposed attached wireless communication facilities and/or wireless communication support structures. (Current facilities are exempt)
- b. Demonstration of Need. Demonstration of the need for the proposed wireless communication support structure due to a minimum of one of the following:
  - I. Proximity to an interstate of limited-access highway or major thoroughfare.
  - II. Proximity to areas of population concentration.



- III. Proximity to commercial or industrial business centers.
  - IV. Avoidance of signal interference due to buildings, woodlands, topography, or other obstructions.
  - V. Other specific reasons.
- c. Service Area and Power. As applicable, a description of the planned, proposed, or existing service area of the facility, and wireless communication support structure height and type, and signal power expressed in effective radiated power (ERP) upon which the service area has been planned.
  - d. Map of Other Facilities Nearby. A map showing existing or proposed wireless communication facilities within Arlington Township *and* Van Buren County, and further showing existing and known proposed wireless communication facilities within areas surrounding the borders of the Township, which are relevant in terms of potential collocation or in demonstrating the need for the proposed facility. If the information is on file with the Township, the applicant shall update as needed. A written request for confidentiality must be prominently stated by the applicant.
  - e. Data on Other Facilities Nearby. For each location identified by the applicant/provider, the application shall include the following data, if known, with the applicant/provider expected to exercise reasonable diligence to obtain information:

The structural capacity and whether it can accommodate the applicant's facility, as proposed or modified.

    - I. Evidence of property owner approvals.
    - II. Whether the location could be used by the applicant/provider for placement of it attached wireless communication facility; if the location cannot be used, a disclosure of the technological considerations involved, with specific reference to how use of the location would prohibit the applicant/provider from providing services.
  - f. Fall Zone Certification. To determine the required setbacks, a State of Michigan registered engineer shall submit a determination and certification regarding the manner in which the proposed structure will fall.

The fall zone or collapse distance as cited in the certification shall therefore be the minimum setback required. However, in the absence of an engineer's certification, the minimum setback shall be equal to the total height of the tower. Furthermore, in no case shall the minimum setback from a property line be less the seventy-five (75) feet.

- g. Description of Security for Removal. A financial security (Performance Guarantee) may be required for the wireless communication support structure to ensure removal and maintenance, in accordance with this Section. The security shall be required at the discretion of the Planning Commission and shall be in the form of a performance bond or dedicated escrow account placed with the Township for coverage of state purposes. The security shall be a promise of the applicant and owner of the property to timely remove the facility as required, with the provision that the applicant and owner shall pay costs and attorney's fees incurred by Arlington Township in securing removal.
- h. Data on FCC and FAA Approval. An application for a wireless communications installation shall have been first submitted for review and have been approved for such facility before the Federal Communications Commission, Michigan Aeronautics commission and Federal Aviation Administration detailing technical parameters authorization for the facility shall be submitted to the Township as part of the Township's required application packet. Approved facilities shall be subject to all FAA, MAC, and FCC requirements for placement, maintenance, and operation.
- i. All wireless communication facilities shall be located on a minimum of a one-half (1/2) acre parcel and shall have direct or deeded access to a public road right-of-way. Verification of said access shall be provided upon application for approval.
- j. All existing vegetation shall be shown on the submitted site plan and shall be preserved during and after installation to the maximum extent possible. Furthermore, additional landscaping shall be required in accordance with the provisions of the Ordinance for the district in which it is located.
- k. All wireless communication sites shall be fenced with appropriate material with a minimum height of six (6) foot and a maximum height of eight (8) feet. All support structures, wires, and accessory buildings shall be located within the fenced area. The use of barbed wire, electric current or charge of electricity is strictly prohibited.
- l. Compatibility of support Structures. Wireless communication support structures shall not be injurious to the neighborhood or detrimental to the

public safety and welfare. Support Structures shall be harmonious with the surrounding areas, and aesthetically and architecturally compatible with the natural environment. In addition, all structures shall be equipped with an anti-climbing device to prevent unauthorized access.

- m. Maximum Height. The maximum height of wireless communication support structures shall be the lesser of: a) two-hundred-fifty (250) feet; or b) the minimum height demonstrated to be necessary by the applicant; or c) such lower heights as required and approved by the Federal Aviation Administration. The applicant shall demonstrate a justification for the height and provide an evaluation of alternative designs which might result in lower heights. Accessory buildings shall be limited to the maximum height for accessory structures within respective zoning districts.
- n. Setback from Non-Residential Districts. Wireless communication support structures abutting any lot zoned for other than residential purposes shall have a minimum setback in accordance with the required setbacks for the principal buildings for the zoning district in which the support structure is located. But in no case shall the required setback be less than seventy-five (75) feet.
- o. Variances. The Zoning Board of Appeals may grant variances for the setback of a wireless communication support structure to accommodate a change that would reduce its visual impact or to meet the required standards of (D) (10), Colocation. The Zoning Board of Appeals may also grant variances for the height of a support structure of up to fifty (50) feet only in cases where a variance would permit additional colocations.
- p. Compatibility of Accessory Structures. Wireless communication facilities proposed on the roof of a building with an equipment enclosure shall be architecturally compatible with the principal building upon which it is located. The equipment enclosure may be located within the principal building or may be an accessory building, provided the accessory building conforms with all district requirements for accessory buildings and is constructed of the same or compatible building material as the principal building.
- q. Appearance of Support Structures. The color of wireless communication support structures and all accessory buildings shall minimize distraction, reduce visibility, maximize aesthetics, and ensure compatibility with its surroundings. The Applicant shall be responsible for the maintenance of the wireless communication facility in a neat and orderly condition, as well as maintaining the safety of the site and structural integrity of any structures.

- r. Federal and State Requirements. The requirements of the Federal Aviation Administration, Federal Communication Commission, and Michigan Aeronautics Commission shall be noted on the site plan. Structures shall be subject to any State and Federal regulations concerning nonionizing electromagnetic radiation. Furthermore, if more restrictive State or Federal standards are adopted in the future, the antenna shall be made to conform to the extent required by such standard or the approval and permit for the structure shall be subject to revocation by the Township. The cost for testing and verification of compliance shall be borne by the operator of the antenna.
  
- s. Lighting. Lighting on a wireless communication facility shall be prohibited unless otherwise required by the Federal Aviation administration or Michigan aeronautics Commission. The applicant shall propose a height reduction to eliminate the need for lighting, or shall submit detailed technical data demonstrating the need for the requested height including an analysis demonstrating that other sites are unavailable or inadequate for their purposes.
  
- t. Colocation. All wireless communication support structures shall accommodate no more than six (6) attached wireless communication facilities. Support Structures shall allow for future rearrangement of attached wireless communication facilities to accept other attached facilities mounted at varying heights.
  - I. When Colocation is Not “Feasible.” Wireless communication support structures shall not be approved unless the applicant documents that its attached wireless communication facilities cannot be feasibly collocated or accommodated on an existing support structure or other existing structure due to one or more of the following reasons:
    - (i) The planned equipment would exceed the structural capacity of the existing support structure or other structure, as documented by licensed engineer, and the existing support structure or other structure cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.
  
    - (ii) The planned equipment would cause interference affecting the function of other equipment on the existing support structure or other structure as documented by a licensed engineer, and the interference cannot be prevented at a reasonable cost.

- (iii) Support structures and other structures within the search radius cannot accommodate the planned equipment at a height necessary for the coverage area and capacity needs to reasonably function as documented by a qualified and licensed professional engineer.
  - (iv) Other unforeseen reasons that make it not feasible to locate the planned communications equipment upon an existing support structure or other structure.
- u. Determining Feasibility of Collocation. Collocation shall be deemed to be “feasible” when all of the following are met:
- I. The applicant/provider will pay market rent or other market compensation for collocation.
  - II. The site is able to provide structural support, considering reasonable modification or replacement of facility.
  - III. The collocation being considered is technically reasonable and will not result in unreasonable interference, given appropriate physical adjustments.
  - IV. The height of the structure necessary for collocation will not be increased beyond maximum height limits.
1. Refusal to Permit Collocation. If a party who owns or otherwise controls a wireless communication support structure shall fail or refuse to alter a structure to accommodate a feasible collocation, such facility shall thereafter be a nonconforming structure and use, and shall not be altered, expanded or extended in any respect.
  2. Refusal to Collocation Constitutes Violation. If a party who owns or otherwise controls a facility shall fail or refuse to permit a feasible collocation, and this requires the construction and/or use of a new wireless communication support structure, the party failing or refusing to permit a feasible collocation shall be deemed to be in direct violation and contradiction of the policy, intent and purpose of this Section of the Zoning Ordinance.
  3. New Structures Prohibited. Consequently such part or its agent(s) shall take responsibility for the violation, and shall be prohibited from receiving approval for a new support structure within Arlington Township for a period of five (5) years from the date of the failure or refusal to permit the collocation.

4. Variance from Colocation. Such a party may seek and obtain a variance from the Zoning Board of Appeals if, and to the limited extent, the applicant demonstrates entitlement to variance relief which, in this context, shall mean a demonstration that enforcement of the five (5) year prohibition would unreasonably discriminate among providers of functionally equivalent wireless communication services, or that such enforcement would have the effect of prohibiting the provision of personal wireless communication service.
5. Offer of Colocation Required. And application for a new wireless communication support structure shall include a letter from the applicant to all potential users offering an opportunity for collocation. The list of potential users shall be provided by Arlington Township based on those entities who have requested approval of a wireless communication facility, current FCC license holders, and other entities requesting to be on the list. If, during a period of thirty (30) days after the notice letters are sent to potential users, a user requests, in writing, to collocate on the new support structure, the applicant shall accommodate the request(s), unless collocation is not feasible based on the criteria of this Section.
6. Removal. When a wireless communications facility has not been used for sixty (60) days, the party or its agent(s) shall notify the Township in writing of its discontinued use and shall initiate removal of all or parts of the wireless communications facility by the users and owners of the facility and owners of the property within ninety (90) days of notifying the Township. The removal of antennae or other equipment from the facility, or the cessation of operations (transmission and/or reception of radio signals) shall be considered as the beginning of a period of non-use. The situation(s) in which removal of a wireless communications facility is required may be applied and limited to a portion of the facility.
  - a. Upon the occurrence of one or more of the events requiring removal, the property owner or persons who had used the wireless communications facility shall immediately apply for and secure the application for any required demolition or removal permits, and immediately proceed with and complete the demolition/removal, restoring the condition which existed prior to the construction of the facility.
  - b. If the required removal of the wireless communications facility or a portion thereof has not been lawfully completed within sixty (60) days of the applicable deadline, and after at least thirty (30) days written notice sent by certified mail, Arlington Township may remove or secure the removal of the facility or required portions thereof, with its actual costs and reasonable administrative charges to be drawn or collected from the security posted at the time application

was made for establishing the facility or, if necessary, through appropriate judicial remedies.

7. Radio Frequency Emission Standards. Wireless communication facilities shall comply with applicable Federal and State standards relative to electromagnetic fields and the environmental effects of radio frequency emissions.
8. Effect of Approval.
  - a. Subject to subparagraph (II) below, final approval for a wireless communication support structure shall be effective for a period of six (6) months.
  - b. If construction of a wireless communication support structure is commenced within two (2) miles of the land upon which a facility has been approved, but upon which construction has not been commenced during the six (6) month period of effectiveness, the approval for the support structure that has not been commenced shall be void thirty (30) days following written notice from Arlington Township of the commencement of the other support structure. Such voiding shall apply unless the applicant granted approval of the support structure which has not been commenced demonstrates that it would not be feasible to collocate on the support structure that has been newly commenced.

## **SECTION 4.31 MOBILE HOME PARKS**

### **A. Statement of Intent.**

This section is intended to provide for the location and regulation of manufactured housing parks as an affordable housing alternative where appropriate and consistent with the general character of Arlington Township. It is intended that manufactured housing parks be provided with necessary community services in a setting that provides a high quality of life for its residents. These districts should be located in areas where they will be compatible with adjacent land uses. Accordingly, manufactured housing parks shall be located in accordance with the following criteria:

1. In areas that are designated for manufactured housing parks as outlined in the Arlington Township Master Plan.
2. On sited adjacent to existing manufactured housing parks and parcels zoned MHP/S zoning classification.
3. On sites with direct vehicular access to a public thoroughfare or collector road.

4. In areas where sanitary sewer and potable water supply (either public or private systems) is available with sufficient capacity to serve the residents and to provide fire protection capabilities. Furthermore, the location of a manufactured housing park shall not result in exceeding the capacity or result in the diminished service of proper functioning community facilities and utility systems, including but not limited to the following: roads, sanitary sewers, water, storm drainage, police and fire protection, and the public educational system.
5. On sited outside of a designated floodway.

The regulations established by state law (Michigan Public Act 96 of 1987, as amended) and the Manufactured Housing commission Rules govern all manufactured housing parks. When regulations in this Section exceed the state law of the Manufactured Housing Commission Rules they are intended to insure that manufactured housing parks meet the development and site plan standards established by this Section for other comparable residential development and to promote the health, safety and welfare of the Township's residents.

These specific standards reflect the nature of Arlington Township in contrast with some other areas of Michigan where the universal ruled of the Manufactured Housing Commission may be appropriate. These standards encourage development which compliments and protects the investment on adjacent properties, and promotes preservation of important natural features.

Since the characteristic and impacts of a manufactured housing park typically simulate those of multiple-family residential developments, and because they typically are served by private streets and utility systems which interrupt and intercept the continuity of the local street and utility systems, manufactured housing parks are not considered compatible with other types of single-family neighborhoods. Therefore, manufactured housing parks are intended to serve as a transitional use between residential and nonresidential districts, similar to the multiple family districts.

#### **B. Development Standards and Requirements.**

1. Preliminary Plan Review. Pursuant to Section 11 of Michigan Public Act 96 of 1987, as amended, a preliminary plan shall be submitted to the Township for review by the Planning Commission. The preliminary plan shall include the location, layout, general design, and general description of the project. The preliminary plan shall not include detailed construction plans.

In preparing the preliminary plan and when reviewing the plan, the applicant and Planning Commission shall follow the procedures and requirements in Article V, Site Plan Review, where applicable, except where said procedures and requirements are superseded by requirements in Public Act 96 of 1987, as



amended, or the Manufacture Housing Commission Rules. Pursuant to Section 11 of Public Act 96 of 1987, as amended, the Planning commission shall take action on the preliminary plan within sixty (60) days after the Township officially receives the plan.

Applicants may request to meet with Township officials, including any consultants designated by the Township Board of Trustees, to preliminarily review applications prior to filing. Such pre-filing conferences are intended to assist the applicant and facilitate the future review and approval of the application. However, no suggestions, recommendations, or other comments made by Township officials, staff or consultants at such conferences shall constitute approval of any application.

2. Minimum Requirements. Manufactured housing parks shall be subject to all the rules and requirements as established and regulated by Michigan law including, by the way of example, Act 96 of 1987, as amended, and the Manufactured Housing Commission Rules and, in addition, shall satisfy the following minimum requirements.
3. General Authority. Manufactured housing parks shall be constructed, licensed, operated, and managed in accordance with the provisions of the Manufactured Housing Commission Act, Act 96 of 1987, and subsequently adopted rules and regulations governing manufactured housing parks. Application for permit to construct a manufactured housing park shall be submitted to the Michigan Bureau of Construction codes. The Department of Consumer and Industry Services is the agency charged with licensing of manufactured housing parks. Preparation of the application, support data, and local agency review of the above mention materials shall conform to the requirements of Act 96.
4. Codes. All structures and utilities to be constructed, altered, or repaired in a manufactured housing park shall comply with all applicable codes of the Township, the State of Michigan, the U.S. Department of Housing and Urban Development, and the Manufactured Housing Commission, including building electrical, plumbing, liquefied petroleum gases and similar codes, and shall require permits issued therefore by the appropriate offices. However, a manufactured housing unit built prior of June 15, 1976 which otherwise meets HUD certification requirements and standards for construction shall be permitted. All Structures and improvements to be constructed or made under the County Building Code shall have a building permit issued therefore by the County Building Inspector Prior to construction.
5. Parcel Size. The minimum parcel size for manufactured housing parks shall be fifteen (15) acres.

6. Site Size. The manufactured housing parks shall be developed with sites having a minimum size of five-thousand-five-hundred (5,500) square feet per manufactured housing unit. This square foot minimum for any one site may be reduced twenty percents (20%) provided that the individual site shall be equal to at least four-thousand-four-hundred (4,400) square feet. For each square foot of land gained through the reduction of site below the required standard, at least an equal amount of land shall be dedicated as open space for the collective use and enjoyment of all manufactured housing park residents. This open space shall be in addition to the open space required by this Section and under R125.1946, Rule 46 and R125.1941 and R125.1944, Rules 941 and 944 of the Michigan Administrative Code. However, in no case shall the open space and distance requirements be less than that required under R125.1946, Rule 46 and R125.1941 and R125.1944, Rules 941 and 944 of the Michigan Administrative Code.
  
7. Dimensional Requirements. Manufactured housing units shall comply with the following minimum distances and setbacks:
  - a. Twenty (20) feet from any part of adjacent manufactured housing units.
  - b. Ten (10) feet from any on-site parking space of an adjacent manufactured housing unit site.
  - c. Ten (10) feet from any accessory attached or detached structure of an adjacent manufactured housing unit.
  - d. Fifty (50) feet from any permanent building.
  - e. One hundred (100) feet from any baseball, softball, or similar recreational field.
  - f. Fifteen (15) feet from the edge of an internal road.
  - g. Seven (7) feet from any parking bay.
  - h. Seven (7) feet from a common pedestrian walkway.
  - i. All manufactured housing units shall be set back not less than twenty-five (25) feet from any park boundary line, including the existing and future rights-of-way lines of abutting streets and highways. Accessory buildings shall meet the setback requirements as established by this Ordinance for residential districts.
  - j. Forty (40) feet from the edge of any railroad right-of-way.

8. Building Height. Building in the MHP district shall not exceed two and one-half (2 ½) stories or Thirty-five (35) feet, except that storage sheds shall not exceed fifteen (15) feet in height.
9. Roads. Roads shall satisfy the minimum dimensional, design, and construction requirements as set forth in the Manufactured Housing Commission Rules except as follows:
  - a. Two-way streets shall have a minimum width of twenty-one (21) feet where no parallel parking is permitted, thirty-one (31) feet where parallel parking is permitted on one side only, and forty-one (41) feet where parallel parking permitted on both sides of the street. Roads not permitting parking shall be clearly marked or signed.
  - b. One-way streets shall have a minimum width of thirteen (13) feet where no parallel parking is permitted, twenty-three (23) feet where parallel parking is permitted on one side only, and thirty-three (33) feet where parallel parking is permitted on both sides of the street. Roads not permitting parking shall be clearly marked or signed.
  - c. The alignment and gradient of a road shall be adapted to the topography and shall be graded for its full width to drain surface water. Internal road gradient and drainage construction phase features shall meet the requirements of the Manufactured Housing Commission Rule 908 and Rule 47 of the Michigan Department of Environmental quality standards.
  - d. Cul-de-sacs, where proposed, shall have a minimum radius of thirty (30) feet (60 ft. in diameter). Maximum cul-de-sac length shall be one-thousand (1,000) feet, provided no more than thirty-five (35) units may be served by a single means of access. A dead end road shall terminate with an adequate turning area. A blunt-end road is prohibited.
  - e. Adequate sight distance shall be provided at all intersections.
  - f. The main entrance to the park shall have access to a public thoroughfare or shall be connected to a paved public collector or arterial road by a permanent easement which shall be recorded by the developers. Sole access to the park via an alley is prohibited.
  - g. All roads shall be clearly marked with appropriate identification and traffic control signs.
  - h. All roads shall be hard-surfaces and may be constructed with curbs and gutters.

10. Parking.

- a. All manufactured housing sites shall be provided with two (2) parking spaces per Manufactured Housing Commission Rules 925 and 926.
- b. In addition, a minimum of one (1) parking space for every three (3) manufactured sites shall be provided for visitor parking located convenient to the area served.
- c. Off-street parking in accordance with Article 11 of this Ordinance shall be provided in conjunction with any community buildings, recreational facilities or office/maintenance buildings located within the manufactured home park.
- d. No unlicensed or inoperable vehicle of any type shall be parked in this district at any time except within a covered building.
- e. Common areas for the storage of boats, motorcycles, recreation vehicles, and similar equipment may be provided in a manufactured housing park, but shall be limited to use only by residents of the manufactured housing parks. The location of such storage areas shall be shown on the site plan and shall be prohibited on manufactured housing sites and in designated open space areas. No part of any such storage area shall be located in any yard required on the perimeter of the manufactured housing parks. Such storage shall be surfaced with gravel, asphalt, or similar substance and shall be screened from view from adjacent residential properties with an opaque six (6) foot wooden fence, six (6) foot masonry wall with landscaping, or landscaped greenbelt. If a landscaped greenbelt is used, it shall consist of closely-spaced evergreen plantings (that is, no farther than fifteen (15) feet apart) which can be reasonably expected for form a complete visual barrier that is at least six (6) feet above ground level within three (3) years of planting. Common laundry drying areas, trash collection stations, surface mounted transformers, and similar equipment and facilities shall also be screened from view by plant material and/or man-made screens.

11. Sidewalks. Concrete sidewalks having a minimum width of three (3) feet shall be provided on at least one side of collector roads in the manufactured housing park. In addition, a five (5) foot wide concrete sidewalk shall be constructed along the public road(s) on which the manufactured housing park fronts. Such sidewalk shall be located within the road right-of-way, one foot off of the right-of-way line.

12. Accessory Buildings and Facilities.

- a. Accessory buildings and structures, including park management offices and public works facilities, storage buildings, laundry facilities, recreation of community facilities, and other accessory facilities, shall be designed and operated for use by residents of the park only and shall be shown on the submitted Preliminary Plan for approval.
  - b. Site-built structures within a manufactured housing park shall be constructed in compliance with the Township building Codes and shall require all applicable permits. Any addition to a manufactured housing unit that is not certifies as meeting the standards of the U.S. Department of Housing and Urban Development for manufactured housing shall comply with the Township Codes.
  - c. No personal property shall be stored outside or under any manufactured home. Storage structures (e.g. sheds, garages, etc.) may be used to store personal property on site. The installation of any such shed or garage shall require an Van Buren County building permit. Storage sheds need not be supplied by the owner or operator of the manufactured housing park.
  - d. Travel trailers or recreational vehicles shall not be occupied as living quarters in all new and future manufactured housing developments.
  - e. Towing mechanisms, including tires, shall be removed from all homes at the time of installation and stored so as not to be visible from the exterior of the community. Towing mechanisms, including axles, may, however, be stored under manufactured homes within a community.
13. Open Space. Open space shall be provided in any manufactured housing park containing fifty (50) or more manufactured housing sites, and maintained by the owner or operator of the park. The open space shall comply with the following requirements:
- a. A minimum of two percent (2%) of the park's gross acreage shall be dedicated to well drained, usable open space developed with appropriate recreational facilities and play equipment, provided that a minimum of twenty-five-thousand (25,000) square feet of contiguous open space.
  - b. Open space shall be shaped and located conveniently in relation to the majority of dwelling units intended to be served. Up to twenty-five percent (25%) of the required open space may consist of swamp areas, marshy areas, and similar limited use areas.
14. Landscaping and Screening.

- a. Perimeter Screening. All manufactured housing parks shall be screened from existing adjacent residential uses by either a six (6) foot wall or a densely planted landscaped greenbelt. In addition a landscaped buffer shall be provided along the public road frontage of any manufactured housing park.
  - I. If provided, screen walls shall be constructed of masonry material that is constructed of face brick, decorative block, or poured concrete with a simulated brick or stone pattern. Required walls shall be placed inside and adjacent to the lot line except where underground utilities would interfere with the placement of the wall or where the wall would unreasonably obstruct the use of adjacent property, in which case the wall may be set back from the property line a sufficient distance to resolve such concerns.
  - II. If a landscaped greenbelt is used, it shall be a minimum of twenty (20) feet in width and consist of closely-spaced evergreen plantings (that is, no farther than fifteen (15) feet apart) which can be reasonably expected to form a complete visual barrier that is at least six (6) feet above ground level within three (3) years of planting. Deciduous plan material may be used provided the visual screening is maintained throughout the year.
- b. Landscaping Adjacent to Rights-of-Way. A landscaped berm measuring three (3) feet in height along a landscaped greenbelt shall be constructed along the public rights-of-way on which the manufactured housing park fronts. The berm shall be constructed with slopes no steeper than one (1) foot vertical for each three (3) feet horizontal. Landscaping adjacent to the road shall comply with the following requirements, which are consistent with landscaping required for other types of development in Arlington Township:

<u>Type</u>	<u>Requirements</u>
Deciduous street tree (e.g. Red or Norway Maple, Linden, Ash)	1 per 40 lineal feet of road frontage
Deciduous or evergreen shrubs	1 per 3 lineal feet of road frontage

- c. Site Landscaping. A minimum of one (1) deciduous or evergreen tree shall be planted per two (2) manufactured housing sites.
- d. Parking Lot Landscaping. Off-street parking lots containing more than fifteen (15) spaces shall be provided with at least ten (10) square feet of interior parking lot landscaping per space. Such areas shall measure at

least one-hundred-fifty (150) square feet and shall be covered by grass, ground cover, shrubs or other live plant material. At least one (1) deciduous tree shall be planted per parking lot landscaped area.

