

ARTICLE IV AR, AGRICULTURAL RESIDENTIAL DISTRICT

Section 4.01. PRINCIPAL USES PERMITTED.

- A. Farms, farm buildings, and farm uses.
- B. Single-family detached dwellings (subject to Section 11.06).
- C. Keeping of livestock (subject to the limitation of Section 11.16).
- D. Township government buildings and uses.
- E. Family day care homes and adult foster care homes caring for six (6) or fewer persons.
- F. Buildings, structures and uses which are accessory to any of the above permitted uses.

Section 4.02. USES PERMITTED AFTER SPECIAL APPROVAL.

A. Home Occupations. A home occupation may be permitted in a single-family detached dwelling within a zoning district where such dwelling is permitted, subject to all of the following conditions:

- 1. Not more than one (1) person outside of the family residing at the location shall be engaged in such operation.
- 2. The Home Occupation shall be clearly incidental and subordinate to the residential use.
 - (a) No home occupation shall have an electrical service that exceeds 200 amps or is fused at greater than 200 amps for the purpose of the home occupation.
- 3. A home occupation shall be conducted within the dwelling unit or within a building accessory thereto. Not more than twenty five percent (25%) of the area of the dwelling unit may be used for purposes of the home occupation. Accessory structures may be used for purposes of the home occupation.
- 4. There shall be no change in the outside appearance of the structure or premises, or other visible evidence of conduct of such home occupation except for signage as discussed in Section 9 below. There shall be no external or internal alterations to the dwelling not customary in residential areas.
- 5. No article shall be sold or offered for sale on the premises except such as is prepared within the dwelling or accessory building or is provided as incidental to the service or profession conducted therein.
- 6. Traffic generated by a home occupation shall not be greater in volume than that normally expected for such a residence. Parking for the home occupation shall not exceed two (2) spaces. Such spaces shall be provided on the premises, off-street, subject to all regulations in *ARTICLE 13.01 – OFF-STREET PARKING AND LOADING REGULATIONS* and provided the parking spaces shall not be located in the required front yard.

7. Exterior storage of material, equipment, or refuse associated with or resulting from a home occupation, shall be prohibited.

8. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odor, or electrical interference which are nuisances to persons off the lot. Any electrical equipment processes which create visual or audible interference with any radio or television receivers off the premises or which cause fluctuations in line voltages off the premises shall be prohibited.

9. Any signage associated with the home occupation, with the exception of medical marijuana, must meet the requirements of Arcadia Township Sign Ordinance No. 701.

10. Must have a potable water supply and wastewater disposal system approved by the Lapeer County Health Department and that meets current State of Michigan wastewater disposal standards.

11. Examples of Home Occupations permitted, but not limited to, are:

- a) Tailoring
- b) Sculpturing and painting
- c) Writing
- d) Telephone Answering
- e) Computer Programming
- f) Home Crafts
- g) Income Tax Assistance
- h) Music Lessons
- i) Repair and rebuilding of lawnmowers and repair of small engines and motors.
- j) Barber Shops and Beauty Shops.
- k) Licensed childcare in the home
- l) Woodworking
- m) Medical Marijuana, specified below

12. Examples NOT considered Home Occupations, but which may be considered as a special land use in allowed zoning districts are:

- a) Automotive Repair, Paint Shops, or Detailing Establishments
- b) Commercial Child Care Centers
- c) Dog Grooming Services or Kennels
- d) Medical Laboratories
- e) Outdoor Repair of large equipment
- f) Real Estate Office

13. Medical Marijuana Home Occupation shall mean the medical use of marijuana conducted (1) in compliance with the Michigan Medical Marijuana Act, Michigan Initiated Law 1 of 2008, MCL 333.26421, et seq. and the provisions of this section; and (2) at a dwelling unit by a single primary caregiver who is also an owner AND resident of the dwelling unit as an accessory use that is clearly incidental and secondary to the use of the dwelling unit for residential purposes.

- a) In the event that a court with jurisdiction declares some or all of this article invalid, then the township of Arcadia may suspend the acceptance of applications for special use permits pending the resolution of the legal issue in question.

