



**Bainbridge Township
Berrien County, Michigan**

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Bill Hodge, Supervisor
Patty Hiler-Molter, Clerk
Nancy Weber, Treasurer

**EXCAVATION PERMIT
Article XXI**

Applications for an Excavation Permit shall be submitted through the Zoning Administrator to Planning Commission accompanied by a \$500.00 filing fee. Checks should be payable to “Bainbridge Township”.

Include the following:

1. Application.
2. Site Plan in conformance with Article XI (11)
3. Additional requirements:
 - a. Location of all buildings on the site and within five hundred (500) feet of the perimeter of the site.
 - b. Existing roadways, drains, roadway ditches, and existing utility locations, widths and elevations.
 - c. Location of floodplain wetlands and any other natural features on site.
4. Copy of current paid tax bill, deed or other proof of ownership, which includes a legal description of the property, property tax number and proof of taxes paid of said property.
5. Statement of Compliance.
6. Request for the Public Hearing.
7. Location of all buildings on the site and within five hundred (500) feet of the perimeter of the site.

8. Topographical survey map showing existing grades and final grades after, to be prepared by a registered civil engineer or registered land surveyor such survey shall include:
 - a. Existing spot elevations on a fifty (50) foot grid system on parcels not exceeding four acres in area and one hundred (100) foot grid system on areas exceeding four acres in area;
 - b. The contour interval shall not exceed two (2) feet;
 - c. Existing spot elevations on the grid system and a line parallel to and exterior to at a distance of twenty (25) feet (minimum) from the lot boundary lines in order to indicate existing grade elevations of abutting parcels of land; and
 - d. Existing and proposed contour lines, drainage swales, storm sewers and methods of storm water run-off drainage.
9. Existing roadways, drains, roadway ditches, and existing utility locations, widths and elevations.
10. Location of floodplain wetlands and any other natural features on site.

Applicant should attend the Planning Commission meeting and Public Hearing to answer any questions that may arise. If a special meeting of the Planning Commission is requested, a charge of \$500.00 is required to defray Township expenses.

APPLICATION FOR EXCAVATION PERMIT

Applicant Name: _____

(Address) (City) (State) (Zip)

Home Phone #: _____ Work/Mobile Phone #: _____

Tax Code Number: 11-01- _____ - _____ - _____ - _____ Zone District: _____

Describe type of Excavation requested:

Describe design change in property and restoration plan including final topography after completion of excavation:

Describe method of operation:

Describe machinery or equipment to be used for proposed use:

Estimate period of time that operation will cover:

Describe all haul roads and truck entrance locations:

Describe what content and type of soil, sand, clay, gravel or similar material is proposed to be extracted, deposited or stockpiled:

Describe ability to adequately provide for the service and facility under consideration:

Describe additional public services needed for proposed use:

Parties of interest in proposed excavation operation (list additional information on the back or attach another sheet):

<u>NAME</u>	<u>ADDRESS</u>	<u>LEGAL INTEREST</u>
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Until a permit has been granted pursuant to the Special Land Use Permit, there shall be no construction or excavation of said land nor shall use of the land be made toward the intended purposes of such Special Land Use Permit.

Signed: _____ Date: _____

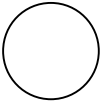
SITE PLAN – TO BE COMPLETED BY APPLICANT:

- 0 SHOW PROPERTY LINES WITH DIMENSIONS
- 0 SHOW LOCATION AND SIZE OF BUILDING(S), DRIVES, AND PARKING AREAS
- 0 SHOW LOCATION OF SEPTIC SYSTEM AND WELL
- 0 SHOW ALL RIVERS, LAKES, OR STREWAMS WITHIN 500 FEET
- 0 TOPOGRAPHY IF SLOPE EXCEEDS 1 FOOT IN 10 FEET
- 0 ROAD R.O.W., ACCESS, OR UTILITY EASEMENTS

CHECK APPROPRIATE SCALE:

1" = 50'	0	25	50
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1" = 100'	0	50	100
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1" = 200'	0	100	200
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PLACE
NORTH AREA
IN CIRCLE



STATEMENT OF COMPLIANCE

1. I represent that the enclosed application will comply with the following General Standards:
 - a. The special land use shall be designed, constructed, operated and maintained in a manner harmonious with the character of adjacent property and the surrounding area.
 - b. The special land use shall not inappropriately change the essential character of the surrounding area.
 - c. The special land use shall not interfere with the general enjoyment of adjacent property.
 - d. The special land use shall represent an improvement to the use or character of the property under consideration and the surrounding area in general, yet also be in keeping with the natural environment of the site.
 - e. The special land use shall not be hazardous to adjacent property, or involve uses, activities, materials or equipment which will be detrimental to the health, safety, or welfare of persons or property through the excessive production of traffic, noise, smoke, odor, fumes or glare.
 - f. The special land use shall be adequately served by essential public facilities and services, or it shall be demonstrated that the person responsible for the proposed special land use shall be able to continually provide adequately for the services and facilities deemed essential to the special use under consideration.
 - g. The special land use shall not place demands on public services and facilities in excess of available capacity.
 - h. The special land use shall be consistent with the intent and purpose of this Ordinance, and the objectives of any currently adopted Bainbridge Township Development Plan.