15. Canopies. Canopies and awnings may be attached to any manufactured dwelling unit and may be enclosed for use as a sun room or recreation room, but not as a bedroom. Canopies and awnings shall comply with the setback and distance requirements set forth in this Section but shall not require a building permit unless fully enclosed or exceeding ten (10) foot by ten (10) foot in size.

16. Waste Receptacles. If proposed, waste receptacles shall comply with the following requirements as well as Part 5 of the MDEQ Standards for waste receptacles:

- a. Receptacles shall be set back a minimum distance of fifty (50) feet from the perimeter of the manufactured housing park and at least fifteen (15) feet from any building, in a location that is clearly accessible to the servicing vehicle. Receptacles shall be provided within one-hundred-fifty (150) feet of each manufactured housing unit, unless curb-side collection is provided.
- b. Receptacles shall be screened on three (3) sides with a decorative masonry wall or wood fencing, not less than six (6) feet in height. The fourth side of the dumpster screening shall be equipped with an opaque lockable gate that is the same height as the enclosure around the other sides.
- c. Receptacles shall be placed on a concrete pad which shall extend six (6) feet in front of the dumpster enclosure. Bollards (concrete filled metal posts) shall be installed at the opening of the dumpster enclosure to prevent damage to the screening wall or fence.

17. Signs.

- a. Each manufactured housing park shall be permitted either:
  - I. Two (2) signs, each of which shall not exceed five (5) feet in height and sixteen (16) square feet in area and shall be set back a minimum of ten (10) feet from any property or right-of-way line; or
  - II. One (1) sign which shall not exceed five (5) feet in height and thirty-two (32) square feet in area and shall be set back a minimum of ten (10) feet from any property or right-of-way line.

- b. Management offices and community buildings in a manufactured housing park shall be permitted one (1) identification sign not to exceed six (6) square feet in area.
- 18. Water and Sewer Service. All manufactured housing parks shall be served by approved central water and sewage systems, which shall meet the requirements of the Van Buren County Health Department and the Michigan Department of Public health. Public sewer systems shall be required in manufactured housing parks, if available within two-hundred (200) feet at the time of preliminary plan approval. If a public sewer system is unavailable, the park shall connect to a state-approved sewage system. The plumbing connections to each manufactured housing site shall be constructed so that all lines are protected from freezing, accidental bumping, or from creating any nuisance or health hazard.
- 19. Storm Drainage. All developed portions of the manufactured housing park shall be served by adequate storm drainage facilities, independent of sanitary sewers, designed and constructed in accordance with applicable local, county, and state regulations as outlined in Part IV of the MDEQ Standards. On-site storm water detention facilities may be required.
- 20. Underground Wiring and Utilities. All local distribution lines for franchised utilities including but not limited to telephones, electrical service, and cable television, shall be placed entirely underground throughout mobile home parks. Mainlines and perimeter feed lines located on a Section or Quarter Section Line may be above ground if they do not overlap the park. Conduits or cables shall be placed within private easements provided to the service companies by the proprietor and/or developer or within public ways. Those telephones and electrical facilities placed in dedicated public ways shall be planned so as not to conflict with other underground utilities. All telephones and electrical facilities shall be constructed in accordance with standards of construction approved by the Michigan Public Service Commission.
- 21. Fuel Oil and Gas. Any fuel oil and gas storage shall be located in underground tanks, at a safe distance from all manufactured housing sites. All fuel lines leading to manufactured housing sites shall be underground and designed in conformance with the Manufactured Housing Commission Rules and other applicable local, county and state regulations.
- 22. School Bus Stops. School bus stops shall be located in an area that is acceptable to the local school district and the manufactured housing park developer.
- 23. Mailbox Clusters. The United States Postal Service may require that manufactured housing parks be served by clusters of mailboxes serving several sites rather than individual mailboxes serving individual sites. If mail box



clusters are required, they shall be located at least two hundred (200) feet from any intersection of a manufactured housing park road with a public road.

24. Manufactured Housing Unit Sales. The business of selling new or used manufactured housing as a commercial operation shall be permitted after complete occupancy of a new or expanded manufactured housing park has been achieved. Thereafter, new or pre-owned manufactured homes which are to remain on-site in a manufactured housing community may be sold by the resident, owner, licensed dealer or broker, provided the manufactured housing development management permits such sales activity.
25. Prohibitions. A manufactured home shall only be used as a single-family dwelling. This provision shall not be construed to preclude the siting of model manufactured homes on licensed sited in a manufactured home community for sale or temporary sales office purposes.
26. Operational Requirements.
  - a. Permits. A manufactured housing park shall not be operated until a license has been issued by the Michigan Bureau of Construction Codes. The Zoning Administrator shall communicate his/her recommendations regarding the issuance of such licenses to the Director of the Manufactured Housing Division, Bureau of Construction Codes, Michigan Department of consumer and Industry Services. No individual manufactured housing site shall be occupied until the required improvements including utilities and access roads which serve the site are in place and functioning. Buildings constructed on-site, such as a management office or clubhouse, shall require a building permit prior to construction and a Certificate of Occupancy prior to use.

#### **SECTION 4.32 CONDITONAL ZONING**

When submitting an application for a rezoning, an applicant may voluntarily proposed conditions regarding the request for the use and development of the land as part of the rezoning request.

A. An application for conditional zoning must be submitted with the following information:

1. An applicant for a zoning change may voluntarily offer in writing conditions relating to the use and/or development of the subject property. This offer may be made either at the time the application is filed or may be made at a later time during the rezoning process.
2. The application process shall be the same as that of considering rezoning requests without conditions.

3. The applicant's offer of conditions may not request land uses or developments not permitted in the new zoning district.

4. Any use of development proposed as part of an offer of conditions that would require a special use permit under the terms of this Ordinance may only begin if a special use permit has been granted by the Township.

5. If the use or development requires a variance by the Zoning Board of Appeals, the use or development cannot begin until the variance has been granted.

6. If the proposed use or development requires site plan approval, the use or development cannot begin until the site plan has been approved.

7. The offer of conditions may be amended during the process of rezoning provided that any amended or additional conditions are made voluntarily by the applicant. An applicant may withdraw all or part of the conditions any time during the rezoning process. However, if the withdrawal of conditions occurs after the Planning Commission public hearing on the original rezoning request, then the application for rezoning shall be referred to the Planning Commission for a new public hearing.

B. The Planning Commission may recommend approval, approval with recommended changes, or denial of the rezoning application. However, any recommended changes must be approved by the applicant.

C. After receipt of the Planning Commission's recommendation, the Township Board may approve or deny the rezoning application. If the Township Board considers amendments to the proposed conditional rezoning application to have merit and only if they are acceptable to the applicant, the Township Board shall refer such amendments to the Planning Commission for comment and proceed with the rezoning application to deny or approve the conditional rezoning request without amendments.

D. If the Township Board finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written Statement of Conditions acceptable to the applicant. The Statement of Conditions shall:

1. Be in a form recordable with the Van Buren County Register of Deeds or in a form acceptable to the Township.

2. Contain a legal description of the land

3. Contain a statement acknowledging the Statement of Conditions runs with the land and is binding on successor owners of the land.

4. Incorporate by attachment or reference any drawings approved by the applicant and the Township.
5. Incorporate a statement acknowledging that the Statement of Conditions may be recorded by the Township with the Register of Deeds
6. Contain the notarized signatures of all owners of the subject land preceded by a statement attesting to the fact that they voluntarily offered and consented to the provisions of the Statement of Conditions.

E. When the rezoning takes effect, the Township Clerk shall amend the zoning map to reflect that the subject land contains special conditions.

F. The use of the land shall conform to all of the requirements relating to its use and development.

G. If an approved use and/or development does not occur within the time frame specified in the Statement of Conditions, the land shall revert to its former zoning classification. The rezoning back to its original classification shall be initiated by the Township Board.

H. The Statement of Conditions shall be null and void if the subject property is rezoned to a District not requested by the applicant.

I. If the Statement of Conditions does not specify a date by which the development must commence, the property will revert back to its former classification within three (3) months if a building permit for the development has not been issued.

J. In the event the use permitted under these provisions ceases to operate for a period of twelve (12) consecutive months, the land shall revert back to its former zoning classification. The process for reversion shall be initiated by the Township Board.

#### **SECTION 4.33 FLOOD PLAIN REGULATIONS**

Any structure including but not limited to houses, garages, barns etc. which are built in or upon a flood plain as identified on an official Flood Plain Management Map are subject to the following regulations:

##### **A. Definitions**

1. Floodway means the channel of the watercourse and those portions of the adjoining flood plains which are reasonably required to carry and discharge the regulatory flood. For this purpose the limit of the floodway shall be established by allowing not more than one (1) foot rise of the water surface elevation of the regulatory flood as a result of encroachment. Whenever practical, equal conveyance reduction from each side of the flood plain shall be used.

2. Flood fringe means that portion of the flood hazard area outside the floodway.
3. Flood hazard area means the area inundated by the regulatory flood
4. Flood plain means the area adjoining the channel of the stream which has been or hereafter may be covered by the flood water.
5. Floodproofing means any combination of structural or nonstructural additions, changes or adjustments to properties and structures which reduce or eliminate flood damage to lands, water and sanitary facilities, structures, and contents of buildings.
6. Flood protection elevation means one (1) percent chance of occurring in any one (1) year.

B. Prohibited Uses. Within the floodway, except as may permitted by special use permit, the following, the following uses are prohibited.

1. Erection of any structure for occupancy at any time by humans or animals
2. Placing, depositing, or dumping any spoil, fill, or solid waste
3. Stockpiling or disposal of pesticides, petroleum products, or hazardous materials which, if flooded, would pollute the waters of the basin,

Within the flood fringe, except as permitted by special use permit, the following uses are prohibited:

1. Stockpiling or disposal of pesticides, domestic or industrial waste, petroleum products, or hazardous materials which, if flooded, would pollute the waters of the watershed.
2. Any use which will adversely affect the capacity of channels or floodways of any tributary to the main stream, drainage ditch, or any other drainage facility.

C. Permitted Uses. Within the floodway, the following uses are permitted to the extent that they do not require structures, fill or storage materials, or permanently installed equipment, and do not adversely affect the capacity of the floodway.

1. Agricultural uses such as general farming, livestock and dairy farming, horticulture, truck farming, sod farming, forestry, wild crop harvesting, and normal associated practices.
2. Private and public recreational uses such as golf courses, picnic grounds, wildlife preserves, and hunting and fishing areas.

Within, the flood fringe the following uses are permitted:

1. Any uses permitted in the floodway.
2. Residences and other structures constructed so that the first floor, including basement, is at least fifteen (15) feet above the Flood Protection Elevation for that particular area.

D. Stabilization Requirements. Any area of land from which natural vegetation cover has been either partially or wholly cleared or removed by development or agricultural activities within ten (10) feet of the edge or a waterway identified on the Official Flood Hazard Map, shall be re-vegetated within ten (10) from the substantial completion of such clearing and construction. The following criteria shall apply to re-vegetation efforts:

1. Reseeding must be done with an annual or perennial cover crop accompanied by placement of straw mulch or equivalent of sufficient coverage to control erosion until such time as the cover crop is established over ninety (90) percent of the seeded area.
2. Any area of re-vegetation must exhibit survival of a minimum of seventy -five (75) percent of the cover crop throughout the year immediately following re-vegetation. Re-vegetation must be repeated in successive years until the minimum f seventy-five (75) percent survival for one (1) year is achieved.
3. Replanting with native woody of herbaceous vegetation must be accompanied by placement of straw much or its equivalent of sufficient coverage to control erosion until the plantings are established and capable of controlling erosion.

#### **SECTION 4.34 ANTI-FUNNELING ON INLAND LAKES**

The Arlington Township Planning Commission and the Board of Trustees recognize that the water resources, including the inland lakes in the Township, should be considered as integral to the inventory of its valued natural resources. As shorelines on lakes become further developed and subjected to human and mechanical influence, usage of the respective property must be regulated in order to preserve and protect the riparian owners as well as the Township and non-riparian rights owners alike. The lack of regulations constitutes a nuisance condition and impairment of these important and irreplaceable natural resources. A lack of regulations shall also result in diminution of property values and threaten the health safety and welfare within the Township and properties adjacent to inland lakes in the Township. Therefore, it is the intent of the Township Board to adopt reasonable, minimal regulations of land ingress and egress of water craft and human usage of these natural resources in the Township

When two (2) or more families/legal entities/parties share access on navigable water without residing on said frontage, such common usage and/or ownership of the waterfront shall be governed by this Section. The provisions apply regardless of whether access to the waterfront is

gained by easement, common or joint ownership, single fee ownership, lease, license, site condominium unit, stock or membership in a corporation, private agreement, or any other means.

- A. Not more than one (1) watercraft slip, mooring, boat hoist, raft, or other means of anchorage will be developed per fifty (50) feet of water frontage.
- B. No more than one (1) dock per one hundred (100) feet of water frontage shall be allowed on the water and shall otherwise comply with all relevant county and state regulations.
- C. No boat launch facilities shall be permitted on any lot with water frontage.
- D. A dock shall be limited to a maximum length of one hundred (100) feet or water depth of four (4) feet whichever is less.

## **SECTION 4.35 WIND ENERGY CONVERSION SYSTEMS**

A. **Purpose:** The regulation of wind energy conversion systems (WECS), including the height, minimum lot area, and required setbacks of such systems, is intended to provide for an alternative source of power generations while protecting the health, safety, and welfare of Township residents.

B. **Definitions:**

1. **Ambient Noise Level:** Sometimes called background noise level, is the noise level that exists in the absence of unrelated wind turbine sound and is normally present at least ninety percent (90%) of the time. Ambient noise level shall not be measured during sporadic noise events such as seasonal farming, traffic, or weather events that would distort the establishment of a baseline level representative of the rural environment.
2. **ANSI:** American National Standard Institute
3. **Associated Property:** The property on which a large turbine wind energy system is located.
4. **dB(A):** The sound pressure in decibels.
5. **Decibel:** The unit of measure used to express the magnitude of sound pressure and sound intensity.
6. **IEC:** International Electro-technical Commission.
7. **ISO:** International Organization for Standardization.
8. **Non-associated Property:** Real property on which there is no large turbine wind energy system.
9. **Occupied dwelling (associated and non-associated):** An existing single family detached dwelling unit occupied by permanent resident(s). An occupied dwelling shall also include a church and a commercial business conducted in a structure not used for a dwelling unit.
10. **Rotor:** An element of a wind energy system that acts as a multi-bladed airfoil assembly, thereby extracting rotation, kinetic energy directly from the wind.
11. **SCADA Tower:** A freestanding tower containing instrumentation such as anemometers that are designed to provide present moment wind data for use by the supervisory control and data acquisition system.

12. **Shadow Flicker:** Alternating changes in light intensity caused by the moving blade of the wind energy system casting shadows on the ground and stationary objects, such as a window in a dwelling unit.
  13. **Sound Pressure:** The average rate at which sound energy is transmitted through a unit area in a specified direction.
  14. **Sound Pressure Level:** The sound pressure mapped to a logarithmic scale and reported in decibels.
  15. **Wind Energy Conversion System:** A wind energy conversion system which converts wind energy into electricity through the use of wind turbine generator and includes the turbine blades, the tower, and the related electrical equipment. This does not include wiring to connect the wind energy system to the grid.
    - a. A small turbine or on-site system is intended to primarily serve the needs of the customer with a single tower that may or may not be connected to the utility grid.
    - b. A large turbine or utility grid system is designed to generate electricity from one or more towers (within an array) and is intended to serve development within the community or throughout the region.
  16. **Wind Site Assessment:** An assessment to determine the wind speeds at a specific site and the feasibility of using that site for construction of a wind energy system.
- C. **Small Turbine or On-site Wind Energy** systems with a tower exceeding one hundred (100) feet in height are permitted by a Special Use Permit in the A-1, R-1, and R-3 Districts. Installation of an anemometer tower used to assess the feasibility of an on-site wind energy system and exceeding one hundred (100) feet in height shall also be permitted by Special Use Permit. On-site energy systems with no towers or towers one hundred (100) feet in height or less shall be permitted uses in the A-1 and the R-1 Districts. The maximum height of a small wind turbine tower, including the blade in its most vertical position, shall be one hundred and ninety-nine (199) feet.

Wind energy systems that are subject to a Special Use Permit shall submit the following:

1. A site plan showing the location of the proposed tower(s) on the site meeting a minimum setback from property lines, road rights-of-way, and associated occupied dwelling units of one hundred and fifty percent (150%) of the height of the tower including the blade in its most vertical position.
2. Documentation that the sound pressure is no greater than fifty (50) dBA at non-associated property lines, forty-five (45) dBA at exterior of an associated



occupied dwelling, and thirty-five (35) dBA at the exterior of a non-associated occupied dwelling, existing at the date the special use permit is granted.

3. Proof of the applicant's public liability insurance of \$1,000,000 per incident, per occurrence.
4. Documentation that the wind energy system including towers comply with all construction and electrical codes.
5. Proof that all wind energy systems shall have automatic, governing, or a feathering system to prevent uncontrolled rotation or over-speeding.
6. Demonstration that that tower(s) shall have lighting protection.
7. Demonstration that the minimum vertical blade tip clearance from grade shall be twenty (20) feet for a wind energy system employing a horizontal axis rotor.
8. Demonstration that the tower(s) comply with the Michigan Airport Zoning Act, the Michigan Tall Structures Act, and Federal Aviation Administration (FAA) regulations.

D. **Large Turbine or Utility Grid Wind Energy Conversion Systems** are permitted in the A-1 District by a Special Use Permit. In addition to the requirements for an on-site wind energy system, the applicant must provide the following information:

1. **A wind site assessment** determining the wind speeds affecting the site and the subsequent feasibility of using the site for a wind energy system.
2. **Copies of the results of modeling and analysis report** determining noise and sound pressure levels.
3. Audible noise or sound pressure level from the operation of a WECS shall not exceed fifty (50) dBA at non-associated property lines. Audible noise or sound pressure from the operation of a WECS shall not exceed forty-five (45) dBA measured at the exterior of any associated occupied residence, and thirty-five (35) dBA at the exterior of any non-associated occupied dwelling existing on the date of the approval of any WECS special use permit. The applicant shall be able to provide sound pressure level measurements from a reasonable number of sampled locations throughout a 12 month period at the perimeter and in the interior of the WECS site to demonstrate compliance with this standard. If audible noise exceeds these levels, the offending turbine(s) must be inoperable until repairs are completed or a waiver agreement is obtained from the affected property owner(s).

4. The applicant of wind turbine facility shall pay for all noise monitoring or measurements as required when reasonable need is determined by the Arlington Township Board of Trustees.
5. In the event the noise levels resulting from the WECS exceed the criteria listed herein, a waiver to said levels may be granted by the Township Board provided that written consent from affected property owners has been obtained stating that they are aware of the WECS and noise limitations imposed by this ordinance and that they consent to allow noise levels to exceed the maximum limits otherwise allowed, The noise limitations contained herein may be exceeded during short term events such as severe wind storms and/or utility outages.
6. **Visual simulations depicting how the completed project will look from viewable angles.** The system shall use tubular towers covered in a non-reflective matte finish color. No lettering, company insignia, advertising, or graphics shall be on any part of the tower (s). The project shall be so designed to have a similar appearance throughout.
7. **Copy of an environmental impact analysis.** The applicant shall have a third party professional conduct an analysis to identify and assess any potential impacts on the natural environment, including historical sites. The analysis shall also address potential electromagnetic interference with existing transmission systems.
8. **Copy of an avian and wildlife impact analysis.** That applicant shall have an independent third party, qualified professional conduct an analysis to identify and assess any potential impacts on migratory birds, bats, and wildlife. At a minimum the analysis shall include a thorough review of existing information regarding species and potential habitats in the vicinity of the project area. The owner/operator shall produce an avian risk study covering the areas likely to be affected by the project and conducted within twelve (12) months of application for a special use permit. These analyses shall be conducted for each phase of the project.  
  
The Arlington Township Board of Trustees may require additional impact studies conducted by an independent third party, qualified professional to assess potential impacts of any phase of a WECS on avian and wildlife populations once the project or each phase of the project has been completed. The results of these studies shall be evaluated when issuing the renewal(s) of the special use permit issued for the WECS.
9. **Copy of a shadow flicker analysis.** The analysis shall identify the locations of shadow flicker on adjacent property that may be caused by the project and the expected durations of the flicker at these locations from sunrise to sunset over the course of a year. The analysis shall identify problem areas where shadow flicker

may affect the occupants of the structures and describe measures to eliminate or mitigate the problems. Under no circumstances shall shadow flicker occur on an associated inhabited dwelling more than thirty (30) hours per year. Under no circumstances shall shadow flicker occur on a non-associated inhabited dwelling, unless a waiver is signed by the affected property owner.

10. **Description of a complaint resolution process.** The process may use an independent mediator or arbitrator and shall include a time limit for acting on the complaint. The process shall not preclude government form acting on the complaint.
11. **Manufactures' material safety data sheets** describing the type and quantity of all materials used in the operation of all equipment including lubricants and coolants.

**E. Performance Standards for Large Turbine or Utility Grid WECS**

1. **Vibration.** Under no circumstances shall a WECS produce vibrations at a level scientifically proved by an unbiased and peer reviewed report to have a negative impact on the natural and/or human environment.
2. **Electromagnetic Interference.** No WECS shall be installed in any location where its proximity to existing fixed broadcast, retransmission, or reception antennae for radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception unless the owner/operator provides a replacement signal to the affected party that will restore reception to at least the level present before operations of the WECS. No WECS system shall be installed in any location within the line of sight of an existing microwave communications link where the operation of the WECS is likely to produce electromagnetic interference in the link's operation unless the interference is insignificant.
3. **Waste Management.** All solid waste, whether generated from supplies, equipment, parts, packaging as well as operating and maintaining the facility, including old parts and equipment shall be removed from the site in a timely manner consistent with industry standards. All hazardous waste generated by the operation and maintenance of the facility, including but not limited to lubricating materials, shall be handled and disposed of in a manner consistent with federal EPA and state MDNR regulations.
4. **Infrastructure.** The owner of the large turbine WECS shall reimburse Arlington Township and/or Van Buren County for any and all repairs and reconstruction to public roads, culverts, and natural drainage ways resulting directly from the construction of the facility. Before construction the owner/operator shall secure a

permit from the Van Buren County Road Commission for the transport and construction of a WECS. Where the construction of a WECS cuts through a private or public drain tile field, the drain tile must be repaired and reconnected to properly drain the site.

5. **Decommissioning.** The owner/operator shall complete decommissioning of the WECS within twelve (12) months after the end of the useful life for the facility or individual wind turbines. The end of its useful life shall be determined if no electricity is generated for a period of twelve (12) consecutive months.
  - a. Decommissioning shall include the removal of wind turbines, buildings, cabling, electrical components, roads, and foundations unless the property owner agrees in writing that any or all, buildings, roads, and/or foundations remain on the site. This agreement shall be attached to the deed of the property and recorded with the Van Buren County Register of Deeds. If the foundations remain, there shall be a minimum of forty-eight (48) inches of soil between the top of the foundation(s) and grade level of the site.
  - b. Disturbed earth shall be graded and re-seeded to the satisfaction of the property owner.
  - c. An independent and registered professional engineer shall be retained to estimate the cost of decommissioning (decommissioning costs) without regard of salvage value of the equipment and the cost of decommissioning net salvage value (net decommissioning costs) of the equipment. These costs shall be updated every five (5) years.
  - d. The facility owner/operator shall post and maintain decommissioning funds equal to net decommissioning costs. At no point shall the funds be less than twenty-five percent (25%) of decommissioning costs. The funds shall be maintained in a manner determined by the Township Board of Trustees.
6. **Maximum Height.** The maximum height of a large WECS tower including the blade in its most vertical position shall be four hundred and fifty (450) feet.
7. **Minimum Ground Clearance.** The blade tip of any large wind turbine shall, at its lowest point, have a ground clearance of not less than fifty (50) feet.
8. **Safety.**
  - a. All electrical wires and lines connecting each turbine to the next turbine shall be installed underground and comply with all applicable electrical

- codes. The wires and lines running from the last turbine in a string to any substation connecting to the electric utility shall also run underground.
- b. Wind turbine towers shall not be climbable from the outside up to fifteen (15) feet above ground level.
  - c. All access doors to wind turbine towers and electrical equipment shall be locked when unattended.
  - d. Appropriate warning signage shall be placed on wind turbine towers and electrical equipment.
  - e. The facility (site and structures) shall have a minimum of an annual inspection report of structural stability, paid for by the owner/operator and filed with the Arlington Township clerk. Turbines failing inspection or found unsafe shall be repaired, replaced or removed.
  - f. The owner/operator shall post and maintain at each facility a 24 hour a day manned telephone number in case of an emergency.
  - g. The owner/operator shall be responsible for the total cost of any incident(s) that occur on or at each facility.
  - h. All towers shall have functioning lighting protection and comply with the Michigan Airport Zoning Act, the Michigan Tall Structures Act, and Federal Aviation Administration (FAA) regulations. All towers shall not exceed the minimum FAA standards for lighting. All tower lighting shall be shielded so as to prevent glare and visibility from the ground.
  - i. All wind energy facilities shall be equipped with a redundant braking system. This includes both aerodynamic overspeed controls and mechanical brakes. Mechanical brakes shall be operated in a failsafe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection.
9. **Insurance.** A certificate of insurance with a minimum of \$5,000,000 liability per incidence, per occurrence shall be required at the time of application for a special use permit. Each renewable period will require that a copy of a certificate of insurance be provided to the Arlington Township Clerk. An expired insurance certificate or unacceptable liability coverage amount is ground for revocation of the special use permit. This insurance shall be in effect during the construction, operation, and decommissioning of the project.