- b) The Township of Arcadia may suspend or revoke a special use permit based on a finding that the provisions of the special use standards in this section, all other applicable provisions of this zoning ordinance, or the terms of the special use permit are not met.
- c) Marijuana establishments prohibited
 - 1. Any and all types of a “marijuana establishment,” as that term is defined and used in Michigan Initiated Law 1 of 2018, commonly known as the Michigan Regulation and Taxation of Marijuana Act, are completely prohibited in the Township, and may not be established or operated in any zoning district, by any means, including by way of a variance.
 - 2. Any and all types of “marijuana facilities” as described in Act 281 of 2016, the Medical Marijuana Facilities Licensing Act are completely prohibited in the Township and may not be established, licensed or operated in any zoning district, by any means, including by way of a variance.
 - 3. Nothing in this Section 14.02 shall limit any privileges, rights, immunities, or defenses of a person as provided in the Michigan Medical Marijuana Act, Michigan Initiated Law 1 of 2008, MCL 333.26421, et seq.
- d) Medical marijuana shall not be grown, processed, handled or possessed at the dwelling of the primary caregiver beyond that which is permitted by law.
- e) All necessary building, electrical, plumbing, and mechanical permits shall be obtained for any portion of a building or structure in which equipment and devices that support the cultivation, growing or harvesting of marijuana are located or used.
- f) Minimum Lot Size and setbacks. A minimum lot size of two acres shall apply to all Medical Marijuana Home Occupation sites. A minimum yard distance from lot lines shall be 50 feet from the rear and side yards and a front setback of 100 feet for any structure used for marijuana production. The minimum front, rear, and side yard setbacks for outdoor production shall be a minimum of 100 feet from all lot lines.
- g) Indoor Production and Processing. In the Agricultural Residential district, marijuana production shall be located entirely within one completely enclosed accessory building, with no more than 1200 square feet of dedicated grown area. In the Agricultural Residential district, marijuana processing shall be located entirely within a fully enclosed, secure, indoor facility or greenhouse with rigid walls, a roof, and doors.

- h) Lighting. Lighting shall be regulated as follows:
 - 1. Light cast by light fixtures inside any building used for marijuana production or marijuana processing shall not be visible outside the building from 7:00 p.m. to 7:00 a.m. the following day.
 - 2. Outdoor marijuana grow lights shall not be illuminated from 7:00 p.m. to 7:00 a.m. the following day.
- i) Odor. As used in this subsection, building means the building, or portion thereof, used for marijuana production or marijuana processing.
 - 1. The building shall be equipped with an activated carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter.
 - 2. The filtration system shall consist of one or more fans and activated carbon filters. At a minimum, the fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter (s) shall be rated for the applicable CFM.
 - 3. The filtration system shall be maintained in working order and shall be in use. The filters shall be changed a minimum of once every 365 days.
 - 4. Negative air pressure shall be maintained inside the building.
 - 5. Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress or egress the building.
 - 6. An alternative odor control system is permitted if the special use permit applicant submits, and the municipality accepts, a report by a mechanical engineer licensed in the state of Michigan demonstrating that the alternative system will control odor as well or better than the activated carbon filtration system otherwise required. The municipality may hire an outside expert to review the alternative system design and advise as to its comparability and whether in the opinion of the expert it should be accepted.
- j) Security Cameras. If used, security cameras shall be directed to record only the subject property and may not be directed to public rights-of-way as applicable, except as required to comply with licensing requirements of the state of Michigan.
- k) The disposal of plant material shall be done in a safe and secure manner which does not permit those without the proper permits to access or obtain any disposed plant material.
- l) A sign identifying the home occupation by word, image or otherwise, or indicating that the medical use of marijuana is taking place on the

premises, shall not be permitted; nor shall any vehicle having such a sign be parked anywhere on the premises.