The owner/operator shall defend, indemnify, and hold harmless Arlington Township and its officials from and against any and all claims, demands, losses,

suits, causes of action, damages, injuries, costs, expenses, and liabilities, whatsoever including legal fees arising out of the acts or omissions of the operator concerning the operation of the large turbine WECS without limitation, whether said liability is premised on contract or tort.

10. **Setbacks.** All WECS towers shall observe a minimum setback of six hundred (600) feet or one hundred and fifty percent (150%) of the tower height including the blade in its most vertical position whichever is greater from any non-associated property line and/or road right-of-way. In addition all WECS towers shall observe a minimum setback of one thousand (1,000) feet from any associated occupied dwelling unit and fourteen hundred (1400) feet from non-associated dwelling unit.
11. **Waiver agreements:** Copies of all waiver agreements, relating to the standards contained in these regulations, executed between the owner/operator or applicant of the WECS and non-associated or associated parties shall be filed with the Arlington Township Clerk.
12. **Construction Activities.** Construction activities shall be organized and timed to minimize impacts on township residents and wildlife from noise, disruption (including disruption of wildlife habitat), and the presence of vehicles and people.
13. **Final construction drawings.** Upon completion of each and every phase of the WECS, the owner/operator shall provide a final as-built construction drawing to the Arlington Township clerk as well as to all relevant utility companies. Amendments to the drawings shall also be provided to the Township Clerk and to all relevant utility companies in a timely manner.
14. In addition the standards contained in the Section of this Zoning Ordinance, small and large WECS projects must comply with Article VIII of the Zoning Ordinance which governs the issuance of special use permits. The Township may impose other reasonable conditions on a WECS project to protect the health, safety, and welfare of Arlington Township residents. These conditions may include a reasonable expiration of the special use permit to monitor compliance with the specified conditions.  
  
If a WECS project is to be developed in phases, each phase is subject to a separate special use permit.
15. The Township Board shall have the authority to revoke any special use permit if (a) it was granted in part because of material misrepresentation by the applicant or an agent for the applicant; or (b) the holder of the permit violates any term of the permit, including any condition or any applicable requirement of the zoning ordinance. In either event, the Township clerk shall give written notice to the

holder of the permit describing the basis of the violations. Upon documented receipt of the notice, the holder shall have thirty (30) days to correct the violations. If the violations are not corrected within the specified time, the Township Board may revoke the permit after a public hearing. The holder of the permit shall reimburse the Township for its costs including expert consulting and attorney fees associated with or resulting from a revocation proceeding.

**SECTION 4.36 FENCES**

- A. Materials: Fences shall consist of materials commonly used in conventional fence construction such as wood, metal, or vinyl. Barbed wire, razor wire, or similar security materials which could easily cause injury to persons, or fences that carry an electric current shall not be permitted in any residential zoning district.
- B. Finished Appearance: If, because of design or construction, one side of a fence has a more finished appearance than the other side, the side of the fence with the more finished appearance shall face the exterior of the lot.
- C. Location: Fences shall be placed inside and adjacent to the lot line, except where underground utilities interfere with the fence at the property line, in which case the fence shall be placed on the utility easement line nearest the property line.
- D. Height: All fences shall not exceed eight (8) feet in height above grade except that fences located in required front yards shall not exceed forty-two (42) inches above grade.
- E. A four (4) foot (minimum height) fence shall surround all below ground swimming pools.
- F. A six (6) foot (minimum height) fence shall surround all playgrounds associated with a children's day facility.
- G. Parcels located in the Agricultural zoning district shall be exempt from all fence height and use restrictions, except for paragraphs E. and F.

**ARTICLE V**

**SITE PLAN AND SKETCH PLAN REVIEW AND APPROVAL PROCEDURES**

**SECTION 5.01 PURPOSE**

The purpose of site plan and sketch plan review is to provide for consultation and cooperation between the land developer and the Township in order to accomplish the developer's objectives in harmony with the existing and prospective use and development of adjacent properties. It shall be the further purpose of this section to insure that each proposed development and its components, appearance, and function is in compliance with this Ordinance, other Township ordinances, and State and Federal laws. These purposes apply to development of previously unimproved sites; to the redevelopment, expansion, contraction or alteration of existing sites; and to the alteration or replacement of existing uses.

The site plan and sketch plan review procedures and standards in this section are intended to provide a consistent and uniform method of review for proposed development plans. Through the application of the following provisions, the attainment of the Arlington Township Master Plan will be assured, and the Township will develop in an orderly fashion.

**SECTION 5.02 WHEN A SITE PLAN IS REQUIRED OR IS NOT REQUIRED.**

A. **Site Plan Not Required.** Submission of a site plan is not required in the following circumstances:

1. Single family residential detached houses and accessory buildings
2. Duplexes and accessory buildings
3. Agricultural accessory buildings when located in agriculturally zoned districts

B. **Site Plan Required.** Unless the project qualifies for sketch plan review, submission of a site plan shall be required for any of the following:

1. Any development or use for which submission of a site plan is required by provisions of this Ordinance;
2. any proposal to construct, move, relocate, convert or structurally alter a building, including accessory buildings. A structural alteration shall be defined as one that changes the location of the exterior walls and/or the area of the building. This requirement shall in no way permit the expansion of a nonconforming structure so as to become more nonconforming or increase the area already in violation of the provisions of this Zoning Ordinance;
3. Any proposal to change, replace with a different use, add or recommence a use on an existing site, including expansions in area, volume or intensity of an



existing use unless otherwise permitted by this ordinance;

4. All condominium developments (including “site condominium” developments),
5. Any proposal to build, expand or decrease an off-street parking lot; or to resurface an off-street parking lot when construction includes resurfacing, drainage alterations, or addition or replacement of base or sub-grade,
6. Any other change in use or development that could affect compliance with the standards set forth in this Ordinance,
7. Wireless communication facilities.
8. Wind generating towers

**C. Site Plan Review Not Required.** Uses with approved site plans or existing buildings which propose a change constituting ten percent (10%) or less of the building floor area or ten percent (10%) or less of the required parking spaces may be reviewed, approved and administrated by the Zoning Administrator. Such review and approval by the Zoning Administrator shall be duly reported to the Planning Commission and the Township Board at their next regularly scheduled meetings.

**D. Sketch Plan Review.** When, in the opinion of the Zoning Administrator, a proposed new development, expansion of an existing development or remodeling project requires a minimum amount of information to insure compliance with the relevant standards of this Article, an applicant may submit a proposed sketch plan for review by the Zoning Administrator. All information on the sketch plan must be **accurate**, including but not limited to:

1. name and address of applicant;
2. legal description of the property;
3. description of the project;
4. size and area of the site;
5. current zoning designation;
6. scale of not less than one inch = 50’;
7. drainage showing that all storm water will be managed on site
8. number and dimensions of off-street parking;
9. location and dimension of any proposed structure(s);
10. all setbacks for any proposed structure(s);
11. a landscaping plan
12. location of underground wiring and utilities

The Zoning Administrator may approve the sketch plan, deny the sketch plan, or approve the sketch plan with conditions or may seek the opinion of the Planning Commission, the Township Engineer, and/or the Township Planner before making a decision. The Zoning Administrator shall take action on the sketch plan within thirty (30) days of its receipt. The Zoning

Administrator shall maintain an accurate record of all proceedings, including the reasons for any action taken. The Zoning Administrator shall report on all sketch plan applications and decisions at the Planning Commission meeting and the Township Board meeting following any action taken.

### **SECTION 5.03 APPLICATION PROCESS FOR SITE PLAN REVIEW**

Application for site plan review shall be made to the Township by filing of not less than ten (10) copies of an application form and detailed site plan with the office of the Township Zoning Administrator at least thirty (30) calendar days in advance of the regularly scheduled Planning Commission meeting at which the plan is to be first considered. Fees are required to be paid in accordance with the fee schedule in effect as established by the Township at the time the application is made.

The Township Zoning Administrator shall examine the site plan to determine that it contains all the necessary information. If it is incomplete, it shall be returned to the applicant. If it is complete and appears to comply with the requirements of the Zoning Ordinance, it shall be processed in accordance with this Ordinance.

A. **Application Form.** Each submittal for site plan review shall be accompanied by a completed application form furnished by the Township and shall include the following information:

1. The applicant's name, address, and phone number,
2. The address and parcel number of the property,
3. A signed statement that the applicant is the owner of the property or has a legal financial interest in the property (i.e. purchase agreement),
4. The name and address of the owner(s) of record if the applicant is not the owner of record (or firm or corporation having a legal or equitable interest in the land), and the signature of the owner(s),
5. Project description, including the total project title, number of structures, units, bedrooms, offices, square feet, total and usable floor area, parking spaces, carports or garages, employees by shift, amount of recreation and open space, and other pertinent information,
6. The gross and net acreage of all lots or parcels in the project,
7. Existing zoning classification, land uses, and structures on the subject parcel,
8. Name and address of developer (if different from the applicant), engineer, architect and/or land surveyor,

9. Project completion schedule/development phases, and
10. If in the opinion of the Township such information is necessary, written statements relative to project impacts on existing infrastructure (including traffic capacity of streets, schools, and existing utilities) and on the natural environment of the site and adjoining lands.

**B. Site Plan Information.** Each submittal for site plan review shall be accompanied by a detailed site plan which shall consist of an accurate drawing, showing the entire site and all land within 300 feet of the site. The scale of the site plan shall be not less than 1 inch = 50 feet if the subject property is less than 3 acres, and 1 inch = 100 feet if three acres or more. If multiple sheets are used, each shall be labeled and the preparer identified. If there is an accurate site plan for the lot on file with the Township, the Township Zoning Administrator may waive the requirement for a site plan. The following information on the sketch plan shall be included:

1. Name of development and general location sketch;
2. Name, address and phone number of owner(s), developer, engineer, architect and/or designer;
3. North arrow, scale, and date of original drawing and revisions;
4. The seal of one of the following professionals registered in the State of Michigan: Registered Architect, Registered Civil Engineer, Registered Landscape Architect, Registered Land Surveyor. The architectural plans of the buildings shall be prepared by and bear the seal of a Registered Architect. A site plan for an alteration or addition to an existing structure may be prepared by the builder or contractor;
5. A legal description and address of the property in question;
6. The area of the site in square feet and acres excluding all existing and proposed public rights-of-way;
7. The dimensions of all lots and subject properties, showing the relationship of the subject property to abutting properties, including lots across rights-of-way and easements. The boundaries of the subject property shall be clearly indicated on the site plan, differentiated from other contiguous property. If the parcel is a part of a larger parcel, boundaries of total land holding shall be indicated;
8. Existing topographic elevations at two foot intervals, including ground elevations of all existing buildings, drives and/or parking lots, and any adjacent unusual surface conditions;

9. The location and elevations of existing water courses and water bodies, including county drains and man-made surface drainage ways, floodplains, and wetlands;
10. Any significant site amenities and unique features;
11. Existing land uses and zoning classification of the subject parcels and adjacent parcels;
12. All required minimum setbacks from the existing or proposed right-of-way and from adjacent lots;
13. The location and dimensions (length, width, height) of all existing and proposed structures on the subject property and all existing structures within three hundred (300) feet of the subject property;
14. The location and width of all existing public roads, rights-of-way or private easements of record, abutting streets, alleys, and driveway locations to abutting streets;
15. The location and dimensions of any required pedestrian sidewalks;
16. With non-residential proposals, the number of offices, and the number of employees;
17. Proposed parking lots including layout and typical dimensions of parking spaces, number of spaces provided (including how computed per ordinance requirements) and type of surfacing;
18. Location of and dimensions of proposed streets, drives, curb cuts, and access easements, as well as acceleration, deceleration and passing lanes (if any) serving the development;
19. Proposed traffic and pedestrian circulation patterns, both within the site and on the public streets adjacent to the site as well as proposed loading and unloading areas, barrier free access, any fire lanes, and carports;
20. Proposed finish grade of buildings, driveways, walkways, and parking lots;
21. Proposed type of building materials, roof design, and projections;
22. Proposed water service;
23. Proposed sanitary sewer facilities and the location of all existing utilities, easements and the general placement of lines, manholes, tap-ins, pump stations, and lift stations;

24. Proposed storm water management plan including design of sewers, outlets (enclosed or open ditches), and retention or detention ponds. Sufficient data regarding site run-off estimates and off-site drainage patterns shall be provided to permit review of feasibility and permanency of drainage detention and/or retention as well as the impact on local surface and groundwater. The point of discharge for all drains and pipes should be specified on the site plan. All storm water drainage must be managed on site;
25. Location of all other utilities on the site including but not limited to natural gas, electric, cable TV, telephone, and steam;
26. Soil erosion and sedimentation control measures;
27. Detailed landscaping plan indicating location, types and sizes of material;
28. The dimensions and location of all signs, both wall signs and free-standing signs and of lighting structures and shielding;
29. Location, size and specifications for screening of all trash receptacles and other solid waste disposal facilities;
30. Easements for proposed public rights-of-way, utilities, access, shared access, and drainage;
31. Notation of any variances which have been or must be secured;
32. Delineation of areas on the site which are known or suspected to be contaminated, together with a report on the status of the cleanup;
33. For developments that are of a scale to warrant phased development, the phasing of construction shall be indicated.
34. Approval from the local fire department, saying that the site plan provides sufficient access to buildings and structures by emergency vehicles.

#### **SECTION 5.04 CRITERIA FOR GRANTING SITE PLAN APPROVAL**

Each site plan shall conform to all applicable provisions of this Ordinance. The following criteria shall be used by the Township Board as a basis upon which site plans will be reviewed and approved, after receiving a recommendation from the Township Planning Commission. The Township Planning Commission and the Township Board shall adhere to sound planning principles, yet may allow for design flexibility in the administration of the following standards:

- A. All elements of the site shall be harmoniously and efficiently designed in relation to the topography, size, and type of land, and the character of the adjacent properties and

the proposed use. The site shall be developed so as not to impede the reasonable and orderly development or improvement of surrounding properties for uses permitted on such property.

- B. The site plan shall comply with the zoning district requirements for minimum floor space, height of building, lot size, open space, density and all other requirements as set forth in this Ordinance.
- C. The existing natural landscape shall be preserved in its natural state as much as possible, by minimizing tree and soil removal and by topographic modifications that result in maximum harmony with adjacent properties.
- D. The site plan shall provide reasonable visual and sound privacy. Fences, walls, barriers, and landscaping shall be used, as appropriate, for the protection and enhancement of property and the safety and privacy of occupants and users. Where landscaping is provided, there must be provision for maintaining all plantings through a regular program of fertilizing, irrigating, pruning, mowing and replacing all dead and diseased materials.
- E. Special attention shall be given to proper site drainage. Appropriate measures shall be taken to insure that the removal of surface waters will not adversely affect adjacent properties. All buildings or groups of buildings shall be so arranged as to permit convenient and direct emergency vehicle access.
- F. There shall be a pedestrian circulation system that is insulated as completely as possible from the vehicular circulation system. In order to insure public safety, pedestrian underpasses or overpasses may be required in the vicinity of schools, playgrounds, local shopping facilities, and other uses that generate considerable amounts of pedestrian movement.
- G. All streets shall be developed in accordance with the Van Buren County Road Commission design specifications.
- H. All off-street parking, loading and unloading areas and outside storage areas, including areas for storage of trash, that face or are visible from adjacent residential districts or public thoroughfares, shall be screened by walls, fencing or landscaping of effective height as required within the landscape provisions of this Ordinance. Building entrances designed for vehicular access shall not access any building through the front yard of a development.
- I. Adequate services and utilities including sanitary sewers, and improvements shall be available or provided, located and constructed with sufficient capacity and durability to properly serve the development.
- J. Any use permitted in any zoning district must comply with all applicable requirements of state, local, and federal statutes including health and pollution laws and regulations

with respect to noise, smoke and particulate matter, vibration, noxious and odorous matter, glare and heat, fire and explosive hazards, gases, electromagnetic radiation and drifting and airborne matter, toxic and hazardous materials, erosion control, floodplains, wetlands, and requirements of the State Fire Marshal. Site plan approval may be conditioned on the applicant receiving necessary state and federal permits before final site plan approval or an occupancy permit is granted.

**SECTION 5.05 REVIEW AND APPROVAL.** Site plans shall be reviewed in accordance with the following procedures:

- A. **Department Review.** The Township may secure comments from the Building Inspector, Van Buren County Road Commission, Sheriff's Department, Fire Chief and the Township's Consultant Engineer and/or Planner, and forward all comments to the Planning Commission for its review. The Planning Commission shall review the plans and may solicit further comments from an Engineer, Planning Consultant and other agencies, groups or persons, as appropriate. The Planning Commission shall transmit its recommendation to the Township Board within ninety (90) days of receipt of the site plan.
- B. **Site Plan Approval.** The Township Board is hereby authorized to review and approve, with or without conditions or to review and deny approval, all site plans submitted under this Ordinance. Approval of the site plan is based on standards contained in this Ordinance and other statutorily authorized and properly adopted planning documents of Arlington Township. When the Township Board approves a site plan with conditions from the applicant, the Township Zoning Administrator shall require a revised site plan with a revision date, indicating said conditions on the site plan.
- C. **Record of Action.** Each action taken with reference to site plan review and approval shall be duly recorded in the minutes of the Arlington Township Board. A final copy of the approved site plan shall be so marked and placed on file with the Township Clerk's office.
- D. **Final Site Plan.** When a site plan approval is required, no building permit shall be issued until three copies of a final site plan, which includes all conditions of approval, a revision date and notation of all variances has been signed by the chairman of the Planning Commission, the Township Zoning Administrator, the Township Supervisor or their designees. Prior to issuance of a permit, one copy of the final signed plan shall be filed with each of the following: Township Clerk, Building Inspector or Zoning Administrator and the Applicant.

**SECTION 5.06 ISSUANCE OF BUILDING PERMIT AFTER SITE PLAN APPROVAL.**

Complete construction plans including component phases, shall be submitted for review by the Building Inspector and, as applicable, the Township Engineer. Upon review and finding that the construction plans meet with the requirements of site plan approval and other applicable

ordinances of the Township, the Building Inspector shall issue a building permit for said construction.

Site plan approval shall be valid for one year from the date of approval. If an applicant does not obtain a building permit within one year after site plan approval, the site plan approval expires and is of no force or effect, unless extended by a vote of the Township Board. Revocation of an approved site plan shall be communicated in writing by certified mail to the property owner and/or applicant.

#### **SECTION 5.07 MODIFICATION OF AN APPROVED SITE PLAN**

Once site plan approval has been granted by the Township Board, changes to the approved site plan shall require a re-submission and payment of the required application fee, unless otherwise provided in this Article.

#### **SECTION 5.08 CONFORMITY TO APPROVED SITE PLAN REQUIRED**

Following approval of a site plan by the Township Board, the applicant shall construct the site plan improvements in complete conformity with the approved plan.

Upon completion of the installation of required improvements as shown on the approved site plan, the property owner/applicant shall submit to the Township Zoning Administrator two copies of an "as built" site plan, certified by an engineer or architect, at least one week prior to the anticipated occupancy of any building. A Certificate of Occupancy shall be withheld by the Building Official in any case where the site plan and major conditions as approved by the Township Board have not been complied with. Any minor variations, as defined in this Article, may be approved by the Building Official, and shall be reported within 30 days to the Township Board after the issuance of Certificate of Occupancy.



## **ARTICLE VI**

### **ADMINISTRATION AND ENFORCEMENT**

#### **SECTION 6.01 ZONING ADMINISTRATOR: DESIGNATION; ENFORCEMENT**

- A. An administrative office who shall be known as the Zoning Administrator shall be designated by the Township Board to administer and enforce this ordinance. He/she may be provided with the assistance of such other persons as the Township Board may direct.
- B. If the Zoning Administrator shall find that any of the provisions of this ordinance are being violated, he/she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary for correction. He/she shall order discontinuance of illegal uses of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions, alteration, or structural changes; discontinuance of any illegal work being done; and shall take any other action authorized by this ordinance or general law to ensure compliance with or to prevent violation of the provisions of this ordinance.

#### **SECTION 6.02 DUTIES AND LIMITATIONS OF THE ZONING ADMINISTRATOR**

- A. The Zoning Administrator shall have the authority to grant Zoning Compliance Permits, and to make inspections of buildings or premises necessary to carry out his or her duties in the enforcement of this ordinance. It shall be unlawful for the Zoning Administrator to approve any plans or issue a Zoning Compliance Permit for any excavation or construction or use until he/she has inspected such plans in detail and has found them in compliance with this ordinance. To this end, the Zoning Administrator shall require that an application for Zoning Compliance Permit for excavation, construction, moving, alteration, or change in the type of use or type of occupancy, shall be accompanied by a site plan.
- B. If the proposed excavation, construction moving or alteration, or use of land as set forth in the application, and site plan when required, is in conformity with the provisions of this ordinance, the Zoning Administrator shall issue a Zoning Compliance Permit. If an application for such permit is not approved, the Zoning Administrator shall state in writing on an appropriate denial form the cause for such disapproval.
- C. The Zoning Administrator may accept a preliminary application and a less number or submitted documents than those listed above in situation where a basic clarification is desired ahead of proceeding with further technical work; and the Zoning Administrator may on such preliminary submittal take the formal action of tentative denial or tentative approval.
- D. Issuance of a Zoning Compliance Permit shall in no case be construed as waiving any

provisions of this ordinance, The Zoning Administrator is under no circumstances permitted to grant exceptions to the actual meaning of any clause, order, or regulation contained in this ordinance to any person making application to excavate, construct, move alter, or use buildings, structures, or land. The Zoning Administrator is under no circumstances permitted to make changes to this ordinance or to vary the terms of this ordinance in carrying out his duties.

- E. The Zoning Administrator shall not refuse to issue a Zoning Compliance permit when the applicant has complied with all applicable conditions required by this ordinance. Violations of contracts such as covenants or private agreements which may result upon the granting of said permit are not cause for refusal to issue a permit.

### **SECTION 6.03 ZONING COMPLIANCE PERMIT**

- A. It shall be unlawful to commence the excavation for or the construction of any building or other structure, including an accessory building, or to commence the moving, alteration, or repair of any structure, including accessory building, costing more than \$1,000 or exceeding 120 square feet in floor area, until the Zoning Administrator has issued for such work a Zoning Compliance Permit including a certification of his/her opinion that plans, specifications, and intended use of such structure do in all respects conform to the provisions of this ordinance.
- B. It shall be unlawful to change the type of use of land, or to change the type of use or type of occupancy of any building, or to extend any use on any lot on which there is a nonconforming use, until the Zoning Administrator has issued for such intended use a Zoning Compliance Permit.
- C. In all cases where a building permit is required, an application for a Zoning Compliance Permit shall be made coincident with the application for a building permit and in all other cases shall be made not less than 10 days prior to the time when a new or enlarged use of a building or premises or part thereof is intended to begin. This application shall be made in writing to the Zoning Administrator on a form provided for that purpose. A record of all such applications shall be kept on file by the Zoning Administrator.
- D. Any Zoning Compliance Permit issued under the provisions of this ordinance shall be valid only for a period of 30 days for residential development and 180 days for commercial and industrial development.
- E. When the Zoning Administrator receives an application for a Zoning Compliance Permit which requires a Special Use Permit, Variance, or other approval, he/she shall so inform the applicant.
- F. Before any Zoning Compliance Permit shall be issued, an inspection fee shall be paid in an amount fixed by a schedule established by resolution of the Township Board.

- G. No building or structure or use for which a Zoning Compliance Permit has been issued shall be used or occupied until after a final inspection has been performed which indicates that all the provisions of this ordinance are being complied with and a certificate of occupancy has been issued by the Zoning Administrator or Building Inspector. The issuance of a certificate of occupancy shall in no case be construed as waiving any provisions of this ordinance.

#### **SECTION 6.04 REVOCATION OF PERMITS**

Should the Township Board believe any permit issued under this ordinance is invalid or should not have been issued, such Board may hold a public hearing for the purpose of considering a revocation of such permit.

The following procedure should be used:

1. Notice of hearing – A seven day notice of time and place for a hearing said notice to be posted in at least three public places in the township and mailed to all affected persons by ordinary first class mail.
2. Purpose – The notice shall contain a reasonably definite statement of the charges of reasons for hearing.
3. Holding of the hearing:
  - a. The Chairman of the body or his or her designate shall be the chairman of the hearing.
  - b. All parties shall have the right to cross-examine witnesses.
  - c. All parties shall have the right to produce his or her own witnesses.
  - d. All parties shall have the right to a full and fair consideration of the evidence by the administrative body.
4. Decision – a decisions shall be rendered in writing at least seven days after the hearing – such decisions shall be mailed by ordinary first-class mail to all parties involved.

#### **SECTION 6.05 FIRE DAMAGE**

Arlington Township has, pursuant to M.C.L.A. 500.2845(11), notified the State Insurance Commission that it has a trust or escrow account in which an insurance company must deposit fifteen percent (15%) of fire insurance proceeds with township to ensure the insured repairs, removes or replaces any damaged structure.

## **ARTICLE VII**

### **ZONING BOARD OF APPEALS**

#### **SECTION 7.01 CREATION**

It is hereby created, under P.A. 110 of 2006 Michigan Zoning Enabling Act, the Arlington Township Zoning Board of Appeals, referred in this Ordinance as the “Zoning Board of Appeals.” The Zoning Board of Appeals shall be constituted and appointed as provided by Michigan Township Zoning Act and shall be comprised of a minimum of three (3) members. One member shall be a member of the Planning Commission. The Township Board may appoint not more than two (2) alternate members for the same term as regular members. A regular or alternate member may be a member of the Township Board. An alternate member may be called to serve as a member of the ZBA in the absence of a regular member if the regular member will be unable to attend one (1) or more meetings or if a regular member is refused because of a conflict of interest.

#### **SECTION 7.02 INTENT**

The purpose of this Article is to provide guidelines and standards to be followed by the Zoning Board of Appeals (ZBA) to act on matters where this Ordinance or state law gives jurisdiction to the ZBA.

#### **SECTION 7.03 ADOPTION OF RULES AND PROCEDURES**

The Zoning Board of Appeals shall establish fixed rules and regulations governing its procedures, meetings, operations, and actions. Said rules shall be made available to the public and shall be in conformance with the provisions of this Ordinance and the Michigan Zoning Enabling Act.

#### **SECTION 7.04 JURISDICTION OF THE ZONING BOARD OF APPEALS**

##### **A. General Authority**

The ZBA shall have the authority to act on those matters where this Ordinance provides for administrative review/appeal, interpretation, or appeal of a special use permit decision, and shall have the authority to authorize a variance as defined in this Ordinance and laws of the State of Michigan. Such authority shall be subject to the rules and standards in this Section. The ZBA shall not have the authority to alter or change zoning district classifications of any property, nor to make any change in the text of this Ordinance.

##### **B. Administrative Review**

The ZBA shall have authority to hear and decide appeals where it is alleged that there is an error in an order, requirement, permit, decision, or refusal made by an official, board

or commission in carrying out or enforcing any provisions of this Ordinance.

**C. Interpretation**

The ZBA shall have authority to hear and decide appeals or requests for interpretation of the Zoning Ordinance, including the zoning map. The ZBA shall make such decisions so that the spirit and intent of this Ordinance shall be observed. Text interpretations shall be limited to the issues presented, and shall be based upon a reading of the Ordinance as a whole, and shall not have the effect of amending the Ordinance. Map and boundary interpretations shall be made based upon rules in the Ordinance, and any relevant historical information. In carrying out its authority to interpret the Ordinance, the ZBA shall consider reasonable and/or practical interpretations which have been consistently applied in the administration of the Ordinance. Prior to deciding a request for an interpretation, the ZBA may confer with staff and/or consultant to determine the basic purpose of the provision subject to interpretation and any consequences which may result from differing decisions. A decision providing an interpretation may be accompanied by a recommendation for consideration of an amendment of the Ordinance. Such authority shall include interpretation of whether a use is permitted in a given zone, or determination of off-street parking and loading requirements for any use not specifically listed.

**D. Variances**

The ZBA shall have authority in specific cases to authorize one or more variances from the strict letter and terms of this Ordinance by varying or modifying any of its rules or provisions so that the spirit of this Ordinance is observed, public safety secured, and substantial justice done. A dimensional or non-use variance allows a deviation from the dimensional (i.e., height, bulk, setback) requirements of the Ordinance. A use variance authorizes the establishment of a use of land that is otherwise prohibited in a zoning district. The ZBA is not authorized to grant use variances by this Ordinance. Such authority shall be exercised in accordance with the following standards:

1. The ZBA may grant a requested “non-use” variance only upon a finding that practical difficulties exist. A finding of practical difficulties shall require demonstration by the applicant of all of the following:
  - a. Strict compliance with restrictions governing area, setback, frontage, height, bulk, density or other non-use matters, will unreasonably prevent the owner from using the property for a permitted purpose or will render conformity with the Ordinance conformity unnecessarily burdensome.
  - b. The variance will do substantial justice to the applicant, as well as to other property owners.
  - c. A lesser variance than requested will not give substantial relief to the applicant and/or be consistent with justice to other property owners.

- d. The need for the variance is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same zoning district.
- e. The problem and resulting need for the variance has not been self-created by the applicant and/or the applicant's predecessors.

2. In all variance proceedings, it shall be the responsibility of the applicant to provide information, plans, testimony and/or evidence from which the ZBA may make the required findings. Administrative officials and other person may, but shall not be required to, provide information, testimony and/or evidence on a variance request.

**E. Conditions**

The ZBA may impose reasonable conditions in connection with an affirmative decision on an appeal, interpretation or variance request. The conditions may include requirements necessary to achieve any of the following:

- 1. To insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity.
- 2. To protect the natural environment and conserve natural resources and energy
- 3. To insure compatibility with adjacent uses of land
- 4. To promote the use of land in a socially and economically desirable manner.

Conditions imposed shall meet the following requirements:

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

Conditions imposed with respect to the approval of a variance shall be recorded as part of

the ZBA minutes, and shall remain unchanged except upon the mutual consent of the ZBA and the landowner following notice and hearing as required in a new case. The breach of any such conditions shall automatically invalidate the permit granted.

## **SECTION 7.05 APPLICATION AND NOTICES**

### **A. Application**

All applications to the ZBA shall be filed with the Township Zoning Administrator, on forms provided by the Township, and shall be accompanied by the applicable fee established by resolution of the Township Board. Applications shall include a completed application form, fee, all plans, studies and other information and data to be relied upon by the applicant.

### **B. Site Plan**

A site plan shall be required with all variance requests. The plan shall be to scale and include all property lines and dimensions; setbacks; bearings of angles correlated with the legal description and a north arrow; all existing and proposed structures and uses on the property and abutting lots and parcels, dimensions of the structures and their dimensioned locations; lot area calculations necessary to show compliance with the regulations of this Ordinance. Where an application provides a variance sought in conjunction with a regular site plan review, a site plan prepared according to Article V shall satisfy the requirements of this section.

The ZBA shall have the authority to require a land survey prepared by a registered land surveyor or registered engineer when the ZBA determines it to be necessary to insure accuracy of the plan.

The ZBA shall have no obligation to consider and/or grant a request for relief unless and until a conforming and complete application has been filed; including relevant plans, studies and other information.

### **C. Application Involving an Appeal of Administrative Order**

In a case involving an appeal from an action of an administrative official or entity, the Township Clerk shall transmit to the ZBA copies of all papers constituting the record upon which the action was taken, together with a letter specifying an explanation of the action taken.

### **D. Consent of Property Owner Required**

Application to the ZBA shall be made with the full knowledge and written consent of all owners of the property in question, acknowledged by the owner(s) on the application. This requirement shall include the consent of a land contract seller to the relief sought by a land contract purchaser.

**E. Notice**

The Township shall publish a notice in a newspaper of general circulation in Arlington Township not less than fifteen (15) days before the public hearing. The notice shall also be sent by mail or personal delivery to the owners of property for which the notice is being considered. Notice shall be sent to all persons to whom real property is assessed within 300 feet of the property and to occupants of all structures within 300 feet regardless of whether the property or occupant is located in Arlington Township.

The notice shall be given not less than 15 days before the date the application for a variance will be considered. The notice shall contain:

1. A description and nature of the request.
2. An indication of the property that is the subject of the request.
3. A statement of when and where the request will be considered.
4. An indication of when and where written comments regarding the request will be received.

If the request does not involve a specific parcel, only publication and notification of the person making the request are required.

**F. Stay of Proceedings**

An appeal shall have the effect of staying all proceedings in furtherance of the action being appealed unless the officer or entity from whom the appeal is taken certifies to the ZBA that, by reason of facts stated in such certification, a stay would in his or her opinion cause imminent peril to life or property. If such certification is made, proceedings shall not be stayed unless specifically determined by the ZBA, or by a court of competent jurisdiction.

**G. Decision by the Zoning Board of Appeals**

The concurring vote of a majority of the membership of the ZBA shall be necessary to reverse any order, requirement, decision, or determination of an administrative official, board or commission made in the enforcement of this ordinance, to decide in favor of an applicant on any matter upon which the ZBA is required to pass under this ordinance, or to grant a variance from the terms of this ordinance. A ZBA member may not vote on the same matter they have voted on as a Planning Commission member. However, they may vote on an unrelated matter for the same property. A decision shall be made upon each case within sixty (60) days after a request or appeal has been filed with the Board unless additional time is agreed upon with the parties concerned.



**SECTION 7.06 DISPOSITION AND DURATION OF APPROVAL**

**A. ZBA Powers**

The ZBA may reverse, affirm, vary or modify any order, requirement, decision, or determination presented in a case within the ZBA's jurisdiction, and to that end, shall have all of the powers of the officer, board or commission from whom the appeal is taken, subject to the ZBA's scope of review, as specified in this Ordinance and/or by law. The ZBA may remand a case for further proceedings and decisions, with or without instructions

**B. Decision Final**

A decision by the ZBA shall not become final until the expiration of twenty-one (21) days from the date of entry of such order and service of the same upon the parties concerned unless the ZBA shall find the immediate effect of such order is necessary for the preservation of property or personal rights or public safety and shall so certify on the record. To the extent that decisions are requested or required to be in writing, the minutes of the ZBA meeting, and decision, as proposed under supervision of the secretary, shall constitute the written decision.

**C. Period of Validity**

Any decision of the ZBA favorable to the applicant shall remain valid only as long as the information and data relating to such decision are found to be correct, and the conditions upon which the decision was based are maintained. The relief granted by the ZBA shall be valid for a period not longer than one year, unless otherwise specified by the ZBA, and within such period of effectiveness, actual, on-site improvement of property in accordance with the approved plan and the relief granted, under a valid building permit, must be commenced or the grant of relief shall be deemed void.

**D. Record of Proceedings**

The secretary of the ZBA, shall prepare and keep minutes of the ZBA proceedings, showing the findings, decisions, conditions, if any, and votes of each member in each case, including a member's absence or failure to vote. The minutes shall be the responsibility of the secretary of the ZBA, and shall be subject to approval of the ZBA. To the extent that a written decision in a case is requested or required, the minutes, prepared under the supervision of the ZBA secretary, along with the plan submitted, shall serve as the written decision, even if the minutes are awaiting final ZBA approval. The official records of the ZBA proceedings shall be filed with the Township Clerk and shall be public records.

**E. Appeal of a ZBA Decision**

Appeals of a ZBA decision may be taken to Van Buren County Circuit Court at the discretion of the applicant. An appeal shall be filed within thirty (30) days after the ZBA issues its decision in writing, signed by the chairman or members of the ZBA or within twenty-one (21) days after the approval of the minutes.

**F. New Application for Variance**

If the ZBA denies a request for a variance, the decision of the ZBA shall not be subject to reconsideration for a period of 365 days, whereupon the applicant may submit a new application for the variance. However, the ZBA may waive the one year period if conditions upon which their original decision was made change, or if information relating to their original decision are found to be incorrect or inaccurate.

**G. Site Plan Requirements**

If an application or appeal to the Zoning Board of Appeals involves a development project which requires a recommendation of site plan approval by the Planning Commission, the applicant or appellant shall first apply for site plan approval as set forth in Article V. The Planning Commission shall review the site plan and shall determine the layout and other features required before granting a recommendation of approval of the site plan. The Planning Commission shall then transmit a copy of the site plan and the Planning Commission's findings thereon to the Zoning Board of Appeals. The Zoning Board of Appeals does not provide additional review to the site plan; it is submitted for information purposes as the Zoning Board of Appeals considers the requested variance for the development project.

## **ARTICLE VIII**

### **AMENDMENTS TO THE ZONING ORDINANCE AND MAP**

#### **SECTION 8.01 STATEMENT OF INTENT**

For the purpose of establishing and maintaining sound, stable and desirable development within the territorial limits of the Township, this Ordinance shall not be amended except to correct an error in the Ordinance or, because of changed or changing conditions in a particular area or in the Township generally, to rezone an area, to extend the boundary of an existing District or to change the regulations and restrictions thereof. Such amendment to this Ordinance may be initiated by any person, firm, or corporation by filing an application with the Zoning Administrator; by motion of the Township Board; or by the Planning Commission requesting the Zoning Administrator to initiate an amendment procedure. The procedures for amending this Ordinance shall be in accordance with P.A. 110 of 2006 the Michigan Zoning Enabling Act as amended.

#### **SECTION 8.02 AMENDMENT PROCEDURE**

A. **Application.** Applications for amendments to this Ordinance shall be filed with the Zoning Administrator on an appropriate form provided by the Township and accompanied by the required fee. All applications for amendments to this Ordinance, without limiting the right to file additional material, shall contain the following:

1. The applicant's name, address and interest in the application as well as the name, address and interest of every person, firm or corporation having a legal or equitable interest in the land.
2. The nature and effect of the proposed amendment.
3. If the proposed amendment would require a change in the Zoning Map, a complete legal description of the entire land area affected, the present zoning classification of the land, the names and addresses of the owners of all land within the area requested to be rezoned. Also, a fully dimensioned drawing shall be submitted showing the land which would be affected, the zoning classification of all abutting districts, all public and private rights-of-way and easements bounding and intersecting the land under consideration, and the location of all existing and proposed buildings.
4. If the proposed amendment will correct an alleged error, a detailed explanation of such alleged error and detailed reasons the proposed amendment will correct the same.
5. The changed or changing conditions in the area or in Arlington Township that make the proposed amendment reasonably necessary to the promotion of the public health, safety, and general welfare.

6. All other circumstances, factors and reasons which applicant offers in support of the proposed amendment.

**B. Receipt of Application.** The Zoning Administrator, upon receipt of an application to amend the Ordinance, shall review the application for completeness and refer same to the Planning Commission for study and report. The Planning Commission shall cause a complete study of the proposed amendment and hold a public hearing in accordance to Subsection (c) below.

**C. Public Hearing.** Notice of the public hearing for an amendment to this Ordinance shall be given by publishing said notice in a newspaper of general circulation in the Township stating the time and place of such hearing and the substance of the proposed amendment. These notices shall appear in said newspaper not less than 15 days prior to the date set for the public hearing. Such notice shall also be mailed to each public utility company and railroad company owning or operating any public utility or railroad within the zoning districts affected by the proposed amendment that registers its name and mailing address with the Township for the purpose of receiving such notice. The Township Clerk shall maintain an affidavit of such mailing.

In addition to the above, if an individual property or several adjacent properties are proposed for rezoning, the Township shall give a written notice of the public hearing to the owner(s) of the property in question, to all persons to whom any real property within three hundred (300) feet of the premises in question is assessed, and to the occupants of all dwellings within three hundred (300) feet regardless of whether the occupants are within Arlington Township. The notice shall state the time, place, date, and purpose of the hearing. The notice shall be delivered personally or by mail to the respective owners and tenants at the address given in the last assessment roll. If the tenant's name is not known, the term "occupant" may be used. If the notice is delivered by mail, an affidavit of mailing shall be filed with the Planning Commission before the hearing. The notice shall be mailed or delivered not less than fifteen (15) days before the hearing.

**D. Planning Commission Recommendation.** Following the public hearing, the Planning Commission shall prepare a report and its recommendations regarding the proposed amendment, and transfer such to the Township Board.

**E. Township Board Action.** After the Planning Commission has held a Public Hearing and has made a written report to the Township Board indicating their recommendation on the proposed amendment, the Township Board may adopt the proposed amendment, decline to adopt the proposed amendment, or may adopt it in whole, part, or with or without additional changes. The Board may also hold a public hearing on the proposed amendment or refer the proposed amendment back to the Planning Commission for further study and review or for additional public hearings.

**SECTION 8.03 PROTESTS.**

Upon the filing of a notice of intent to request a referendum, the effective date of an amendment shall be either thirty (30) days after publication, if a petition is not filed or the petition lacks adequate signatures, or after approval by the electors if an adequate petition is filed.

Within 30 days following the adoption of an amendment to the Zoning Ordinance, a petition signed by a number of qualified and registered voters residing in the unincorporated portion of Arlington Township equal to not less than 15 percent of the total vote cast for all candidates for governor at the last preceding general election at which a governor was elected may be filed with the Office of Township Clerk requesting therein for the submission of the amendment to the electors residing in the unincorporated portion of Arlington Township for their approval.

**SECTION 8.04 CONFORMANCE TO COURT DECREE**

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

**SECTION 8.05 CONDITIONAL ZONING**

When submitting an application for a rezoning, an applicant may voluntarily propose conditions regarding the request for the use and development of the land as part of the rezoning request.

A. Application Contents

1. An applicant for a rezoning change may voluntarily offer in writing conditions relating to the use and/or development of the subject property. This offer may be made either at the time the application is filed or may be made at a later time during the rezoning process.
2. The application process shall be the same at that of considering requests made without conditions.
3. The applicant's offer of conditions may not request land uses or developments not permitted in the new zoning district.
4. Any use or development proposed as part of an offer of conditions that would require a special use permit under the terms of this Ordinance may only begin if a special use permit has been granted by the Township.
5. If the use or development requires a variance by the Zoning Board of Appeals, the use or development cannot begin until the variance has been granted.
6. If the proposed use or development requires site plan approval, the use or development cannot begin until the site plan has been approved.

7. The offer of conditions may be amended during the process of rezoning provided that any amended or additional conditions are voluntarily made by the applicant. An applicant may withdraw all or part of the conditions at any time during the rezoning process.
8. The Planning Commission may recommend approval, approval with conditions, or denial of the rezoning application. However any recommended changes must be approved by the applicant.
9. After receipt of the Planning Commission's recommendation, the Township Board may approve or deny the rezoning application. If the Township Board considers amendments to the proposed conditional rezoning application to have merit, and they are acceptable to the applicant, the Township Board shall refer such amendments to the Planning Commission for comment and proceed with the rezoning application to deny or approve the conditional rezoning request with or without amendments.
10. If the Township Board finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written Statement of Conditions acceptable to the applicant. The Statement of Conditions shall:
  - a.) Be in a form recordable with the Van Buren County Register of Deeds or in a form acceptable to the Township.
  - b.) Contain a legal description of the subject land.
  - c.) Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding on successor owners of the land.
  - d.) Incorporate the attached or reference any drawings approved by the applicant and the Township.
  - e.) Incorporate a statement acknowledging that the Statement of Conditions may be recorded by the Township with the Van Buren County Register of Deeds.
  - f.) Contain notarized signatures of all owners of the subject land preceded by a statement attesting to the fact that they voluntarily offered and consented to the provisions of the Statement of Conditions.
11. When the rezoning takes effect, the Township Clerk shall amend the zoning map to reflect that the subject land contains special conditions.
12. The use of the land shall conform to all of the requirements regulating its use and development.

13. If an approved use and/or development does not occur within the time frame specified in the Statement of Conditions, the land shall revert back to its former zoning classification. The rezoning back to its former classification shall be initiated by the Township Board.

**ARTICLE X**

**ZONING DEFINITIONS**

**SECTION 10.01 INTERPRETATION OF LANGUAGE**

For the purpose of this Ordinance, the following rules of interpretation shall apply to the text of this Ordinance:

- A. The particular shall control the general.
- B. In the case of any difference of meaning or implication between the text of this Ordinance and any caption or illustration, the text shall control.
- C. The word "shall" is always mandatory and not discretionary. The word "may" is permissive and discretionary.
- D. Words used in the present tense shall include the future. Words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- E. A "building" or "structure" includes any part thereof.
- F. The phrase "used for" includes "arranged for", "designed for" "intended for", "maintained for", or "occupied for".
- G. The word "person" includes an individual, a corporation, a partnership, a public utility, firm, an incorporated association, or any other similar entity.
- H. Unless the context clearly indicates the contrary, or a regulation involves two (2) or more items, conditions, provisions, or events connected by the conjunction "and", "or", "either . . . or", the conjunction shall be interpreted as follows:
  - 1. "And" indicates that all the connected items, conditions, provisions, or events shall apply.
  - 2. "Or" indicates that the connected items, conditions, or provisions, or events may apply singly or in any combination.
  - 3. "Either . . . or" indicates that the connected items, conditions, or provisions, or events may apply singly or in any combination.
- I. Terms not herein defined shall have the meaning customarily assigned to them.



**SECTION 10.02 DEFINITIONS**

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

**ABANDONMENT:** the act of ceasing the regular use or maintenance of a lot, building, or structure for a period of time as specified in this Ordinance.

**ACCESSORY USE, BUILDING OR STRUCTURE:** A use, building, or structure which is clearly incidental to, customarily found in connection with, subordinate to, and is located on the same zoning lot as the principal use to which it is exclusive.

**ADJACENT:** See LOT, ADJACENT.

**ADULT DAY CARE FACILITY:** A facility which provides daytime care for any part of a day but less than twenty-four (24) hour care for functionally impaired elderly persons provided through a structured program of social and rehabilitative or maintenance services in a supportive group setting other than the client's home. Such facilities are not licensed; however those receiving funds through an Area Agency on Aging must comply with adult day care standards promulgated by the Michigan Office of Services to the Aging.

**ADULT USE:** Any commercial or recreational establishment which at all times excludes minors by virtue of age, including adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, adult drive-in theaters, adult massage parlors, adult modeling studios, and eating and drinking places with sexually-oriented entertainment.

**AGRICULTURAL USE:** A use of any land, building, or structure used for a purpose of producing grain, fruit, nursery stock, dairy products, vegetables, livestock or fowl or other crops and animal husbandry.

**ALLEY:** an easement intended as a passage providing continuous access to the rear of properties and not intended for general traffic.

**ALTERATIONS:** Any change, addition or modification in construction or type of occupancy; any change in the structural members of a building, such as wall, partitions, stairways, columns, beams, girders; any change in the width or number of exits; any substantial changes in the roof or exterior walls; any change in the location of a building; any change in the number of off-street parking or loading area or means of egress and ingress to the site; or any change which may be referred to herein as "altered" or "reconstructed" or "change of use".

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

**ANIMAL, WILD OR EXOTIC:** Any animal not domesticated by humans or any animal which a person is prohibited from possessing by law. Wild or exotic animals shall include, but shall not be limited to the following: alligator and crocodile (family), deer (family), opossum (family);

badger, wild dog or wolf (family); primate excluding human (family); bear, raccoon, ferret, skunk, wild cat (family); lemur, spider (poisonous); coyote; lizard; snake and other reptile (poisonous); weasel (family); wild boar or swine (family); and marten; large animals typically kept in zoological gardens, not including barn yard animals or petting zoos; animals that pose rabies risk.

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

**APARTMENT:** See DWELLING, MULTIPLE FAMILY.

**APPEAL:** An entreaty or demand for a hearing or review of facts and/or actions in connection with the public enforcement of this Ordinance.

**ARCHITECTURAL FEATURES:** Architectural features of a building including cornices, eaves, gutters, sills, lintels, bay windows, chimneys and decorative ornaments.

**AREA, GROSS SITE:** The total area of a planned unit development site including flood plains and water bodies.

**AUTOMOBILE:** Unless specifically indicated otherwise, "automobile" shall mean any vehicle including cars, trucks, vans, motorcycles, and the like.

**AUTOMOBILE FILLING STATION:** A place used for the retail sale and dispensing of fuel or lubricants, either full or self service, together with the fixed equipment from which the fuel is dispensed directly into motor vehicles. Automobile filling stations may also incorporate a convenience store operation as an accessory use, provided it is clearly incidental to the filling station use. Parking requirements for filling station/convenience store operations shall be computed by adding together the parking space requirements for each separate use.