- m) Distribution of marijuana or use of items in the administration of marijuana shall not occur at or on the premises of the primary caregiver. A qualifying patient shall not visit, come to, or be present at the residence of the primary caregiver to purchase, smoke, consume, obtain or receive possession of any marijuana.
- n) Related merchandise or products shall not be sold or distributed from the dwelling or property of the primary caregiver, apart from the permitted quantity of medical marijuana.
- o) No one under the age of 18 years shall have access to medical marijuana.
- p) A floor plan shall be provided to verify the location and type of hazardous material (herbicides, pesticides, fertilizers, etc.) proposed to be stored or used onsite. SDS sheets shall be provided for all chemicals stored or used onsite. An inventory of the chemicals, including quantity and location, shall be provided.
- q) No more than one caregiver per residence will be accepted.
- r) A caregiver cultivating marijuana for medical use in the Township must submit proof (as part of the Zoning Permit application) that he or she is a properly licensed caregiver with the State of Michigan.
- s) A complete and accurate application shall be submitted on a form provided by the Township and an application fee in an amount determined by resolution of the Township Board shall be paid.
- t) The operations of a registered primary caregiver, as a home occupation, shall be permitted only with the prior issuance of a Township permit that is renewable on a biannual basis, and payment of a reasonable biannual application fee set by the Township.
- u) Reside/resident. The place that you live in as your permanent residence and if absent intent to return. It shall be the address that appears on your driver's license or Michigan Identification Card, as well as on your voter registration card. Vacation homes, seasonal homes, and income property are not considered where you reside.

14. Any proposed Home Occupation may be approved, approved with conditions, or denied by the Township Planning Commission based on the criteria established for Home Occupation use. The request will be considered upon completion of an information sheet, provided to the prospective operator, requiring a written description of the proposed business activity and then presented to the Township Planning Commission at a regularly scheduled meeting.

15. A Home Occupation shall terminate (i) when the original operator discontinues or changes the nature of the business; (ii) when the original operator no longer owns the subject

property; or (iii) upon a finding by the Township that the provisions of the special use standards in this section, all other applicable provisions of the zoning ordinance, or the terms of the special use permit are not met.

16. The property, accessory building, dwelling and all enclosed, locked facilities shall be available for inspection and approval to ensure compliance with all applicable requirements and laws, upon request by the Township Supervisor or his or her designee at any time between 9am and 5pm Monday through Friday. (Adopted July 7, 2021)

B. Dog Kennels

Dog kennels may be allowed as special land uses in the AR Agricultural-Residential zoning district, pursuant to Article 16, subject to the following requirements:

1. Definitions

- a) Kennel, Commercial: Any lot or premises used for the keeping, breeding, sale, boarding, or treatment of more than ten (10) adult dogs.
- b) Kennel, Hobby: Any lot or premises used for the keeping or breeding of more than three (3) but less than eleven (11) adult dogs for non-commercial purposes.
- c) Dog, Adult: Any dog which is more than four (4) months old.

2. Site Requirements

- a) A hobby kennel shall be located on a lot with a minimum size of five (5) acres.
- b) Commercial kennels shall be located on a lot at least four hundred (400) feet in width and shall have a minimum lot size of five (5) acres for the first ten (10) dogs and an additional one-third (1/3) acre for each additional dog.
- c) Buildings where dogs are kept, runs, and exercise areas shall not be located nearer than one hundred (100) feet to any adjacent residential lot line or any adjacent building used by the general public and shall not be located in any required front or side yard setback areas.

3. Performance Standards

- a) All kennels shall be operated in conformance with all applicable county, state, and federal regulations. All dogs shall be licensed.
- b) Hobby kennels shall only house dogs owned by the occupant of a dwelling on the site.
- c) Any kennel building used to house dogs shall be insulated in such a manner that animal noises are minimized.
- d) Habitual barking or unusual noise from the kennel which results in a nuisance to neighboring landowners or residents is prohibited.