**AUTOMOBILE REPAIR:** Major or minor repair of automobiles defined as follows:

- A. **Minor Repair:** Engine tune-ups and servicing of brakes, air conditioning, exhaust systems; oil change or lubrication; wheel alignment or balancing; or similar servicing or repairs that do not normally require any significant disassembly or storing the automobiles on the premises overnight.
- B. **Major Repair:** Engine and transmission rebuilding and general repairs, rebuilding or reconditioning; collision service such as body, frame or fender straightening or repair; steam cleaning, undercoating and rustproofing; and similar servicing, rebuilding or repairs that normally do require significant disassembly or storing the automobiles on the premises overnight.

**AUTOMOBILE REPAIR GARAGE:** A premise primarily used for general automobile repair

wholly within enclosed buildings, including engine or transmission building; rebuilding or reconditioning of motor vehicles; collision service such as body, frame, or fender straightening and repair, overall vehicle painting or rustproofing; and other related activities.

**AUTOMOBILE SERVICE STATION:** A building or structure designed or used for the retail sale of fuel (stored only in underground tanks), lubricants, air, water coolants and other operating commodities for motor vehicles or which may include retail sale of tires, batteries, and similar accessories and the making of minor repairs to vehicles or parts thereof totally enclosed within a building and that do not normally require storing such vehicles on the premises overnight. Automotive Service Station shall not including bumping, painting, refinishing, major repairs and overhauling, steam cleaning, rustproofing, high-volume of motor vehicle washing or sales of new or used cars, trucks, motorcycles or other land vehicles.

**AUTOMOBILE WASH ESTABLISHMENT:** An activity or building, or portion thereof, the primary purpose of which is that of washing motor vehicles, either with self-service mechanisms or with the use of an automated conveyor system.

**BANK:** An establishment for the custody, loan, exchange, or issue of money, for the extension of credit, and for facilitating the transmission of funds by drafts or bills of exchange.

**BASEMENT:** That portion of a building wholly or partly below grade, but so constructed that the vertical distance from the average grade to the basement floor is greater than the vertical distance from the average grade to the basement ceiling. A basement shall not be included as a story for height measurement.

**BED-N-BREAKFAST INN:** A dwelling in which overnight accommodations (not to exceed fourteen (14) continuous days) are provided or offered for transient guests for compensation by the owners and residents therein; said facilities may include meal service.

**BEDROOM:** Any private room in a dwelling unit suitable for regular use for sleeping purposes. Bedrooms include rooms designated on development floor plans as dens, studies, or libraries but exclude living rooms, family rooms, dining rooms, kitchens, bathrooms, laundry rooms, and mud rooms. Any room designated as other than a bedroom but which in the judgment of the Township Planning Commission would normally be usable for sleeping purposes shall be considered a bedroom.

**BERM:** A mound of earth used to shield, screen, and buffer undesirable views and separate incompatible land uses.

**BIKEWAY:** Pedestrian or non-motorized vehicular circulation routes built according to the standards of the Township or other agency with right-of-way jurisdiction, as applicable.

**BILLBOARD (OFF PREMISE SIGN):** Any non-accessory advertising sign, device, design, words, letters, number or trademark which makes anything known to the general public and may be the principal use of the lot or parcel on which it is located.

**BLOCK:** The property bounded by a street or by a combination of streets and public lands, rights-of-way, rivers or streams, boundary lines of the Township, or any other barrier to the continuity of development.

**BOARDING HOUSE:** a dwelling in which lodgers rent one or more rooms for more than one night and where meals are provided.

**BOAT:** Boats, floats, rafts, and the attached normal equipment to transport the same on highways.

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

**BUILDABLE AREA:** The area of a lot which is defined by the minimum setback requirements within which building construction is permitted by the terms of this Ordinance.

**BUILDING:** Any structure, either temporary or permanent, having a roof or other covering and used or built for the shelter or enclosure of persons, animals, or property or materials of any kind. A building shall include tents, awnings, and carports; and also semi-trailers, vehicles, mobile homes, or pre-manufactured or pre-cut structures, erected on-site, above or below ground, designed primarily for shelter rather than as a means of conveyance. A building shall not include such structures as signs, fences or smokestacks, but shall include structures such as storage tanks, grain elevators, coal bunkers, oil cracking towers, or similar structures.

**BUILDING, ACCESSORY:** See ACCESSORY USE, BUILDING, OR STRUCTURE.

**BUILDING, COMPLETELY ENCLOSED:** A building separated on all sides from the adjacent open space or from other buildings or structures by a permanent roof and exterior walls having only window and normal entrance or exit doors.

**BUILDING, DETACHED:** A principal building surrounded by open space.

**BUILDING HEIGHT:** The vertical distance measured from the mean average ground level at the front building line to the highest point of the roof surface in the case of a flat roof; to the deck line of mansard roofs; to the mean height level between the eaves and ridge of gable, studio hip and gambrel roofs; and 75 percent of the height of an "A" frame. Chimneys, spires, antenna, and similar projections other than signs shall not be included in calculating building height.

**BUILDING LINE:** A line parallel to the front lot line that separates all parts of a building from the open spaces adjacent thereto on the same lot. For the purposes of this Ordinance, a minimum building line is the same as a required setback line.

**BUILDING PERMIT:** The written authority issued by the building inspector permitting the construction, removal, moving, alteration, demolition, or use of a building in conformity with the provision of this Ordinance

**BUILDING, PRINCIPAL:** A building or group of buildings in which is conducted the main or principal use of the lot on which the building is situated. (See "BUILDING, ACCESSORY" and "USE, PRINCIPAL".)

**BUILDING, TEMPORARY:** A building which is not permanently affixed to the property, and is permitted to exist for a specific reason for a specific period of time. An example of a temporary building is a trailer used on construction site.

**BUMPER BLOCKS:** Concrete or cement cast units located at one end of each parking space, designed to protect buildings, walls, fences, sidewalks or landscaping from damage by vehicles.

**CAMPGROUND:** a tract or parcel of land where three (3) or more campsites are used, rented, or leased or reserved for use, rent, or lease to accommodate camping parties.

**CAMPER, PICK-UP:** A recreational unit designed to be mounted on a pick-up or truck chassis, with sufficient equipment to render it suitable for use as a temporary lodging for travel, recreational, and vacation uses.

**CARETAKER LIVING QUARTERS:** An independent residential dwelling unit designed for and occupied by one or two persons, of which at least one is employed to look after goods, buildings, or property on the parcel on which the living quarters are located.

**CERTIFICATE OF OCCUPANCY:** A certificate issued by the building inspector, after final inspections, indicating his or her opinion that all the provisions of this Ordinance are being complied with and met. No building or structure or use for which a building permit has been issued shall be occupied until the building inspector has, after final inspection, issued a Certificate of Occupancy (CO). The issuance of a Certificate of Occupancy shall in no case be construed as waiving any provisions of this Ordinance

**CEMETERY:** Land used for the burial of the dead including columbariums, crematories, and mausoleums.

**CHURCH OR SYNAGOGUES:** Any structure wherein persons regularly assemble for religious activity including customary ancillary or accessory uses and activities.

**CLINIC, VETERINARY:** A place for the care, diagnosis, and treatment of sick or injured animals, and those in need of medical or minor surgical attention. A veterinary clinic may include customary pens or cages enclosed within the walls of the clinic building.

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

**CLUB, HEALTH:** Any establishment providing physical culture or health services, including

health clubs, racquetball or tennis clubs, reducing salons, or tanning salons.

**CLUB OR LODGE, PRIVATE:** A non-profit association of persons who are bonafide members paying dues which owns or leases premises, the use of which is restricted to members and their guests. The facilities owned or used by such organization may be referred to as a "club" or "lodge" in this Ordinance.

**CLUSTER HOUSING:** A group of buildings and especially dwellings built close together to form relatively compact units on a sizeable tract in order to preserve open spaces and environmentally sensitive areas larger than the individual yards for common recreation.

**COMMERCIAL CENTER, PLANNED:** A business development under single ownership consisting of two (2) or more retail or service outlets characterized by common architecture, a pedestrian and vehicle circulation system, and off-street parking.

**COMMERCIAL, VEHICLE:** A truck or motor vehicle with cab and chassis and with a stake rack body, dump body, wrecker body, tanker body or any other body, the mounted height of which exceeds the height of the cab roof more than eight (8) inches. Any truck or motor vehicle which has a commercial license plate and is designed to accommodate a body length in excess of 9 feet. Commercial vehicles shall not include motor homes or recreational vehicles, but shall include construction equipment such as backhoes, power shovels, bulldozers, earth moving equipment, semi trucks, tractors and trailers.

**CONDOMINIUM:** A system of separate ownership of individual units and/or multiple unit projects according to Public Act 59 of 1978, as amended. In addition to the interest acquired in a particular unit, each unit owner is also a tenant in common in the underlying fee and in the spaces and building parts used in common by all the unit owners.

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

**Condominium, Contractible:** A condominium project from which any portion of the submitted land or building may be withdrawn in pursuant to express provisions in the condominium documents.

**Condominium, Conversion:** A condominium project containing condominium units some or all of which were occupied before the establishment of the condominium project.

**Condominium - Convertible Area:** A unit or portion of the common elements of the condominium project referred in the condominium documents within which additional condominium units or general or limited common elements may be created pursuant to provisions in the condominium documents and in accordance with this Ordinance and the Condominium Act.

**Condominium, Expandable:** A condominium project to which additional land may be added pursuant to express provision in the condominium documents and in accordance with this Ordinance and the Condominium Act.

**Condominium - General Common Element:** The common elements other than the limited common elements intended for the common use of all of the co-owners.

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

**Condominium - Site Condominium Project:** A condominium project designed to function in a similar manner, or as an alternative to a platted subdivision. A residential site condominium project shall be considered as equivalent to a platted subdivision for purposes of regulation in this Ordinance.

**Condominium Subdivision Plan:** Drawings and information which show the size, location, area, and boundaries of each condominium unit, building locations, the nature, location, and approximate size of common elements, and other information required by Section 66 of Public Act 59 of 1978, as amended.

**Condominium Unit, Site (i.e., Site Condominium Lot):** The area designating the perimeter within which the condominium unit must be built. After construction of the condominium unit, the balance of the condominium 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 the provisions of this Ordinance pertaining to minimum lot size, minimum lot width, minimum lot coverage, and maximum floor area ratio.

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

**CONVALESCENT HOME:** See NURSING HOME.

**CURB CUT:** The entrance to or exit from a property provided for vehicular traffic to or from a public or private thoroughfare.

**DAY CARE:**

**Day Care Center:** A facility other than a private residence receiving more than six (6) pre-school, school age children, or elderly adults for group day care for periods of less than twenty-four (24) hours a day.

**Day Care Home:** A private home in which not more than six (6) minor children are received for care and supervision for periods less than twenty-four (24) hours a day, unattended by a parent or guardian.

**DECK:** An open, horizontal platform attached to the principal residential structure and that is used for outdoor leisure or recreational activities. The platform shall not be enclosed by a roof or

walls or other screened or framed enclosure.

**DENSITY:** The number of dwelling units situated on or to be developed per net or gross acre of land.

**DETENTION FACILITY:** A facility designed for holding storm water runoff for a short period of time and then releasing it to the natural watercourse where it returns to the hydrologic cycle. A Retention Facility is a facility designed to hold storm water run-off permanently.

**DEVELOPMENT:** The construction of a new building or other structures on a zoning lot, the relocation of an existing building on another zoning lot, or the use of open land for a new use.

**DEVELOPMENT PLAN:** A scaled drawing which shows the existing conditions, the location and dimensions of improvements upon a parcel of land, including but not limited to, location and size of buildings, driveways, parking areas, landscaping, sidewalks, signs, sewage systems, and drainage facilities, environmental features, and other elements required herein as applicable to the proposed development to ensure compliance with this Ordinance.

**DISTRIBUTION CENTER:** A use which typically involves both warehouse and office/administration functions, where short and/or long term storage takes place in connection with the distribution operations of a wholesale or retail supply business. See also WAREHOUSE.

**DISTRICT:** A portion of Arlington Township within which, on a uniform basis, certain uses of land and/or building are permitted and within which certain regulations and requirements apply under the provisions of this Ordinance.

**DRAINAGE WAYS AND STREAMS:** Existing permanent or intermittent watercourses.

**DRIVE-IN ESTABLISHMENT:** A business establishment so developed that its principal retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicles. Examples include but are not limited to, restaurants, cleaners, banks, and theaters.

**DRIVE-THROUGH ESTABLISHMENT:** A business establishment so developed that its principal retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles to service patrons from a window or booth while in their motor vehicles, rather than within a building or structure, so that consumption off-premises may be facilitated.

**DRIVEWAY:** That portion of the vehicle accommodation area that consists of a travel lane bounded on either side by an area that is not part of the vehicle accommodation area.

**DUMPSTER:** A container used for the temporary storage of rubbish, pending collection, having a capacity of at least two (2) cubic yards.



**DWELLING:** A building or portion thereof, containing sleeping, kitchen, and bathroom facilities designed for and occupied by one family, excluding hotels, motels, and tourists homes. In no case shall a travel trailer, motor home, automobile, tent or other portable building defined as a recreational vehicle be considered a dwelling. In the case of mixed occupancy where a building is occupied in part as a dwelling unit, the part so occupied shall be deemed a dwelling unit for the purposes of this Ordinance.

**DWELLING, MANUFACTURED:** A building or portion of a building designed for long-term residential use and characterized by all of the following:

- A. The structure is produced in a factory in accordance with the National Manufactured Housing Construction and Safety Standards Act, as amended; and
- B. The structure is designed to be transported to the site in a nearly complete form, where it is placed on a foundation and connected to utilities; and
- C. The structure is designed to be used as either an independent building or as a module to be combined with other elements to form a complete building on a site.

**DWELLING, MOBILE HOME:** A structure, transportable in one (1) or more sections, which is built upon a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. Recreational vehicles as described and regulated herein shall not be considered "mobile homes" for the purposes of this Ordinance. A mobile home is a type of manufactured housing.

**DWELLING, MULTIPLE-FAMILY:** A building designed for and occupied by three (3) or more families living independently with separate housekeeping, cooking, and bathroom facilities for each. Multiple-family dwellings units include the following:

- A. **Apartment:** An apartment is an attached dwelling unit with party walls, contained in a building with other apartment units which are commonly reached off of a common stair landing or walkway. Apartments are typically rented by the occupants. Apartment buildings often have a central heating system and other central utility connections and common yard space.
- B. **Efficiency Unit:** An efficiency unit is a type of multiple-family or apartment unit consisting of one (1) principal room, plus bathroom and kitchen facilities, hallways, closets, and/or a dining alcove located directly off the principal room.

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

- A. It complies with the minimum square footage requirements of this Ordinance for the zone in which it is located.

- B. It has a minimum width across front, side and rear elevations of 14 feet and complies in all respects with the Building Code, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards or regulations for construction are different than those imposed by the Building Code, then and in that event, such federal or state standard or regulation shall apply; further provided that the provisions of this section shall not have the effect of making one family dwellings, which exist as of the effective date of this Ordinance, non-conforming.
- C. It is firmly attached to a permanent foundation constructed on the site in accordance with the Building Code and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable building code for one- family dwellings. In the event that the dwelling is a mobile home, as defined herein, such dwelling shall be installed pursuant to the manufacturer's setup instructions and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Manufactured Housing Commission and shall have a perimeter wall as required.
- D. In the event that a dwelling is a mobile home as defined herein, each mobile home shall be installed with the wheels and towing mechanism removed. Additionally, no dwelling shall have any exposed undercarriage or chassis.
- E. The dwelling contains a storage capability area in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure of standard construction equal to or of better quality than the principal dwelling, which storage area shall be equal to 10 percent of the square footage of the dwelling or 100 square feet, whichever shall be less.
- F. The dwelling is aesthetically compatible in design and appearance with other residences in the vicinity, with either a roof over-hang of not less than six inches on all sides, or alternatively with window sills or roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling; has not less than two exterior doors with the second one being in either the rear or side of the dwelling; and contains steps connected to said exterior door areas or to porches connected to said door areas where a difference in elevation requires the same.

The compatibility of design and appearance shall be determined in the first instance by the Building Official upon review of the plans submitted for a particular dwelling subject to appeal by an aggrieved party to the Zoning Board of Appeals within a period of thirty (30) days from the receipt of notice of said Building Official's decision. Any determination of compatibility shall be based upon the standards set forth in this definition of single family "dwelling" as well as the character, design and appearance of one or more residential dwellings to the extent of less than twenty (20) percent of the lots situated within said area; or, where said area is not so

developed, by the character, design and appearance of one or more residential dwellings located outside of mobile home parks throughout the Township.

- G. The dwelling contains no additions or rooms or other areas which are not constructed with a quality of workmanship equal to the original structure, including permanent attachments to the principal structure and construction of foundations as required herein.
- H. The dwelling complies with all pertinent building and fire codes. In the case of a mobile home, all construction and all plumbing, electrical apparatus and insulation within and connected to said mobile home 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, being 24 CFR 3280, amended. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.
- I. The foregoing standard shall not apply to a mobile home located in a licensed mobile home park except to the extent required by state or federal law or otherwise specifically required in the Ordinance of the Township pertaining to such parks.
- J. All construction required herein shall be commenced only after a building permit has been obtained in accordance with the applicable building code provisions and requirements.

**DWELLING, TWO-FAMILY OR DUPLEX:** A detached building, designed exclusively to be occupied by two (2) families living independently of each other, with separate housekeeping, cooking, and bathroom facilities for each.

**DWELLING UNIT:** One or more rooms, along with bathroom and kitchen facilities, designed as a self-contained unit for occupancy by one family for living, cooking, and sleeping purposes.

**DWELLING UNIT, SINGLE-FAMILY ATTACHED OR TOWNHOUSE:** A townhouse is an attached single-family dwelling unit with party walls, designed as part of a series of three (3) or more dwellings, with its own front door which opens to the outdoors at ground level, and typically with its own basement utility connections, and front and rear yards. Townhouses are also commonly known as row houses.

**EASEMENT:** Any private or dedicated public way that provides a means of access to property. The term "easement" may also refer to utility easements which give public or private utility companies the right to use land for the construction and maintenance of utilities.

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

**ESSENTIAL SERVICES:** The term "essential services" shall mean the erection, construction,

alteration or maintenance by public or quasi-public utilities or municipal departments or Township-certified cable television companies of underground, surface or overhead gas, steam, electrical, fuel or water systems for the purposes of transmission, distribution, collection, communication, supply, or disposal; including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar equipment, which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general health, safety, and welfare of the public. Essential services shall not include storage yards, sales or business offices, or commercial buildings or activities. Telecommunication towers or facilities, alternative tower structures, and wireless communication facilities antenna are specifically excluded from this definition.

**EXCAVATION:** The removal of sand, stone, gravel, or fill dirt below the average grade of the surrounding land and/or road grade, whichever shall be the highest, excluding common household gardening and ground care.

**FAMILY:**

- A. An individual or group of two (2) or more persons related by blood, marriage or adoption, together with foster children or servants of the principal occupants, with not more than one additional unrelated persons, who are domiciled together as a single, domestic, housekeeping unit in a dwelling unit; or
- B. A collective number of individuals living together in one dwelling unit, whose relationship is of a continuing, non-transient, domestic character, and who are cooking and living as a single, nonprofit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, coterie, 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 or other similar determinable period.

**FARM:** All of the contiguous neighboring or associated land operated as a single unit for agricultural production by the owner-operator, manager, or tenant farmer, by his own labor or with the assistance of members of his household or hired employees; also including establishments operated as bonafide greenhouses, nurseries, orchards, chicken hatcheries, poultry farms, and apiaries. For the purposes of this Ordinance, farms shall not include establishments for keeping or raising fur-bearing animals, riding or boarding stables, dog kennels, game fish hatcheries, stockyards, or gravel or sand pits, unless such establishments are combined with other bona fide farm operations listed above which are located on the same continuous tract of land.

No farms shall be operated for the disposal of garbage, sewage, rubbish, offal or rendering plants, or for the slaughtering of animals except such animals as have been raised on the premises or have been maintained on the premises for at least a normal cycle or one (1) year.

A farm permitted by this Ordinance is not intended nor implied to permit trucking equipment and/or sales, contractor yards or any other activities other than those incidental to the bonafide farm.

**FENCE:** An accessory structure of definite height and location intended to serve as a physical barrier to property ingress or egress, a screen from objectionable vista or noise, a marker, an enclosure in carrying out the requirements of this Ordinance, or for decorative use.

**FILL, FILLING:** The deposit or dumping of any matter onto or into the ground, except for common household gardening, farming, and general ground care.

**FLOODPLAIN:** the area adjoining the channel of a natural stream or river which has been or may be covered by floodwater.

**FLOOR AREA:** The area of a building defined as follows.

- A. **Floor Area, Gross:** The total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage.
- B. **Floor Area, Net:** See FLOOR AREA, USABLE RESIDENTIAL and FLOOR AREA, USABLE NONRESIDENTIAL.
- C. **Floor Area, Usable Residential:** The gross floor area minus areas in unfinished basements or attics, attached garages, and enclosed or unenclosed porches.
- D. **Floor Area, Usable Nonresidential:** The sum of the horizontal areas of each floor, measured from the interior faces of the exterior walls, including all areas used for, intended to be used for, and accessible for the sale of merchandise, provision of services, or service to patrons, clients or customers. Floor area which issued for or intended to be used for the storage or processing of merchandise, or for utilities shall be excluded from the computations of Usable Nonresidential Floor Area.

**FOSTER CARE HOME:** See STATE LICENSED RESIDENTIAL FACILITY.

**FOSTER CHILD:** A child unrelated to a family by blood or adoption with whom he or she lives for the purposes of care and/or education.

**GARAGE, PRIVATE:** An accessory building used or designed to be used primarily for the storage of motor vehicles, boats, or trailers owned and used by the occupants of the building to which it is accessory. A private garage may be either attached to or detached from the principal structure. Private garages shall not have public repair facilities.

**GARBAGE:** All wastes, animal, fish, fowl, or vegetable matter incidental to the preparation, use, and storage of food for human consumption, or spoiled food.

**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, landscaping materials, and equipment.

**GAS STATION:** See AUTOMOBILE FILLING STATION and AUTOMOBILE SERVICE STATION.

**GLARE:** The effect produced by brightness or a source of illumination sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

**GOLF COURSE OR COUNTRY CLUB:** The premises upon which the game of golf is played, including clubhouses, parking lots, swimming pools, tennis courts, or other facilities or uses customarily incidental to a golf course or country club.

**GOLF DRIVING RANGE:** An area or parcel of land which includes golf tee areas and associated facilities, the purpose of which is to practice golf shots.

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

**GRADE, AVERAGE:** 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.

**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.

**HAZARDOUS SUBSTANCES:** Any chemical or other material which, by virtue of its inherent properties and not solely by the manner in which it is used, has the potential to be injurious to the public health, safety, and welfare even in small quantities with the exception of farming operations. Uses and facilities which use, store or generate hazardous substances in quantities greater than one hundred (100) kilograms per month, or twenty-five (25) gallons per month, whichever is less, shall be subject to site plan requirements.

**HOME OCCUPATION:** Any occupation conducted within a dwelling unit or accessory building and carried on by the inhabitants thereof. Home occupations may provide for one (1) full-time non-resident employee. Home occupations shall be clearly incidental and secondary to the use of the dwelling for living purposes, shall not change the character thereof, and shall not endanger the health, safety, and welfare of any other persons residing in that area by reason of noise, noxious odors, unsanitary or unsightly conditions, fire hazards and the like, involved in or resulting from such occupation, professions or hobby.

**HOSPITAL:** An institution which is licensed by the Michigan Department of Health to provide in-patient and out-patient medical and major surgical services for the sick and injured, and which may include such related facilities as laboratories, medical testing services, central service facilities, and staff offices.

**HOTEL:** A building occupied as a more or less temporary abiding place for individuals who are lodged with or without meals in rooms consisting of a minimum of one (1) bedroom and a bath, occupied for hire, in which access to at least fifty percent (50%) of the lodging units is through a common entrance, and in which provision is not made for cooking in the individual units. Hotels

customarily provide services such as desk service, maid service, laundering of linens, etc.

**HOUSING, ELDERLY:** An institution other than a hospital or hotel, which provides room and board to non-transient persons primarily sixty (60) years of age and older. Housing for the elderly may include:

- A. **Senior Apartments:** Multiple-family dwelling units occupied by persons fifty-five (55) years of age or older.
- B. **Elderly Housing Complex:** A building or group of buildings containing dwellings where the occupancy is restricted to persons sixty (60) years or older or couples where either the husband or wife is sixty (60) years of age or older.
- C. **Congregate or Interim Care Housing:** A semi-independent housing facility containing congregate kitchen, dining, and living areas, but with separate sleeping rooms. Such facilities typically provide special support services, such as transportation and limited medical care.
- D. **Dependent Housing Facilities:** Facilities such as convalescent homes and nursing homes which are designed for older persons who need a wide range of health and support services, including personal nursing care.

**INDUSTRIAL MANUFACTURING:** the use of machines, tools, and labor to transform raw materials or previously made components into finished goods for sale.

**INGRESS AND EGRESS:** As used in this Ordinance, "ingress and egress" generally is used in reference to a driveway which allows vehicles to enter or leave a parcel of property, or to a sidewalk or entranceway which allows pedestrians to enter or leave a parcel of property, a building, or another location.

**JUNK:** Any motor vehicles, machinery, appliances, products or merchandise with parts missing, or other scrap materials that are damaged, deteriorated, or are in a condition which prevents their use for the purpose for which the product was manufactured.

**JUNKYARD:** An area where waste and used or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled, or handled including, but not limited to: junk, scrap iron, metals, paper, rags, tires, bottles and automobiles.

**KENNEL:** Any lot or premises on which more than five (5) dogs are six (6) months or older are kept, either permanently or temporarily, either for sale, breeding, boarding, training, or grooming; and may offer provisions for minor medical treatment including animal shelters.

**LABORATORY:** A place devoted to experimental, routine or basic study such as testing and analytical operations and in which manufacturing of product or products, except prototypes, is not performed.

**LAKE:** a natural body of inland water larger than a pond.

**LAND DIVISION:** The partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors, or assigns for the purpose of sale, or lease of more than 1 year, or of building development that results in one (1) or more parcels of less than 40 acres or the equivalent, and that satisfies the requirements of section 108 and 109 of the Land Division Act, P.A. 288 of 1967 as amended.

**LANDFILL:** Any disposal area, tract of land, building, unit or appurtenance or combination thereof that is used to collect, store, handle, dispose of, bury, cover over, or otherwise accept or retain refuse as herein defined.

**LIVESTOCK:** Horses, cattle, sheep, goats, hogs, and other domestic animals normally kept or raised on a farm.

**LOADING SPACE, OFF-STREET:** An off-street space of definite size and dimensions in accordance with the requirements of this Ordinance, which is safely and conveniently located on the same lot as the building or buildings being served, for the temporary parking of delivery vehicles while loading and unloading merchandise and materials.

**LOT (OR ZONING LOT OR PARCEL):** For the purposes of enforcing this ordinance, a lot is defined as a piece of land under one ownership and control that is at least sufficient in size to meet the minimum requirements for use, coverage, area, setbacks, and open space as required herein. A lot shall have frontage on a roadway dedicated to the public and certified for maintenance by a public agency, or, if permitted by the regulations set forth herein, on a private road. A lot may consist of:

- A. A single Lot of Record.
- B. A portion of a Lot of Record.
- C. A combination of complete Lots of Record, or portion thereof.
- D. A piece of land described by metes and bounds.

**LOT, ADJACENT:** Lots which adjoin each other or which are separated only by a public or private right-of-way or easement.

**LOT AREA, NET:** The total horizontal area within the lot lines of a lot, exclusive of any abutting public street right-of-way or private road easements, or the area of any lake or wetlands area.

**LOT AREA, GROSS:** The net lot area plus one-half (1/2) of the area of any public right-of-way area or private road easement immediately adjacent to or abutting the lot.

**LOT, CONTIGUOUS:** Lots adjoining each other.



**LOT, CORNER:** A lot of which at least two (2) adjacent sides abut their full length upon a street, provided that such two (2) sides intersect at an angle of not more than one hundred thirty-five (135) degrees. Where a lot is on a curve, if the tangents through the extreme point of the street lines of such lot make an interior angle of not more than one hundred thirty-five (135) degrees, it shall be considered a corner lot. In the case of a corner lot with a curved street line, the corner is that point on the street lot line nearest to the point of intersection of the tangents described above. (A tangent is a straight line extended from the outer edges of a curve which intersect to form a corner.)

**LOT COVERAGE:** The part or percent of the lot that is occupied by buildings or structures.

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

**LOT, DOUBLE FRONTAGE:** A lot other than a corner lot having frontage on two (2) more or less parallel streets. In the case of a row of double frontage lots, one (1) street shall be designated as the front street for all lots in the plat and in the request for a zoning compliance permit. If there are existing buildings in the same block fronting on one or both of the streets, the required minimum front yard setback shall be observed on those streets where buildings presently front.

**LOT, FLAG:** An interior lot whose lot line abuts the rear lot line of an adjacent lot fronting on a public or private road and which can be accessed by a driveway or private road abutting the side lot line of said adjacent lot.

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

**LOT, LAKE:** A lot having any frontage directly upon a lake, natural or man-made. The yard adjacent to the water shall be designated the front yard of the lot, and the opposite side shall be designated the rear yard of the lot.

**LOT LINES:** The lines bounding a lot as follows:

- A. **Front Lot Line:** In the case of an interior lot abutting on one (1) public or private street, the front lot line shall mean the line separating the lot from such street right-of-way or the center line of the road however the parcel is described. In the case of a corner or double frontage lot, the front lot line shall be that line separating said lot from the street which is designated as the front street in the plat and/or in the request for a building permit.
- B. **Rear Lot Line:** Ordinarily, that lot line which is opposite and most distant from the front lot line. In the case of irregular, triangular, wedge shaped, or lots that are pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten (10) feet in length, lying farthest from the front lot line and wholly within the lot.

- C. **Side Lot Line:** Any lot line other than the front or rear lot lines. 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.

**LOT OF RECORD:** A parcel of land, the dimensions and configuration of which are shown on a subdivision plat recorded in the offices of the Van Buren County Register of Deeds, or a lot or parcel described by metes and bounds, and accuracy of which is attested to by a land surveyor (registered and licensed in the State of Michigan) and likewise so recorded with the Van Buren County Register of Deeds.

**LOT WIDTH:** The straight line distance between the side lot lines, measured at the two points where the minimum front yard setback line intersects the side lot lines. The lot width distance shall be maintained along the side lot lines a minimum of thirty (30) feet beyond the rear building line of the principal structure.

**LOT SPLIT AND CONSOLIDATION:** The dividing or uniting of lots by virtue of changes in the deeds in the office of the Van Buren County Register of Deeds and/or the Township Supervisor. The division of lots shall take place in accordance with the Subdivision Control Act, Michigan Public Act 288 of 1967, as amended.

**MAIN ACCESS DRIVE:** Any private street designed to provide access from a public street or road to a mobile home park, apartment or condominium complex, or other private property development.

**MASSAGE THERAPIST (Certified):** An individual specifically trained and certified in massage therapy and the healing arts by the American Massage Therapy Association or similar organization.

**MASTER PLAN:** The master plan is a document which is prepared under the guidance of the Arlington Township Planning Commission and consists of graphic and written materials which indicate the general location for streets, parks, schools, public buildings and all physical development of the Township.

**MEZZANINE:** An intermediate level or levels between the floor and ceiling of any story with an aggregate floor area of not more than one-third (1/3) of the floor area of the story in which the level or levels are located. A mezzanine shall be deemed a full story if the vertical distance from the next floor below the mezzanine to the next floor above is twenty-four (24) feet or more.

**MOBILE HOME PARK (MANUFACTURED HOUSING DEVELOPMENT):** A parcel or tract of land under the control of a person upon which three (3) 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, together with any building, structure, enclosure, street, equipment, or facility used or intended for use as temporary park, subject to conditions set forth in the Mobile Home Commission Rules and Michigan Public Act 419 of 1976, as amended.

**MOBILE HOME LOT:** An area within a mobile home park which is designated for the

exclusive use of the occupants of a specific mobile home.

**MOTEL:** A series of attached, semi-detached, or detached rental units which may or may not be independently accessible from the outside parking area consisting of a minimum of a bedroom and bath, occupied for hire, in which a minimum of fifty percent (50%) plus one (1) of the units feature exterior entrances, and which provides customary motel services such as maid service, linen service, telephone and/or desk service, and the use of furniture. No kitchen or cooking facilities are to be provided with the exception of units for use of the manager and/or caretaker.

**MOTOR HOME:** A motorized vehicular unit primarily designed for travel and/or recreational usage, which may also contain facilities for overnight lodging. This term does not apply to mobile home.

**MUNICIPALITY:** The word "municipality" shall mean the Township of Arlington, Van Buren County, Michigan.

**NATURAL FEATURES:** Natural features shall include soils, wetlands, floodplains, water bodies and channels, topography, trees and other types of vegetative cover, and geologic formations.

**NONCONFORMING BUILDING:** A building or portion thereof that was lawfully in existence at the effective date of this Ordinance, or amendments thereto, and which does not now conform to the minimum building height, area, setback, lot coverage or other provision of this Ordinance pertaining to buildings in the zoning district in which it is located.

**NONCONFORMING LOT:** A lot which was lawfully in existence at the effective date of this Ordinance, or amendments thereto, and which does not now conform to the lot size, lot width, or other provisions of this Ordinance pertaining to lots in the zoning district in which it is located.

**NONCONFORMING USE:** A use which was lawfully in existence at the effective date of this Ordinance, or amendment thereto, and which does not now conform to the use regulations of this Ordinance for the zoning district in which it is now located.

**NUISANCE:** Any offensive, annoying, or disturbing practice or object, which prevents the free use of one's property, or which renders its ordinary use or physical occupation uncomfortable. Nuisance commonly involves continuous or recurrent acts which give offense to the senses, violate the laws of decency, obstruct reasonable and comfortable use of property, endanger life and health, or the generation of an excessive or concentrated movement of people or things such as : (a) noise, (b) dust, (c) smoke, (d) odor, (e) glare, (f) fumes, (g) flashes, (h) vibration, (i) shock waves, (j) heat, (k) electronic or atomic radiation, (l) objectionable effluent, (m) noise of congregation of people, particularly at night, (n) passenger traffic, or (o) invasion of non-abutting street frontage by traffic

**NURSERY, PLANT MATERIAL:** A space, building, and/or structure, or combination thereof, where live trees, shrubs, and other plants used for gardening and landscaping are propagated, stored, and/or offered for sale on the premises. Also see OPEN AIR BUSINESS and

**ROADSIDE STAND.**

**NURSING HOME, CONVALESCENT HOME, or REST HOME:** A home for the care of the aged, infirm, or those suffering from bodily disorders, wherein two or more persons are housed or lodged and furnished with nursing care. Such facilities are licensed in accordance with Michigan Public Acts 139 of 1956, as amended.

**OCCUPANCY, CHANGE OF:** The term "change of occupancy" shall mean a discontinuance of an existing use and the substitution of a use of a different kind or class, or, the expansion of a use.

**OCCUPANCY LOAD:** The number of individuals normally occupying a building or part thereof or for which the exit way facilities have been designed.

**OPEN AIR BUSINESS:** Any business that is conducted primarily out-of-doors. Unless otherwise specified herein, open air business shall include:

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

**OPEN FRONT STORE:** A business establishment so developed that service to the patron may be extended beyond the walls of the structure, not requiring the patron to enter said structure.

**OPEN SPACE:** Lands open from ground to sky and devoted to outdoor recreation space, greenery, and resource protection. Developed open spaces may include, but is not limited to, playground fixtures, shelter, and tennis courts.

**OPEN SPACE, COMMON:** 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 home owners or property owners association.

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

**OPEN STORAGE:** Any outdoor storage of building materials, sand, gravel, stone, lumber,

equipment, or other supplies.

**OUTLOT:** A parcel of land which must be designated on a recorded plat as an outlot before it may be legally considered as such.

**PARCEL:** See LOT.

**PARK, PRIVATE:** Land held in private ownership used for active recreation and/or open space. The land, at the discretion of the owner(s), may or may not be available for use by the general public.

**PARK, PUBLIC:** Publicly owned land used for active recreation and/or open space and available for use by the general public. Use of the land may be subject to specified conditions.

**PARKING LOT, OFF-STREET:** An area on private property which provides vehicular parking spaces along with adequate drives and aisles for maneuvering, so as to provide safe and convenient access for entrance and exit and for parking of more than three (3) vehicles.

**PARKING SPACE:** An area of definite length and width as designated in this Ordinance for parking an automobile or other vehicle, which is fully accessible for such purposes, and is exclusive of access drives and aisles thereto.

**PARTY WALL:** A wall starting from the foundation and extending continuously through all stories to or above the roof that separates one building from another and that is in joint use by each building.

**PERSON:** An individual, trustee, executor, fiduciary, corporation, firm, partnership, association, organization, or other legal entity acting as a unit.

**PERFORMANCE STANDARD:** A criterion to control noise, odor, smoke, toxic or noxious matter, vibration, fire and explosive hazards, glare, heat, or other effects.

**PET:** A domesticated dog, cat, bird, gerbil, hamster, guinea pig, turtle, fish, rabbit, or other similar animal that is kept for pleasure or companionship.

**PLANNED UNIT DEVELOPMENT:** A planned unit development may include such concepts as cluster development, planned development, community unit development, planned residential development, and other terminology denoting special zoning requirements and review procedures. These requirements and procedures are intended to provide design and regulatory flexibility, so as to accomplish the objectives of this Ordinance using innovative and effective planning approaches.

**PLAT:** A map of a subdivision of land.

**POND:** a body of water, either natural or manmade, less than ten (10) acres in area located on an agricultural or residential parcel of land.

**POULTRY:** Any of various breeds of birds long ago domesticated by man so as to live and breed in a tame, docile, tractable condition useful to man for meat and eggs, including chickens, ducks, geese, guinea fowl and turkeys not including game fowl.

**PORCH:** An exterior appendage to a building which has a separate roof or a roof integral with the building which forms a covered approach to a doorway or vestibule.

**Porch, Enclosed:** A porch separated from the outside by an all-weather partition or a partition which renders the area inside the partition habitable.

**Porch, Open:** A porch not separated from the outside by either an all-weather partition or a partition rendering the area inside the partition habitable.

**PRACTICAL DIFFICULTY:** factors to be considered by the Township Zoning Board of Appeals when considering the granting of a variance. Elements of practical difficulty include:

1. Setback, frontage, height, bulk and density requirements unreasonably prevent the use of the property for a permitted use;
2. Unique natural features of the property (topography, wetlands, proximity of trees) prevent the use of the property for a permitted use.
3. The details of the variance are not self-created.

**PROPERTY LINE:** The line separating a piece of property from the street right-of-way and the lines separating a parcel of property from the parcels next to it. See also LOT LINE.

**PUBLIC NOTICE:** A notice of the time, place, and purpose of a public hearing, which notice shall be posted in a manner and within a time frame as prescribed in this Ordinance or in applicable State law.

**PUBLIC UTILITY:** Any persons, firm, corporation, municipal department, or board, duly authorized to furnish to the public under government regulations any of the following: electricity, gas, steam, communications services, cable television services, transportation services, water, sewer service, or sewage treatment.

**RECREATION ESTABLISHMENT, INDOOR:** 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 gymnasiums and fitness centers, bowling alleys, indoor soccer facilities, racquetball and tennis clubs, ice and roller skating rinks, curling centers, and firearms ranges.

**RECREATION ESTABLISHMENT, OUTDOOR:** A privately owned facility designed and equipped for the conduct of sports, amusements, 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 clubs, archery ranges, golf courses, miniature

golf courses, golf driving ranges, firearm ranges, water slides, batting cages and machines, skateboarding parks, and children's amusement parks.

**RECREATIONAL LAND:** Any public or privately owned lot or land that is utilized for recreation activities such as, but not limited to, camping, swimming, picnicking, hiking, nature trails, boating, and fishing.

**RECREATIONAL VEHICLE:** A boat, snowmobile, off-road vehicle, camper travel trailer, motor home, pick-up camper, or trailer which is designed for private recreational or travel use and which is further defined as:

- A. **Travel Coach:** A portable vehicle on a chassis which is designed to be used as a temporary dwelling during travel, recreational and vacation uses and which may be identified as a travel trailer, coach, camper, tent camper, pop-up camper, camping trailer, park model, pull-behind, or fifth wheel camper by the manufacturer. Trailer coaches generally contain sanitary, water and electrical facilities.
- B. **Pickup Camper:** A structure designed to be mounted on a pickup or truck chassis with sufficient equipment to render it suitable for use as a temporary dwelling during the process of travel, recreational, and vacation uses.
- C. **Motor Home:** (a self-propelled motorized recreational vehicle intended, designed, used, or constructed, and duly licensable for travel and/or recreational usage, and for temporary human habitation, sleeping, and/or cooking and eating for one (1) or more persons, mounted upon a chassis with wheels and capable of being moved from place to place under its own power. Motor home generally contains sanitary, water, and electrical facilities.
- D. **Folding Tent Trailer:** A folding structure, mounted on wheels and designed for travel and vacation use.
- E. **Boats and Boat Trailers:** Boats, floats, rafts, canoes, plus the normal equipment to transport them on the highway.
- F. **Other Recreational Equipment:** Snowmobiles, all terrain vehicles, special terrain vehicles, utility trailers, plus normal equipment to transport them on the highway.

**REFUSE:** The miscellaneous waste materials resulting from housekeeping, mercantile enterprises, trades, manufacturing and offices, including other waste matter such as slag, stone, broken concrete, fly ash, ashes, tin cans, glass, scrap metal, rubber, paper, rags, chemicals or any similar or related combinations thereof.

**RESTAURANT:** A restaurant is any establishment whose principal business is the sale of food and beverages to the customer in a ready-to-consume state, and whose method of operation is characteristic of a carry-out, drive-in, drive-through, fast food, standard restaurant, or bar/lounge, or combination thereof, as defined below:

- A. **Restaurant, Carry-Out:** A carry-out restaurant is a restaurant whose method of operation involves sale of food, beverages, and/or frozen desserts in disposable or edible containers or wrappers in a ready-to- consume state for consumption primarily off the premises.
- B. **Restaurant, Drive-In:** A drive-in restaurant is a restaurant whose method of operation involves delivery of prepared food so as to allow its consumption in a motor vehicle or elsewhere on the premises, but outside of an enclosed building.
- C. **Restaurant, Drive-Through:** A drive-through restaurant is a restaurant whose method of operation involves the delivery of the prepared food to the customer in a motor vehicle, typically through a drive-through window, for consumption off the premises.
- D. **Restaurant, Fast-Food:** A fast-food restaurant is a restaurant whose method of operation involves minimum waiting for delivery of ready-to- consume food to the customer at a counter or cafeteria line for consumption at the counter where it is served, or at tables, booths, or stands inside the structure or out, or for consumption off the premises, but not in a motor vehicle at the site.
- E. **Restaurant, Standard:** A standard restaurant is a restaurant whose method of operation involves either:
  - 1. The delivery of prepared food by waiters and waitresses to customers seated at tables within a completely enclosed building, or
  - 2. The prepared food is acquired by customers at a cafeteria line and is subsequently consumed by the customers at tables within a completely enclosed building.

**RIGHT-OF-WAY:** A right-of-way as defined herein dedicated to or owned by a public body and available for use by the general public. In the case of public streets, the right-of-way normally includes curbs, lawn strips, and lighting and drainage facilities.

**ROADSIDE STAND:** A temporary or existing permanent building operated for the purpose of selling products grown or produced on the premises together with incidental related products, and its use shall not make it into a commercial district, land which would otherwise be an agricultural or residential district, nor shall its use be deemed a commercial activity for purposes of this Ordinance.

**ROOM:** For the purpose of determining lot area requirements and density in a multiple-family district, a room is a living room, dining room or bedroom, equal to at least eighty (80) square feet in area. A room shall not include the area in kitchen, sanitary facilities, utility provisions, corridors, hallways and storage. Plans presented showing 1, 2 or 3 bedroom units and including a "den", "library", or other extra room shall count such extra room as a bedroom for the purpose of



computing density.

**SATELLITE ANTENNA:** An accessory structure which at its widest dimension is in excess of 36 inches, capable of receiving signals from orbiting satellites and other extraterrestrial sources, together with other equipment related to such purposes.

**SAWMILL:** a facility for the processing of timber logs into forestry products such as milled lumber, treated posts, firewood and wood by-products such as slab wood, bark chips and sawdust and which may include planing and sizing facilities, kilns, storage yards and accessory maintenance facilities incidental to sawmill operations.

**SCHOOL, HOME:** A school which enables a child to be educated at the child's home by his or her parent or legal guardian in an organized educational program in the subject areas of reading, spelling, mathematics, science, history, civics, literature, writing, and English grammar. The home school family may choose whether to operate as a nonpublic school. If a home school family chooses to operate as a nonpublic school, it must register with the Michigan Department of Education.

**SCHOOL, NONPUBLIC:** A nonpublic school is any school other than a public school giving instruction to children below the age of sixteen (16) years and not under the exclusive supervision and control of the officials having charge of the public schools of the state. Nonpublic schools include private, denominational, and parochial schools.

**SCHOOL, PUBLIC:** A public elementary or secondary educational entity or agency that has as its primary mission the teaching and learning of academic and vocational-technical skills and knowledge, and is operated by a school district, local act school district, special act school district, intermediate school district, public school academy corporation, public state university, or by the department or state board.

**SCREEN, OBSCURING:** A visual barrier between adjacent area or uses consisting of structures, such as a wall or fence, or living plant material.

**SETBACK:** The distance between a front, side or rear lot line and the nearest supporting member of a structure on the lot. The **MINIMUM REQUIRED SETBACK** is the minimum distance between a front, side or rear lot line and the nearest supporting member of a structure in order to conform to the required yard setback provisions of this Ordinance (see definition of **YARD**).

**SIDEWALK:** Pedestrian or non-motorized vehicular circulation routes built according to the standards of the Township or other agency with right-of-way jurisdiction, as applicable.

**SIGN:** Any visual or graphic device designed through use of words, numbers, characters, or symbols to inform or attract attention and which is designed to be visible from outside any building or structure in which, upon which, or attached to which it may be located.

**SITE PLAN:** A plan showing all salient features of a proposed development, as required in

Section 10.24, so that it may be evaluated to determine whether it meets the provisions of this Ordinance

**SPECIAL EVENT:** An occurrence or noteworthy happening of seasonal, civic, or church importance, which is organized and sponsored by a non-profit Arlington Township community group, organization, club or society, and which offers a distinctive service to the community, such as public entertainment, community education, civic celebration, or cultural or community enrichment. Special events typically run for a short period of time (less than two weeks) and are unlike the customary or usual activities generally associated with the property where the special event is to be located. All such special events shall be open to the public.

**STABLE, PRIVATE:** A private stable is an enclosed building intended for the keeping of horses or other large domestic animals, for the noncommercial use of the residents of the principal residential use on the site.

**STABLE, PUBLIC:** A public stable is an enclosed building intended for the keeping of horses or other domestic animals, in which any such animals are kept for remuneration, hire, or sale.

**STATE LICENSED RESIDENTIAL FACILITY:** Any structure constructed for residential purposes that is licensed by the State of Michigan pursuant to Public Act 287 of 1972, Public Act 11 of 1973, or Public Act 218 of 1979. These acts provide for the following types of residential structures:

- A. **Adult Foster Care Facility:** A governmental or nongovernmental establishment having as its principle function the receiving of adults, 18 years of age or older, for foster care in accordance with Public Act 218 of 1974, as amended, and the Adult Foster Care Administrative Rules as administered by the Michigan Department of Consumer & Industry Services. It includes facilities and foster care family homes for adults who are aged, emotionally disturbed, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. An adult foster care facility does not include nursing homes, homes for the aged, hospitals, alcohol or substance abuse rehabilitation centers, or residential centers for persons released or assigned to a correctional facility. The following four (4) types of Adult Foster Care Homes are provided for by these rules:
  - 1. **Adult Foster Care Family Home:** A private residence with the approved capacity to receive not more than 6 adults who shall be provided foster care for 5 or more days a week and for 2 or more consecutive weeks. The adult foster care family home licensee shall be a member of the household and an occupant of the residence.
  - 2. **Adult Foster Care Small Group Home:** An adult foster care facility with the approved capacity of not more than 12 adults who shall be provided foster care. Local zoning approval is required prior to issuance of a license only if seven (7) or more residents will live in the home.

3. **Adult Foster Care Large Group Home:** An adult foster care facility with the approved capacity to receive at least 13 but not more than twenty (20) adults who shall be provided foster care. Local zoning approval is required prior to issuance of a license.
  4. **Adult Foster Care Congregate Facility:** An adult foster care facility with the approved capacity to receive more than twenty (20) adults who shall be provided foster care. Local zoning approval is required prior to issuance of a license.
- B. **Foster Family Home:** A private residence that houses four (4) or fewer foster children, up to age 19, under constant child care and supervision. Under Public Act 116 of 1973, a Foster Family Home does not require local zoning approval before being licensed by the Department of Consumer and Industry Services.
- C. **Foster Family Group Home:** A private residence that houses five (5) or six (6) foster children, up to age 19, under constant care and supervision. Under Public Act 116 of 1973, a Foster Family Group Home requires local zoning approval before being licensed by the Department of Consumer and Industry Services.

**STATE EQUALIZED VALUATION:** The value shown on the Township assessment roll as equalized through the process of State and County equalization.

**STORAGE:** The depositing of material, products for sale or use, or other items for a period greater than 24 hours. This definition shall include items for household use, but shall not include vehicles, boats, mobile homes and other items.

**STORY:** That portion of a building included between the upper surface of any floor, and the upper surface of any floor above; or any portion of a building between the topmost floor and the roof having a usable floor area to at least 50 percent of the usable floor area of the floor immediately below it.