- e) Exercise yards, when provided for training or exercising shall not be used between the hours of 8:00 p.m. and 7:00 a.m.
- f) During the hours between 7:00 a.m. and 10:00 p.m. animals shall be permitted in outdoor runs or pens. Animals shall be kept confined and not allowed to run at large on the property, except as part of supervised training.
- g) The kennel area shall be screened from view by appropriate screening as determined by the Planning Commission.
- h) The outside perimeter of the run and/or exercise area of a hobby or commercial kennel shall be enclosed by chain link cyclone fencing at sufficient height or completely covered on sides and top to prevent the escape of dogs.
- i) Outdoor runs and breeding areas in commercial kennels shall have concrete surfaces, suitable for cleaning by high-pressure water, and shall be provided with an adequate septic system.
- j) The premises shall be kept in a clean and sanitary manner to prevent the accumulation of flies and spread of disease or offensive odor. Odors shall not be detectable beyond the lot lines of the property in which the kennel is located.
- k) Dust and drainage from the kennel shall not be allowed to create a nuisance or hazard to adjoining property.

(Ord. No. 107 eff. 01-24-01)

C. Excavation of Soil, Sand, Clay, Gravel, or Similar Materials for Removal from the Property

- 1. Each application for special approval shall contain the following:
 - a) Names and addresses of property owners and proposed operators of the premises.
 - b) Legal description of the premises.
 - c) Detailed statement as to method of operation, type of machinery or equipment to be used and estimated period of time that the operation will continue.
 - d) Detailed statement as to the type of deposit proposed for extraction.
 - e) Reclamation plan and detailed statement as to the proposed use of the land after quarrying or fill operation are complete.

2. Operational Requirements.

a) Pit Operations.

- (1) In operations involving deep excavations, the operator shall provide adequate safeguards to protect the public safety. These safeguards may include fencing, locked gates, and warning signs.
- (2) The Planning Commission may require that any gravel or dirt roads used for the purpose of ingress and egress to said excavation site be kept dust free by hardtopping or chemical treatment.
- (3) The completed slopes of the banks of any excavation shall in no event exceed a minimum of three (3) feet to one (1) foot (three foot horizontal to one foot vertical).
- (4) No cut or excavation shall be made closer than two hundred (200) feet from the centerline of the nearest road right-of-way nor nearer than fifty (50) feet to the nearest property line. The Planning Commission may prescribe more strict requirements in order to give sublateral support to surrounding property where soil or geologic conditions warrant it.

3. Surety Bond.

- a) The Planning Commission shall, to ensure strict compliance with any regulations or required conditions of a permit for quarrying, require the permittee to furnish a bond in an amount determined by the Planning Commission to be reasonably necessary to insure compliance.
- b) In fixing the amount of such surety bond, the Planning Commission shall take into account the size and scope of the proposed quarry, probable cost of rehabilitating the premises upon default of the operator, estimated expenses to compel the operator to comply by Court decree, and such other factors and conditions as might be relevant.

D. Two-Family Dwellings

1. Any dwelling proposed for use as a duplex must have been constructed for and occupied as a single-family dwelling prior to the adoption of this Ordinance.
2. Each dwelling unit within the remodeled dwelling must contain the minimum number of square feet required for a single-family dwelling.

E. Schools, Churches, and Cemeteries

A minimum site size of five acres shall be required and the site must be located on a paved road.

F. Aircraft landing areas for agricultural or personal use.

G. Governmental buildings and facilities.

H. Group Day Care Homes

1. The group day care home shall have a fenced play area for the children containing not less than five thousand (5,000) square feet. In no event less than one hundred fifty (150) square feet of outdoor play area shall be available for each child.
2. The property shall be maintained in a manner consistent with the visible characteristics of the neighborhood, which may include landscaping or screening in the discretion of the Planning Commission.
3. The group day care home shall not exceed sixteen (16) hours of operation during any twenty-four (24) hour period. The Township Planning Commission may place limits on the operation of the day care home between the hours of 10:00 p.m. and 6:00 a.m. but may not totally prohibit operations during said hours.
4. The group day care home may have only one sign, the size of which shall not exceed nine (9) square feet in area.
5. The group day care home must provide adequate off-street parking for employees and for persons bringing children to the facility.

I. Golf Courses

1. The site shall be so planned as to provide all ingress and egress directly onto a paved road.
2. All buildings shall not be less than two hundred (200) feet from any property line of abutting residentially zoned lands.