A mezzanine shall be deemed a full story when it covers more than one-third (1/3) of the area of the story underneath said mezzanine, or, if the vertical distance from the floor next below the mezzanine to the floor next above it is twenty-four (24) feet or more.

A basement shall be deemed a full story when the vertical distance from the average grade to the floor below is less than the vertical distance from the average grade to the ceiling.

**STORY, HALF:** The uppermost story lying under a pitched roof, the usable floor area of which does not exceed two-thirds of the floor area of the uppermost full story. The usable floor area of a half story shall be at least 160 square feet with a minimum clear height of seven (7) feet, six (6) inches.

**STREET:** A public or private street, road or thoroughfare intended primarily to provide

vehicular circulation and access to abutting property. Various types of streets are defined as follows:

- A. **Collector Street:** A street whose principal function is to carry traffic between local or minor streets and major streets but may also provide direct access to abutting properties.
- B. **Cul-De-Sac:** A street that terminates in a vehicular turnaround.
- C. **Local or Minor Street:** A street whose sole function is to provide access to abutting properties.
- D. **Major Street:** A street that carries high volumes of traffic and serves as a main avenue through or around the Township. Major streets may also be referred to as arterial streets or major thoroughfares. For the purpose of this Ordinance, major streets shall include those streets designated as "county primary", "county local" or "major street."
- E. **Private Street or Road:** A street or road under private ownership which has been constructed for the purposes of providing access to adjoining property, and which is normally open to the public so that persons other than the occupants of adjoining property may travel thereon, but which has not been accepted for maintenance by the Township, County, State or Federal Government.
- F. **Public Street or Road:** A street or road, the right-of-way and improvements of which have been accepted for maintenance by the County, State or Federal Government.

**STREET LINE:** A dividing line between the street and a lot, also known as the right-of-way line.

**STRUCTURE:** Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having such location. Structures include, but are not limited to, principal and accessory buildings, towers, decks, fences, privacy screens, walls, antennae, swimming pools, and signs.

**STRUCTURAL ALTERATION:** Any change in the supporting members of a building or structure, such as bearing walls, partitions, columns, beams, or girders, or any change in the width or number of exits, or any substantial change in the roof.

**STRUCTURE, OUTDOOR ADVERTISING:** Any structure of any kind or character erected or maintained for outdoor advertising purposes, upon which any outdoor advertising sign may be placed.

**SUBDIVISION PLAT:** The division of a tract of land into two or more lots, building sites, or other divisions for the purpose of sale or building development, in accordance with the

Subdivision Control Act, Michigan Public Act 288 of 1967, as amended.

**SWIMMING POOL:** Shall mean any permanent, non-portable structure or container located either above or below grade designed to hold water to a depth of greater than twenty-four (24) inches, intended for swimming or bathing. A swimming pool shall be considered an accessory structure for purposes of computing lot coverage.

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

**TEMPORARY USE OR BUILDING:** See BUILDING, TEMPORARY or USE, TEMPORARY.

**THEATER:** An enclosed building used for presenting performances or motion pictures which are observed by paying patrons from seats situated within the building.

**TOXIC OR HAZARDOUS WASTE:** Waste or a combination of waste and other discarded material including solid, liquid, semi-solid, or contained gaseous material which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to the following if improperly treated, stored, transported, disposed of, or otherwise managed:

- A. an increase in mortality, or
- B. an increase in serious irreversible illness, or
- C. serious incapacitating, but reversible illness, or
- D. substantially present a potential hazard to human health or the environment.

**TRAILER:** See RECREATIONAL VEHICLE; DWELLING, MOBILE HOME; and UTILITY TRAILER.

**TRANSITION:** The word or term "transition" or "transitional" shall mean a zoning district, a landscaped area, lot arrangement, wall or other means which may serve as a buffer between various land use types, particularly those uses which are incompatible.

**TRUCK STORAGE:** An area used for the temporary storage of private trucks or trucks for hire.

**TRUCK TERMINAL:** a structure to which goods, except raw or unprocessed agricultural products, natural minerals, or other resources, are delivered for immediate distribution to other

parts of the Township or to be amalgamated for delivery in larger units to other points in the metropolitan area; or for distribution or amalgamation involving transfer to other modes of transportation.

**USE:** The purpose for which land, lots, or buildings thereon is designed, arranged or intended, or for which it is occupied, maintained, let or leased.

**USE, ACCESSORY:** See ACCESSORY USE, BUILDING, OR STRUCTURE.

**USE, SPECIAL:** A use which is subject to special approval by the Planning Commission. A special use may be granted only where there is a specific provision in this ordinance.

**USE, PERMITTED:** A permitted use is a use which may be lawfully established in a particular district or districts provided it conforms with all requirements, regulations, and standards of such district.

**USE, PRINCIPAL:** The principal use is the main use of land and buildings and the main purpose for which land and buildings exist.

**USE, TEMPORARY:** Shall mean a use permitted to exist during a specified period of time under conditions and procedures as provided in this Ordinance.

**UTILITY ROOM:** A utility room is a room in a dwelling, the use of which is primarily for storage, for housing a heating unit, or for laundry purposes.

**UTILITY TRAILER:** A small trailer that is designed to be pulled by an automobile, van, or pick-up truck.

**VARIANCE:** A modification of the literal provisions of the Zoning Ordinance in accordance with the provisions herein in cases where strict enforcement would cause undue hardship as a result of special circumstances affecting an individual property that do not generally affect other properties in the same zoning district.

The crucial points of variance are: (a) undue hardship, (b) unique circumstances, and (c) applying to property. A variance is not justified unless all three elements are present in the case.

A variance to permit a use not otherwise permitted within a zoning district (i.e., a "use variance") shall not be permitted. Hardships based solely on economic considerations are not grounds for a variance. A use variance is not a special exception use.

**VEHICLE, COMMERCIAL:** Any one of a class of vehicles and similar vehicles whose characteristics are described below which have or require commercial license plates and have a gross vehicle weight in excess of six-thousand-five-hundred (6,500) pounds. Any commercially licensed vehicle which does not possess the characteristics of a commercial vehicle, as defined below, shall not be subject to the restrictions applying to commercial vehicles:

**Semi-trailer:** A trailer unit which is customarily attached to and propelled by a truck tractor vehicle, but which can be detached to stand alone. Semi-trailer shall include trailers with flat beds, stake beds, roll-off beds, tanker bodies, dump bodies, and full or partial box-type enclosures.

**Truck Tractor:** A commercial vehicle which is capable of attaching to and propelling semi-trailers, mobile homes, modular homes, boat trailers and similar units, and which is not customarily operated without an attached trailer.

**Other Commercial Vehicles:** Any truck or motor vehicle with a cab and chassis with a stake rack, dump body, wrecker body, tanker body, or any other body, the mounted height of which exceeds the height of the cab roof more than eight (8) inches. This shall include any vehicle which has a commercial license plate and which is designed to accommodate a body length in excess of nine (9) feet. Commercial vehicles do not include motor homes or recreational vehicles, but do include construction equipment such as backhoes, power shovels, bulldozers, earth moving equipment, and similar vehicles

**WALL, OBSCURING:** Shall mean a masonry structure of definite height and location to serve as an opaque screen in carrying out the requirements of this Ordinance.

**WALL, PARAPET:** An extension of a building wall above the roof which may serve to screen roof mounted mechanical equipment.

**WALL, RETAINING:** A permanent solid barrier of brick, stone, or other opaque material intended to enclose an area. For the purpose of this Ordinance, all supporting members, posts, stringers, braces, pilasters, or other construction features of a retaining wall shall be located and placed on the inside of the wall away from public view. Moreover, all retaining walls shall be constructed and/or painted, tinted, or colored in one color only for their exterior surface, and no sign or advertising shall be placed, affixed, painted, or designed thereon.

**WAREHOUSE:** A building used for short and/or long term storage in connection with production and marketing or in connection with manufacturing, freight handling, and retailing.

**WAREHOUSE, MINIATURE OR SELF-STORAGE:** A building or group of buildings in a controlled access and /or fenced compound that contains varying sizes of individualized, compartmentalized, and controlled-access stalls or lockers for the storage of customers goods or wares.

**WASTE RECEPTACLE STATION:** Any exterior space which is not a principal use for containers, structures, or other receptacles intended for temporary storage of solid waste materials.

**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 451, 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 a stream,
- B. Not contiguous to an inland lake, pond, river, or stream, and more than five (5) acres in size, or
- C. Not contiguous to an inland lake, pond, river, or stream and five (5) acres or less in size if the Michigan Department of Natural Resources 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.

**WHOLESALE SALES:** On-premise sales of goods primarily to customers engaged in the business of reselling the goods.

**WIND ENERGY CONVERSION SYSTEM:** A wind energy conversion system which converts wind energy into electricity through the use of a wind turbine generator and includes wind turbine blades, the tower, and the related electrical equipment. This does not include wiring to connect the wind energy conversion system to the utility grid. The system may be one of the following:

- A. A small turbine or on-site system intended to primarily serve the needs of the customer with a single tower that may or not be connected to the utility grid; or
- B. A large turbine or utility grid system designed to generate electricity from one or more towers (within an array) and is intended to serve development within the community or throughout a region.

For other definitions relating to a wind energy conversion system, see Section 10.41 of this Ordinance.

**WIRELESS COMMUNICATION FACILITIES:** All structural facilities, attached or accessory, related to the radio frequency spectrum for the purpose of transmitting or receiving radio signals, including but not limited to radio and television towers, cellular telephone and paging towers, telephone devices and exchanges, microwave relay towers, telephone transmission equipment buildings and commercial mobile radio service facilities. Not included are facilities for citizen band radio, short wave radio, ham and amateur radio, television reception antenna, satellite dishes, and government facilities which are subject to state and federal law. Wireless communication facilities shall be specifically excluded from the definition of “public facility” or “essential service.”

**WIRELESS COMMUNICATION SUPPORT STRUCTURES (TOWERS):** Any structure



used to support attached wireless communication facilities, or other antenna or facilities, including support lines, cables, wires, braces and masts intended primarily for the purpose of mounting an attached wireless communication facility or similar apparatus above grade, including any ground or roof-mounted pole, monopole, lattice towers, light poles, wood poles, and guyed towers or other similar structures which support wireless communication facilities.

**YARD:** An open space on the same lot with a building, unoccupied and unobstructed from the ground upward, except as otherwise permitted in this Ordinance. The Minimum Required Setback is the minimum depth of a front, rear or side yard necessary to conform to the required yard setback provisions of this ordinance.

- A. **Yard, Front:** A yard extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the principal building. Unless otherwise specified, on corner lots there shall be maintained a front yard along each street frontage.
- B. **Yard, Rear:** A yard extending the full width of the lot, the depth of which shall be the minimum horizontal distance between the rear lot line and the nearest point on the principal building. On corner lots, the rear yard may be opposite either street frontage, but there shall only be one rear yard.
- C. **Yard, Side:** A yard between a principal building and the side lot line, extending from the front yard to the rear yard, the width of which shall be the horizontal distance from the nearest point of the side lot line to the nearest point on the principal building.

**ZONING ADMINSTRATOR:** the officer designated by the Township Board who is responsible for enforcing and administering the provisions of the Zoning Ordinance.

**ZONING BOARD OF APPEALS:** the Arlington Township Zoning Board of Appeals created pursuant to Michigan Public Act 110 of 2006, as amended.

## ARTICLE XI

### PARKING AND LOADING STANDARDS

#### SECTION 11.01 OFF-STREET PARKING REQUIRED.

In all zoning districts, off-street facilities for the storage and parking of self-propelled motor vehicles for the use of occupants, employees and patrons of all buildings hereafter erected, altered, or extended after the effective date of this Ordinance, shall be provided as herein prescribed.

Whenever the use of a building, structure, or lot is changed, parking facilities shall be provided as required by this Ordinance for the new uses. If the intensity of use of any building, structure, or lot is increased through the addition of dwelling units, increase in floor area, increase in seating capacity, or through other means, additional off-street parking shall be provided for such increase in intensity of use.

#### SECTION 11.02 GENERAL REQUIREMENTS.

In all zoning districts, off-street vehicle parking facilities shall be provided and maintained as herein prescribed:

- A. **Off-Street Parking Spaces for One and Two-Family Dwellings.** Off-street parking facilities required for one and two-family dwellings shall consist of a parking strip, driveway, garage, or combination thereof and shall be located on the premises they are intended to serve.
- B. **Off-Street Parking for Multiple-Family and Non-Residential Uses.** Off-street parking facilities required for multiple-family and non-residential uses shall be located on the same lot or parcel as the building or use they are intended to serve, or within three hundred (300) feet of such building or use. Ownership or a use easement, duly recorded with the Township, shall be shown for all land areas intended for use as parking by the applicant.
- C. **Existing Parking Facilities.** An area designated as required off-street parking facilities in existence at the effective date of this Ordinance shall not be reduced below the requirements for the use or building served as set forth in this Ordinance.
- D. **Joint Use of Facilities.** Provision of common parking facilities for several uses in the same vicinity is encouraged. In such cases, the total space requirement is the sum of the individual requirements at the same time of day. The maximum joint requirements will be less than the total individual requirements if the peak needs for the uses occur at distinctly different times of the day from the peaks of the other uses.
- E. **Non-overlapping Operating Hours.** In the instance of land uses requiring off-street parking spaces where operating hours of the uses do not overlap, the Planning

Commission may grant an exception to the individual provisions of Section 11.03.

- F. **Restriction of Parking on Private Property.** It shall be unlawful to park or store any motor vehicle on private property without the express written consent of the owner, holder, occupant, lessee, agent, or trustee of said private property.
- G. **Duration.** Except when land is used as permitted storage space in direct connection with a business, a twenty-four (24) hour time limit for parking in non-residential off-street parking areas shall prevail, provided that it shall be unlawful to permit the storage of wrecked, inoperable, or junked vehicles on any parking area in any district.
- H. **Use of Loading Space.** Required loading spaces shall not be counted or used for required parking.
- I. **Fractional Requirements.** When units or measurements determining number of required parking spaces result in requirement of a fractional space, any fraction up to and including one-half shall be disregarded and fractions over one-half shall require one (1) parking space.
- J. **Uses Not Specified.** For those uses not specifically mentioned under Section 11.03, the requirements for off-street parking facilities shall be in accord with a use which the Planning Commission considers to be similar in type.

**SECTION 11.03 TABLE OF OFF-STREET PARKING REQUIREMENTS.**

The minimum number of off-street parking spaces by type of use shall be determined in accordance with the following schedule:

Use	Spaces Per Unit of Measure
<b>1. Residential</b>	
a. Residential, One-Family and Two-Family Dwelling, including mobile homes.	Two (2) for each dwelling unit.
b. Residential, Multiple-Family	One (1) for each efficiency unit, one and one-half (1-1/2) for each one (1) bedroom unit, two (2) for each two (2) bedroom unit, and three (3) for three (3) or more bedroom units.
c. Residential, Multiple-Family Senior Citizen Housing	One (1) for each dwelling unit plus one (1) for each employee. If units revert to general occupancy, then Section 11.03(1)b above applies.

- d. Boarding, Rooming, Lodging                      One (1) parking space for each occupancy unit plus one (1), parking space for each employee on the largest employment shift.

**2. Institutional**

- a. Churches, Temples or Synagogues                      One (1) for each three (3) seats, based on maximum seating capacity in the main unit of worship.
- b. Hospitals    One (1) for each patient bed, plus one (1) additional space for every worker employed during the eight (8) hours shift in which the greatest number of employees are on duty.
- c. Foster Care Group Homes, Homes for the Aged, Convalescent Homes and Children Homes                      One (1) for each three (3) beds, plus one (1) for each employee on the largest employment shift.
- d. Elementary and Junior High Schools                      One (1) for each one (1) teacher, employee or administrator, plus one (1) per classroom for visitor use in addition to the requirements for the auditorium, if provided.
- e. Senior High Schools                              One (1) for each teacher, employee or administrator, one (1) for each ten (10) students, and one (1) per classroom for visitor use, in addition to the requirements for the auditorium and stadium, if provided.
- f. Private Clubs or Lodge Halls                      One (1) for each three (3) persons allowed within the maximum occupancy load as established by local, county, or state fire, building, or health codes.
- g. Boat Launch, Private or Public                      Twenty-four (24) combined vehicle and boat trailer spaces for each one (1) individual boat ramp.
- h. Theaters and Auditoriums                      One (1) for each three (3) seats plus one (1) for each two (2) employees on the largest employment shift.
- i. Libraries, Museums, Cultural                      One (1) for each four hundred (400) Centers or

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|   | Similar Facilities square feet of gross floor area.                       |
| j. Nursery, Day Care, or Child Care Centers | One for each three hundred fifty (350) square feet of usable floor space. |

**3. Recreational**

For each use below, additional spaces shall also be provided as required for restaurants, bars, clubhouses, pro shops, or other affiliated facilities.

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| a. Archery Facilities  | One (1) for each two targets.  |
| b. Softball, Baseball Fields                                   | Twenty-five (25) for each playing field.   |
| c. Bowling Establishments                                      | Six (6) for each lane.   |
| d. Health Clubs  | One (1) for each two (2) persons who , may be legally admitted at one time based on the occupancy load established by local codes, plus one (1) for each employee on the largest employment shift. |
| e. Football and Soccer Fields                                  | Thirty (30) for each field.  |
| f. Golf Course, Public or Private                              | Five (5) for each golf hole, plus one for each employee on the largest employment shift.   |
| g. Golf Course, Miniature                                      | Two (2) for each golf hole, plus one (1) for each employee in the largest employment shift.  |
| h. Golf Driving Range  | One (1) for each tee.  |
| i. Stadium, Sports Arena, or similar place of outdoor assembly | One (1) for each three (3) seats or six (6) feet of benches, plus one (1) for each employee on the largest employment shift.   |
| j. Swimming Pools  | One (1) for each four (4) persons who may be legally admitted at one time based on occupancy load established by local codes, plus one (1) for each employee on the largest employment shift.      |
| k. Tennis Clubs and Court-Type Uses                            | One (1) for each one (1) person admitted based on the capacity of the courts, plus (1) for   |

- l. Billiards, Skate Rinks  
each employee in the largest employment shift. One (1) for each two (2) persons who may be legally admitted at one time based on the occupancy load established by local codes, plus one (1) for each employee on the largest employment shift.

**4. Business and Commercial**

- a. Animal Hospitals  
One (1) for each four hundred (400) square feet of usable floor area, plus one (1) for each employee in the largest employment shift.

- b. Automobile Service Stations  
Two (2) for each lubrication stall, rack or pit; and one (1) for each employee on the largest employment shift.  
  
For quick oil change facilities, one (1) for each one (1) employee on the largest employment shift. In addition, stacking spaces for automobiles awaiting entrance to a service station shall be provided as required by Section 11.05.

- c. Auto Wash  
One (1) for each one (1) employee on the largest employment shift. In addition, stacking spaces for automobiles awaiting entrance to the auto wash shall be provided as required by Section 11.05.

- d. Beauty Parlor or Barber Shop  
Three (3) spaces for each of the first two (2) beauty or barber chairs, and one and one-half (1-1/2) spaces for each additional chair.

- e. Drive-In Establishments  
One (1) for each thirty (30) square feet of usable floor area, with a minimum of twenty-five (25) parking spaces, plus eight (8) stacking spaces for each drive-in or drive-thru transaction station as required by Section 11.05

- f. Establishments for Sale and Consumption of Beverages, Food or Refreshments  
One (1) for each fifty (50) square feet of usable floor area.

- g. Furniture and Appliance, Household Equipment, Repair  
One (1) for each eight hundred square feet of usable floor area exclusive of the floor area

Shops, Showroom of a Plumber, Decorator, Electrician and other like uses	occupied in processing or manufacturing. One (1) additional space shall be provided for each one (1) person employed therein in the largest employment shift.
h. Ice Cream Parlors	One (1) for each seventy-five (75) square feet of gross floor area, with a minimum of eight (8) spaces.
i. Laundromats and Coin Operated Dry Cleaners	One (1) for each two (2) washing machines.
j. Mortuary Establishments	One (1) for each fifty (50) square feet of assembly room parlor, and slumber room.
k. Motel, Hotel or Other Commercial Lodging Establishment	One (1) for each one (1) occupancy unit plus one (1) for each one (1) employee on the largest shift, plus extra spaces for dining rooms, ballrooms, or meeting rooms as required based upon maximum occupancy load.
l. Motor Vehicle Sales and Service Establishments, Trailer Sales and Rental, Boat Showrooms	One (1) for each two hundred (200) square feet of usable floor space of sales room and one (1) for each one (1) auto service stall in the service room, plus one space per employee on the largest employment shift.
m. Open Air Business	One (1) for each six hundred (600) square feet of lot area used in open air business.
n. Restaurant, Carry-Out	One (1) for each one hundred (100) square feet of gross floor area.
o. Roadside Stands	Six (6) for each establishment.
p. Retail Stores, Except as Otherwise Specified Herein	One (1) for each one hundred and fifty (150) square feet of usable floor area.
q. Shopping Center/Clustered Commercial	Four (4) spaces per one thousand (1,000) square feet of gross floor area.

**5. Offices**

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| a. Banks, Savings and Loan Offices  | One (1) for each one hundred (100) square feet of usable floor area, and four (4) stacking spaces for each drive-in or drive-thru transaction station as required by Section 11.05. |
| b. Business Offices or Professional Offices, except as indicated in the following item (c)      | One (1) for each two hundred (200) square feet of usable floor area.  |
| c. Medical or Dental Clinics, Professional Offices of Doctors, Dentists, or Similar Professions | One (1) for each one hundred (100) square feet of usable floor area in waiting rooms and one (1) for each examining room, dental chair or similar use area.                         |
| d. Offices of local, state or federal government or non-profit agencies.                        | One (1) for each two hundred (200) square feet of usable floor area.  |

**6. Industrial**

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| a. Industrial or Research Establishments | Five (5) plus one (1) for every one (1) employee in the largest working shift. Parking spaces on the site shall be provided for all construction workers during the period of plant construction. |
| b. Wholesale or Warehouse Establishments | Five (5) plus one (1) for every one (1) employee in the largest working shift, or one (1) for every one thousand seven hundred (1,700) square feet of gross floor area.                           |

**SECTION 11.04 OFF-STREET PARKING FOR PHYSICALLY HANDICAPPED PERSONS.**

Off-street parking facilities as required under this Ordinance shall include, in accordance with the following table and identified by signs, parking spaces which are reserved for physically handicapped persons. Signs shall be located approximately six (6) feet above grade. Each reserved parking space shall be not less than thirteen (13) feet wide. Where a curb exists between a parking lot surface and a sidewalk surface, an inclined approach or a curb cut with a gradient of not more than one (1) foot in twelve (12) feet and a width of not less than four (4)



feet shall be provided for wheelchair access. Parking spaces for the physically handicapped shall be located as close as possible to walkways and building entrances. Signs shall be provided when necessary indicating the direction to a barrier-free entranceway into a building.

<b>Total Parking Spaces in Lot</b>	<b><u>Required Number of Handicapped Spaces</u></b>
<u>Up to 25</u>	<u>1</u>
<u>26 to 50</u>	<u>2</u>
<u>51 to 75</u>	<u>3</u>
<u>76 to 100</u>	<u>4</u>
<u>101 to 150</u>	<u>5</u>
<u>151 to 200</u>	<u>6</u>
<u>201 to 300</u>	<u>7</u>
<u>301 to 400</u>	<u>8</u>
<u>401 to 500</u>	<u>9</u>
<u>501 to 1,000</u>	<u>2% of total</u>
<u>over 1,000</u>	<u>20 plus 1 for each 100 spaces over 1,000</u>

**SECTION 11.05 OFF-STREET WAITING AREA AND STACKING SPACES FOR DRIVE-THRU FACILITIES.**

- A. On the same premises with every building, structure or part thereof, erected and occupied for the purpose of serving customers in their automobiles by means of a service window or similar arrangement, such as drive-in banks or cleaning establishments, where the automobile engine is not turned off, there shall be provided four (4) off-street stacking spaces for each service window or transaction station. Eight (8) off-street stacking shall be provided for each drive-thru transaction station of a restaurant.
  
- B. Self-service motor vehicle car wash establishments shall provide three (3) off-street stacking spaces for each washing stall. Quick oil change facilities and motor vehicle car wash establishments other than self service, shall provide stacking spaces equal in number to three (3) times the maximum capacity of the motor vehicle wash for automobiles awaiting entrance. "Maximum capacity" shall mean the greatest number possible of automobiles undergoing some phase of washing at the same time, which shall be determined by dividing the length of each wash line by twenty (20) feet. A drying lane fifty (50) feet long shall also be provided at the exit of the washing stalls in order to prevent undue amounts of water from collecting on the public street and thereby creating a traffic hazard.

- C. An off-street waiting space is defined as an area ten (10) feet wide by twenty (20) feet long.

**SECTION 11.06 OFF-STREET PARKING LOT LAYOUT, CONSTRUCTION, AND MAINTENANCE.**

All off-street parking lots shall be laid out, constructed, and maintained in accordance with the following requirements:

- A. **Review and Approval Requirements.** In the event that new off-street parking is proposed as part of a development requiring site plan review, said proposed parking shall be shown on the site plan submitted to the Planning Commission for review in accordance with Article V. In the event that proposed off-street parking is not part of a development requiring site plan review, the applicant shall submit a parking plan to the Township Planning Commission for review and approval.

Plans shall be prepared at a scale of not less than fifty (50) feet equal to one (1) inch. Plans shall indicate the location of the proposed parking in relation to other uses on the site and on adjoining sites, the proposed means of ingress and egress, the number and dimensions of parking spaces, and the method of surfacing. Existing and proposed grades, drainage, water mains and sewers, surfacing and base materials, and the proposed parking layout shall also be shown.

Upon completion of construction, the parking lot must be inspected and approved by the Zoning Administrator before a Certificate of Occupancy can be issued for the parking lot and for the building or use the parking is intended to serve.

- B. **Layout Requirements.** Plans for the layout of off-street parking facilities shall be in accordance with the following minimum requirements:

<u>Parking Patterns</u>	<u>Lane Width</u>	<u>Parking Space Width</u>	<u>Parking Space Length</u>	<u>Total width of one tier of stalls and maneuvering lane</u>	<u>Total width of two tiers of stalls and maneuvering lane</u>
<u>0° (Parallel Parking)</u>	<u>12 ft.</u>	<u>8 ft.</u>	<u>23 ft.</u>	<u>20 ft. (one way)</u> <u>32 ft. (two way)</u>	<u>28 ft. (one way)</u> <u>40 ft. (two way)</u>
<u>30° to 53°</u>	<u>12 ft.</u>	<u>8 ft.</u>	<u>20 ft.</u>	<u>32 ft.</u>	<u>52 ft.</u>
<u>54° to 74°</u>	<u>15 ft.</u>	<u>8 ft.</u>	<u>20 ft.</u>	<u>36 ft.</u>	<u>55 ft.</u>
<u>75° to 90°</u>	<u>20 ft.</u>	<u>9 ft.</u>	<u>20 ft.</u>	<u>40 ft.</u>	<u>60 ft.</u>

- C. **Access.** All spaces shall be provided adequate access by means of maneuvering lanes. Backing directly onto a street or alley shall be prohibited.

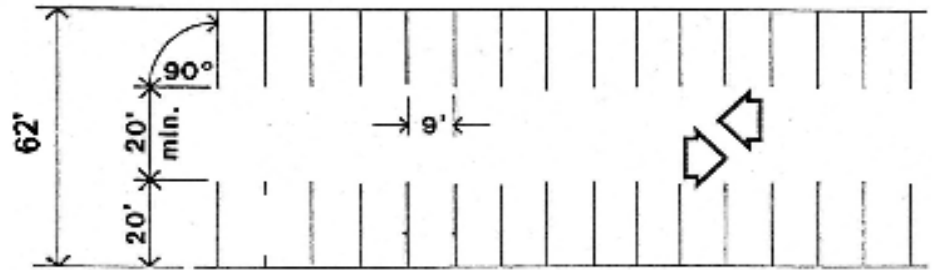
- D. **Ingress and Egress.** Adequate ingress and egress to the parking lot shall be provided by means of clearly defined and limited drives. No entrance or exit from any parking lot in a non-residential district or from a non-residential use shall be nearer than twenty (20) feet to any residentially zoned district.
- E. **Paving.** All parking lots shall have a hard surface unless waived by the Township Board.
- F. **Bumper Stops.** Bumper stops or curbing shall be provided so as to prevent any vehicle from projecting beyond the parking lot area or bumping any wall or fence or encroaching upon landscaping.

In all cases where parking lots abut public or private sidewalks, continuous concrete curbing or bumper stops, at least six (6) inches high, shall be placed so that a motor vehicle cannot be driven or parked on any part of the sidewalk. In all cases where necessary for the protection of the public and the adjoining properties, streets or sidewalks, curbs as described above, shall be installed.

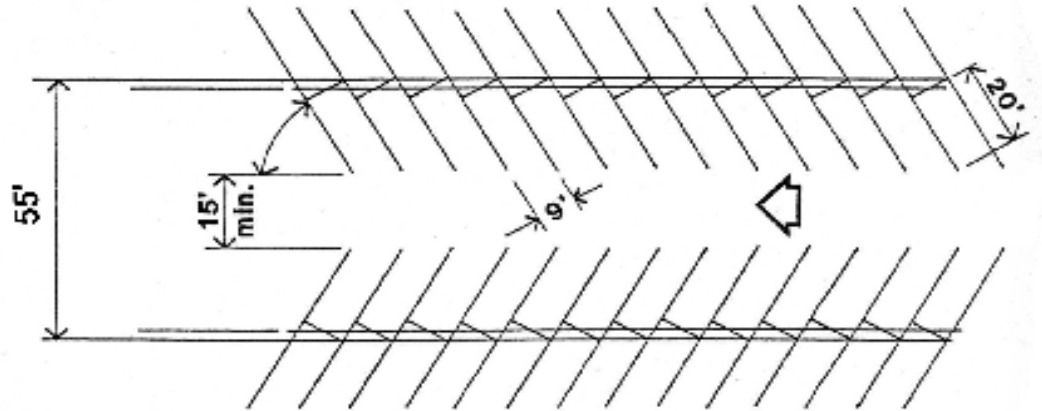
- G. **Striping.** All spaces shall be outlined with three (3) inch stripes of paint, the color of which contrasts with the parking lot surface.
- H. **Screening.** All off-street parking areas, except those serving single and two-family residences, shall be screened.
- I. **Parking Setbacks.** All parking setbacks as required elsewhere by this Ordinance shall be maintained.
- J. **Landscaping.** Where yard setbacks are required, all land between the required walls and the property lines, and other unpaved areas which are designed to break up the expanse of paving, shall be kept free from refuse and debris and shall be landscaped with lawns, deciduous shrubs, evergreen plant material, and ornamental trees. All such landscaping shall be maintained in a healthy growing condition, neat and orderly in appearance.
- K. **Lighting.** All lighting used to illuminate any off-street area shall not exceed twenty (20) feet in height above the parking surface grade and shall be directed or shielded so as not to shine onto any adjacent properties or public right-of-ways.
- L. **Buildings.** No building or structure shall be permitted on an off-street parking lot, except for a maintenance building or attendant shelter, which shall not be more than fifty (50) square feet in area and not more than fifteen (15) feet in height.
- M. **Additional Requirements.** In addition to the above requirements, parking areas shall comply with additional requirements or conditions which may be deemed as necessary by the Planning Commission for the protections of abutting properties in a residential district.

N. **Delay in Construction.** In instances where the Zoning Board of Appeals determines that weather conditions prohibit parking lot construction, the construction may be temporarily waived, pending suitable weather, but the Zoning Board of Appeals shall require a cash or surety bond in the anticipated amount of the parking lot construction costs.

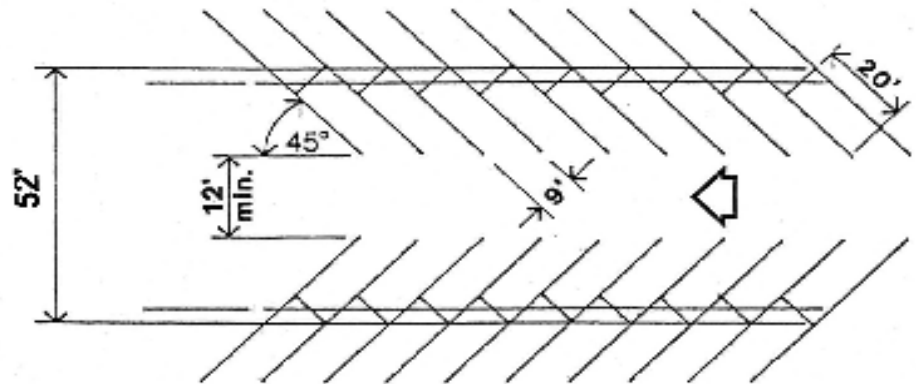
75 to 90  
degree



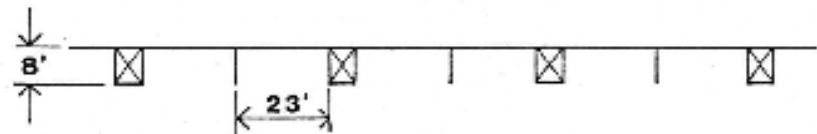
54 to 74  
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30 to 53  
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parallel



## PARKING LAYOUTS

**SECTION 11.07 OFF-STREET LOADING SPACE REQUIREMENTS.**

On the same premises with every building, structure, or part thereof, involving the receipt or distribution of vehicles or materials or merchandise, including department stores, wholesale stores, markets, hotels, hospitals, mortuaries, laundries, and dry cleaning establishments, there shall be provided and maintained on the lot, adequate space for standing, loading, and unloading in order to avoid undue interference with public use of dedicated rights-of-way and vehicular circulation on the site. Such spaces shall be provided as follows:

Gross Floor Area (In Square Feet)	Loading and Unloading Spaces	
	10'x 25' space	10'x 50' space
0 - 1,999	NA	NA
2,000 - 4,999	1	NA
5,000 - 19,999	NA	1
20,000 - 49,999	NA	2
50,000 - 79,999	NA	3
80,000 - 99,999	NA	4
100,000 - 149,999	NA	5
150,000 and over	NA	5*

\*One additional space for each fifty thousand (50,000) square feet of floor area in excess of one hundred fifty thousand (150,000) square feet.

- A. All loading spaces shall be located in the non-required rear yard and meet all minimum yard setback requirements for the district in which it is located in accordance with this Ordinance.
- B. Loading space areas shall be provided with a pavement having an asphaltic or Portland cement binder so as to provide a permanent, durable and dustless surface.
- C. All loading spaces shall have a minimum of fourteen (14) foot high clearance.
- D. Loading areas shall not utilize any required area for maneuvering to parking spaces or block general vehicular circulation.
- E. No loading space shall be located closer than one hundred (100) feet from any residentially zoned district unless located within a completely enclosed building or enclosed on all sides facing a residential zoning district by a solid masonry wall not less than six (6) feet in height.

- F. Central loading facilities may be substituted for individual loading spaces serving businesses on separate lots provided that all of the following conditions are fulfilled:
1. Each business served shall have direct access to the central loading area without crossing streets or alleys.
  2. Total loading space provided shall meet the minimum requirements specified herein, computed on the basis of total floor area of all businesses served by the central loading space.
  3. No building served shall be more than 500 feet from the central loading area.
- G. The storage of merchandise, sale of motor vehicles, storage of inoperable vehicles, or repair of vehicles is prohibited in required loading space.

## **ARTICLE XII**

### **PLANNED UNIT DEVELOPMENT**

#### **SECTION 12.01 INTENT; MINIMUM REQUIREMENTS**

- A. The intent of this article is to provide a degree of flexibility in regard to the use, area, height, bulk, and placement regulations for relatively large-scale developments which qualify as planned unit developments. These may include, but are not limited to, housing developments, shopping centers, industrial districts, office districts and medical and educational campuses.
- B. The use, area, height, bulk, and placement regulations of this ordinance are primarily applicable to the usual situation of one (1) principal building on one (1) lot.
- C. A development may be of such large size as to justify permitting certain incidental uses not normally permitted in the zoning district. Permitting these uses as special exceptions can in certain cases increase convenience, be compatible with the overall character of the district, and not be injurious to the adjoining properties. As an example; a large office building or multiple development might include a coffee shop, food store or barber shop primarily intended for the occupants or residents of the premises.
- D. A planned unit development shall be considered a unique use of land which, although comprised of numerous structures of varying types, shall be accorded regulatory treatment under this ordinance as a single entity. Subject to the foregoing statements of intent for this article and the limitations and requirements which follow in this article, the Planning Commission may, upon application, approve a planned unit development through issuance of a special use permit. Within each planned unit development the use, area, height, bulk and placement regulations of the zoning district may be modified; provided, that such modifications shall comply with the provisions of this article and the standards established in Section 12.03. While it is the intent of this article to promote diverse and innovative design, and it is to be anticipated that each planned unit development will possess a unique and distinctive design, all planned unit developments shall promote the spirit and intent of this ordinance, as well as the health, safety and welfare of the public, and shall be given equal regulatory consideration, recognizing the principles of due process, in accordance with the procedures specified in this article and procedures required for proposed approval of special exceptions.
- E. A planned unit development must constitute a land area of at least 5 acres to be occupied by principal building(s) with a total of more than 25,000 square feet of usable floor area; the development shall be designed as an entity, intended to be substantially completed within 3 years if less than 50 acres, and 5 years if more than 50 acres.



**SECTION 12.02 DISTRICT REQUIREMENTS**

- A. All planned unit developments in R-1, R-2, and R-3 districts shall be in compliance with the following regulations:
1. A maximum of 5 percent of the total developed area may be utilized for uses that are permitted in the “C” commercial district.
  2. No business use or any building devoted primarily to a commercial use shall be built or established prior to the residential buildings or uses for which it is developed or intended to serve.
  3. The minimum area, dimensions, and setbacks of individual buildings and lots may be reduced, provided the total number and density of dwellings shall be increased by no more than 20 percent greater than that which would ordinarily result under the district regulations. Land accruing from reduction in lot requirements shall be laid out, developed, and perpetually reserved for open space, recreational, and conservation purposes, with such land dedicated to the municipality or conveyed to another competent public or private entity.
  4. A minimum of 20 percent of the land developed in any residential planned unit development shall be reserved for common open space and noncommercial recreation facilities for the residents and users of the area being developed.
- B. All planned unit developments in commercially zoned districts shall be in compliance with the following regulations:
1. The use, area, height, bulk, and placement regulations of the district may be varied to allow for a variety of architectural design.
  2. Notwithstanding any other provisions of this article, every lot abutting the inside of the perimeter of a commercial planned unit development shall maintain all yard requirements of Section 3.07.
  3. A maximum of 15 percent of the total developed area may be utilized for multiple family residential use.
  4. A maximum of 5 percent of the total developed area may be utilized for industrial uses which are deemed compatible with the commercial and/or residential character of the planned unit development.
  5. A minimum of 15 percent of the land developed in any commercial planned unit development shall be reserved and utilized for common open space and noncommercial recreational facilities for the users of the area being developed.
- C. All planned unit developments in industrial zoned districts shall be in compliance with

the following regulations:

1. The use, area, height, bulk, and placement regulations of the district may be varied to allow for a variety of architectural design.
2. Notwithstanding any other provisions of this article, every lot abutting the inside of the perimeter of an industrial planned unit development shall maintain all yard requirements of Section 3.08 for industrial zoning districts.
3. A maximum of 10 percent of the total developed area may be utilized for uses that are permitted in the “C” commercial zoning district.
4. A minimum of 5 percent of the land developed in any industrial planned unit development shall be utilized for common open space and noncommercial recreational facilities for the users of the area being developed.

### **SECTION 12.03 CRITERIA OF DETERMINATION**

A. The Planning Commission in determining its recommendation for approval or disapproval of a proposed planned unit development shall determine and report that the proposal meets the following requirements:

1. A planned unit development proposal shall comply with the intent and definitions of this article.
2. A planned unit development proposal shall promote the public health, safety and welfare.
3. A planned unit development proposal shall:
  - a. Be compatible with existing adjacent development.
  - b. Be of population density which will not overburden existing or immediately projected schools, parks, roadways, public utilities and other public facilities.
  - c. Incorporate a transportation pattern consistent and complementary with existing and immediately projected transportation systems in the township.
  - d. Be designed in a manner to ensure healthful living conditions and adequate light, air and accessibility for fire and police protection for the inhabitants and users of the development as well as adjacent township residents.
  - e. Be compatible with the objectives and specific elements of the general development plan officially adopted by the Zoning Board.

### **SECTION 12.04 FILING OF APPLICATION**

A. An application and site plan for a proposed planned unit development shall be filed in

triplicate with the zoning Administrator and shall contain the following:

1. Cover letter signed by owner and/or prospective developer holding an equitable interest in the property in question indicating:
  - a. Legal description, showing location and acreage of property.
  - b. Existing zoning classifications.
  - c. General description of proposed development and estimated time-table of construction.
  
2. A site plan prepared in accordance with Article V, and in addition:
  - a. On the site plan there shall be the proposed schedule of: usable floor areas and land areas by category of use, building ground coverage, square feet net lot area and preserved open space per dwelling unit, number of parking spaces and such other information necessary to satisfy the intent and requirements of this article.
  - b. A declaration of restrictions to be placed on a property when subdivided to assure that the planned character and uses will be preserved and protected.
  - c. A copy of the proposed master deed and by laws for an condominium project.

B. The Zoning Administrator shall refer the application and site plan to the Zoning Board.

#### **SECTION 12.05 ACTION OF THE PLANNING COMMISSION**

- A. Upon receipt of the application and site plan the Planning Commission shall schedule and hold a public hearing on the proposal.
  
- B. The Zoning Board shall review and evaluate the proposal, including the application and site plan, in accordance with the criteria specified in this article. It shall also have the authority to attach any reasonable conditions to the site which would address the compatibility of the project in relations to surrounding land uses.

#### **SECTION 12.06 EFFECT OF APPROVAL BY THE TOWNSHIP BOARD**

- A. The approval of the application by the Township board shall allow the zoning Administrator to issue a zoning compliance permit in conformity with the application as approved. Upon the abandonment of a particular planned unit development authorized under this section or upon the expiration of 6 months from the authorization hereunder of a planned unit development which has not by then been commenced, the authorization shall expire. However, the authorization may be renewed upon application by the developer.

**ARTICLE XIII**

**SPECIAL USE PERMIT PROCEDURES**

**SECTION 13.01 SPECIAL USE PERMIT PROCEDURES**

**A. Application.** The application for special use review shall be made on the forms and according to the guidelines provided by the Zoning Administrator. Each application shall be accompanied by the following:

1. A site plan which shall include all the information required by Article V of this Ordinance.
2. A letter describing the proposed use of the property.
3. Other information which the Planning Commission and the Township Board may reasonably deem necessary for adequate review.

The application shall be submitted by the owner having an interest in land for which the special use approval is sought, or by the owner's designated agent. The applicant or a designated representative shall be present at all scheduled review meetings or consideration of the proposal may be tabled due to lack of representation.

**B. Notice.** Upon receipt of a complete application, site plan, and attachments, the Township Planning Commission shall send a notice of the public hearing at which the special use application will be considered. The notice shall be given not less than fifteen (15) days prior to the date of the meeting. The notice shall be published in a newspaper that circulates in the Township; and such notice shall be sent by mail to the owners of property for which approval is being considered, to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question, and to occupants of all structures within three hundred (300) feet of the property boundary regardless if the property is located in Arlington Township. The notice shall contain:

1. A description of the nature of the special use request.
2. A legal description or address and/or an approximate sketch of the property which is the subject of the request.
3. A statement of when and where the public hearing will be held to consider the request.
4. A statement as to when and where comments will be received concerning the request.

**C. Planning Commission Recommendation.** The Planning Commission shall review the application for the special use permit, together with any findings and reports and recommendations of Township consultants and other reviewing agencies. The Planning Commission shall make a recommendation to the Township Board for approval, approval with conditions, or denial of the special use request.

**D. Standards for Granting Special Use Approval.** Upon receipt of the Planning Commission's recommendation the Township Board shall base its action on the following standards:

1. The location, scale, and intensity of the proposed use shall be compatible with adjacent uses and zoning of land.
2. The proposed use shall promote the use of land in a socially and economically desirable manner. The proposed use shall not adversely impact the social and economic well-being of those who will use the proposed land use or activity; residents, businesses, and landowners immediately adjacent; or the Township as a whole.
3. The proposed special use shall be compatible with and in accordance with the general principles and future land use configuration of the Township Land Use Plan and shall promote the intent and purpose of this Ordinance.
4. The proposed use shall be designed, constructed, operated and maintained so as to assure long-term compatibility with surrounding land uses. Consideration shall be given to:
  - a. The size, placement, and materials of construction of the proposed use in relation to surrounding uses.
  - b. The location and screening of vehicular circulation and parking areas in relation to surrounding development.
  - c. The location and height of buildings; the location, nature and height of walls and fences; and the nature and extent of landscaping.
  - d. The location and screening of outdoor storage, outdoor activity or work areas, and mechanical equipment in relation to surrounding development.
  - e. The hours of operation of the proposed use. Approval of a special use may be conditioned upon operation within specified hours considered appropriate to ensure minimal impact on surrounding uses.

5. The location of the proposed special use within the zoning district shall minimize the impact of the traffic generated by the proposed use. Consideration shall be given to the following:
  - a. Proximity and access to major thoroughfares.
  - b. Estimated traffic generated by the proposed use.
  - c. Proximity and relation to intersections.
  - d. Location of and access to off-street parking.
  - e. Required vehicular turning movements.
  - f. Provision for pedestrian traffic.
6. The proposed special use shall be consistent with existing and future capabilities of public services and facilities affected by the proposed use.
7. The proposed use shall not involve any activities, processes, materials, equipment, or conditions of operation, and shall not be located or designed so as to be detrimental to public health, safety, and welfare. Site layout shall be such that operations will not be objectionable to nearby dwellings by reason of noise, fumes, glare or flashing lights.
8. The proposed use shall be compatible with the natural environment.

**E. Recording of Township Board Action.** The Township Board shall have sixty (60) days to act on the application following the recommendation from the Township Planning Commission. Each action taken with reference to a special use proposal shall be duly recorded in the minutes of the Township Board. The minutes shall record the findings of fact relative to each special use proposal, the grounds for action taken, and any conditions imposed in conjunction with approval. All records of proceedings shall be kept on file and made available to the public.

**F. Effective Duration of Special Use Approval.** Special use approvals shall run with the land but may be issued for specified periods based upon the impacts of the proposed use to surrounding property.

**G. Amendments to Special Uses.** When an application is received to expand or change the use, traffic pattern, or other elements of a special use, the application shall be subject to the same procedures followed for an original special approval of land use. The denial of an application to amend an existing special use permit shall not nullify or cause to prohibit the applicant from continuing to operate in compliance/conformance within the specifications of the original (existing) special use permit approval.

**H. Revocation of Special Use Approval.** Approval of a special use permit and site plan may be revoked by the Township Board if construction is not in conformance with the approved plans. In such a case, the Zoning Administrator shall place the special use on the agenda of the Township Board for consideration, and give written notice to the applicant at least five (5) days prior to the meeting. The applicant shall be given the

opportunity to present information to the Township Board and answer questions. The Township Board may revoke approval if it finds that a violation exists and has not been remedied prior to the hearing.

**ARTICLE XIV**

**VIOLATIONS AND PENALTIES**

**SECTION 14.01 VIOLATIONS AND PENALTIES**

A. Nuisance Per Se. Any building or structure which is erected, moved, placed, reconstructed, razed, extended, enlarged, altered, maintained or used, and any use of a lot or land which is begun, continued, or changed in violation of any term or provision of this Ordinance is hereby declared to be a nuisance per se subject to abatement pursuant to MCL 125.3407 and as otherwise provided by law.

B. Violation. Any person who violates, disobeys, neglects, or refuses to comply with any provision of this Ordinance, any administrative decision made under the Ordinance, or any permit or approval issued under this Ordinance , including any conditions, imposed thereon, or who causes, allows, or consents to any of the same, shall be deemed to be responsible for the violation of this Ordinance. Any person responsible for a violation of this Ordinance whether as an owner (by deed or land contract) lessee, licensee, agent, contractor, servant, employee, or otherwise shall be liable as a principal. Each day that a violation exists shall constitute a separate offense.

C. Municipal Civil Infraction. A violation of this Ordinance is a municipal civil infraction as defined by Michigan statute and shall be punishable by a civil fine determined in accordance with the following schedule:

	Minimum Fine	Maximum Fine
1st offense	\$75	\$500
2nd offense	\$150	\$500
3rd offense	\$325	\$500
4th or more	\$500	\$500

Additionally, the violator shall pay the costs which may include all expenses, direct and indirect, which Arlington Township has incurred in connection with the infraction. In no case shall costs of less than \$9.00 be ordered.

D. Remedial Action. Any violation of this Ordinance shall constitute a basis for injunctive relief or other appropriate remedy in any court of competent jurisdiction to compel compliance with this Ordinance and enforce the provisions thereof.





**ARTICLE XV**

**SEVERABILITY AND EFFECTIVE DATE**

**SECTION 15.01 SEVERABILITY**

Should any section , clause, or provision of this Ordinance be declared unconstitutional, illegal or of no force and effect by a court of competent jurisdiction then and in that event such portion thereof shall not be deemed to affect the validity of any other portion of this Ordinance.

**SECTION 15.02 EFFECTIVE DATE AND REPEAL OF OTHER ORDINANCES**

This Ordinance shall take effect \_\_\_\_\_, following adoption. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Arlington Township Clerk \_\_\_\_\_