J. Open Space Preservation

1. **Open Space Defined.** Land qualifying as open space shall be land set aside for recreational, conservation or agricultural uses and preserved in an undeveloped state. Open space shall not be deemed to include areas within road rights-of-way, county drain easements or residential yard areas. Use of preserved open space lands for any purpose other than recreation, conservation or agricultural activities shall be prohibited.
2. **Minimum Site Size.** The clustering of single-family dwellings shall only be permitted on parcels of land containing at least twenty (20) acres.
3. **Open Space Minimum.** A single-family cluster development must preserve open space equal to a minimum of fifty (50%) percent of the total area of the parcel on which the cluster housing is constructed. At least twenty (20%) percent of the total preserved area must be upland area, upland area being defined as any area not permanently submerged.
4. **Features to be Preserved.** In order to approve a cluster housing proposal, the Planning Commission must determine that the parcel of land contains natural features which would be preserved through the use of cluster development. Such features must include at least one of the following:
 - a) Natural stands of large trees.

- b) Natural habitat for wildlife.
- c) Unusual topographic features.
- d) Productive farmland.
- e) Water or wetland areas.

The developer must submit a complete inventory of the parcel's natural features to the Planning Commission.

5. Maximum Number of Dwelling Units Allowed and Minimum Lot Area. Within an open space preservation development, the Planning Commission may allow a dwelling unit density within the developed area, greater than otherwise would be permitted in the AR zoning district. The maximum number of dwelling units which may be allowed shall be the number of dwelling units which would ordinarily be allowed, based on the total land area of the parcel, including the area to be preserved, but excluding permanently submerged areas. The minimum lot area for each detached dwelling unit within the development may be reduced by the Planning Commission to no less than one (1) acre.
6. Minimum Setbacks and Lot Width. In areas approved for open space preservation development, the required setbacks and lot widths may be reduced by the Planning Commission, subject to the following minimums:
 - a) The minimum side yard and rear yard setbacks shall be at least twenty (20) feet.
 - b) The minimum lot width shall be at least one hundred (100) feet.
7. Attached Dwelling Units. The Planning Commission may permit attached dwelling units within a cluster housing development, subject to the following limitations:
 - a) The maximum number of dwelling units which can be attached shall not exceed four (4).
 - b) All attached dwelling units shall be so situated as to have one side of the building abutting onto a preserved open space.
 - c) Distance between any dwelling unit structures shall be at least twenty (20) feet, measured between the nearest point of the structures.
8. Road Access. All dwelling units within an open space preservation development shall enter only onto a private road or a new public road constructed within the development.
9. Preserved Areas Owned in Common. Any land intended to be used as a common area by homeowners shall be set aside for their exclusive use. All such lands shall be designated on the site plan and shall be permanently preserved by deed restrictions or protective easements running with the land. The restrictions or easements shall be reviewed and approved as to wording by the Township Attorney to assure the following:

- a) That title to the open space would be held in common by the owners of all dwelling units in the cluster development.
 - b) That a permanent organization for maintenance and management of such areas would be assured by legal documents prior to the issuance of any building permits or the sale of any property.
 - c) That the restrictions would be sufficient to assure the permanent preservation of the open space.
 - d) That the restrictions could be enforced by all property owners and by the Township.
10. Preserved Areas Not Owned in Common. Land areas which are to be preserved but not held in common ownership shall be designated on the site plan and shall be permanently preserved by deed restrictions or protective easements running with the land. The restrictions or easements shall be reviewed and approved as to wording by the Township Attorney to assure the following:
- a) That the proposed manner of holding title to the preserved open land is acceptable to the Township.
 - b) That the proposed restrictions would be sufficient to assure the permanent preservation of the open space and the natural features and adequately regulate the use of the open land.
 - c) That the restrictions could be enforced by all property owners and by the Township.

(Ord. No. 105 eff. 11-17-99, Ord. No. 109 eff. 04-13-03, Ord. No. 111 eff. 02-15-04)
(Ord. No. 112, eff. 12-14-10) (Ord. No. 113, eff. 7-7-21)