Signature of Applicant: _____ / Date: _____

**PUBLIC HEARING REQUEST
FOR EXCAVATION PERMIT**

11-01- _____ - _____ - _____ - _____
Property Tax Code Number

I hereby request a public hearing for the purpose of securing an Excavation Permit for property described by the property tax code number shown above.

The address of this property is:

(Address) (City) (State) (Zip)

The requested Excavation Permit is for the following purpose:

I enclose application, site plan, proof of ownership and legal description of the property, proof of paid taxes, a list of names and addresses of the owners of property within 300 feet of the property covered by this application, and a statement of compliance.

(Name of applicant)

(Street and Number)

(City) (State) (Zip)

_____/_____
(Signature) (Date)

ARTICLE XI

Site Plan and Scaled Drawing Requirements

Section 11.01 - Intent

- A. The intent of requiring site plan or scaled drawing submittal and review in certain instances specified herein is to facilitate determination of whether certain development proposals meet all applicable requirements and are in harmony with the purpose, intent and spirit of this Ordinance.
- B. It is further the intent to assist township officials in encouraging and assisting proposers of land development to design and implement land use proposals which foster orderly, efficient, compatible and aesthetic uses of land in Bainbridge Township.

Section 11.02 - When Required

- A. Variance or Special Land Use – Except for Single-Family, Two-Family: A site plan shall be prepared and submitted in accordance with Sections 11.03 A. and 11.04 with any application for:
 - 1. Variance or Special Land Use Permit, other than for a Special Land Use Permit for a Home Occupation;
 - 2. With any application for Rezoning, other than Rezoning for the sole purpose of constructing a single-family, two-family or agricultural permitted principal use;
 - 3. With any application for a Zoning Compliance Permit or Building Permit, other than for the sole purpose of constructing a single-family, two-family or agricultural permitted principal use or accessory use thereto; and
 - 4. With any application for a Planned Unit Development or Condominium.
- B. Rezoning – Single-Family, Two-Family: A scaled drawing shall be prepared for the sole purpose of constructing a single-family, two-family or agricultural permitted principal use or accessory use thereto and submitted in accordance with Sections 11.03 B. and 11.04 with any application for:
 - 1. Rezoning;
 - 2. Zoning Compliance Permit;
 - 3. Building Permit; or
 - 4. Variance.

Section 11.03 - Contents

- A. A required site plan shall be drawn at a scale of one (1) inch equals one hundred (100) feet and shall contain the following information:
1. The boundary lines of the area included in the site plan, including angles, dimensions and reference to a section corner, quarter corner or point on a recorded plat, an arrow pointing north, and the individual lot areas and dimensions of the land included in the site plan.
 2. Existing and proposed topography, drainage systems, and structures, with topographic contour intervals of not more than two (2) feet.
 3. The shape, size and location of all structures on the lot including yard dimensions, height, floor area and ground coverage ratios and the finished ground and basement floor grades.
 4. Natural features such as wood lots, trees of more than one (1) foot in diameter, streams and lakes or ponds, and man-made features such as existing roads and structures, with indication as to which features are to be retained and which removed or altered. Adjacent properties and their uses shall be identified.
 5. Proposed streets, driveways, parking spaces, curb cuts, loading spaces and sidewalks, with indication of direction of travel for one-way streets and drives and the inside radius of all curves. The width of streets, driveways and sidewalks, and the total number and layout of parking spaces shall be shown.
 6. The size and location of all existing and proposed public and private utilities and required landscaping.
 7. A vicinity sketch showing location of the site in relation to the surrounding street system.
 8. A legal description of the land and lots included in the site plan.
 9. Any other information necessary to establish compliance with this and any other ordinances.
 10. The availability of adequate utility capacity.
 11. The name, signature, title and mailing address of the person who prepared the site plan. A site plan for any development shall be prepared by a registered architect, engineer, professional community planner or land surveyor.
- B. A required scaled drawing shall be drawn at a scale appropriate to the dimensions of development and shall contain the following information:
1. A legal description of the land involved.

2. A vicinity sketch showing location of the site in relation to the surrounding street system.
3. The size and location of all structures proposed for and presently located on the site.
4. The boundary lines of the parcel of land involved including dimensions and an arrow pointing north.
5. Proposed streets and driveways. The width of streets and driveways shall be shown.
6. Any other information necessary to establish compliance with this and any other ordinances.
7. The name, signature and mailing address of the person who prepared the scaled drawing.

Section 11.04 - Review Process and Approval

- A. Any required site plan or scaled drawing shall be submitted, of original quality, to the Zoning Administrator along with a cover letter signed by the owner of the land and/or prospective developer providing a general explanation and background information on the proposed development.
- B. The Zoning Administrator shall examine the site plan or scaled drawing as to proper form and content and particularly as to compliance with all applicable requirements of this Ordinance.
- C. If the proposed development does not require the issuance of a Special Land Use Permit by the Planning Commission, Variance by the Board of Appeals or a Rezoning of land by the Township Board, within thirty (30) days after receipt the Zoning Administrator shall notify in writing the proposer of the development of the approval or disapproval of the site plan or scaled drawing. If the site plan or scaled drawing is disapproved, the reasons therefore shall be given. Such disapproval shall be limited to inadequacy or defect in form or content and/or noncompliance with identified applicable provisions of this Ordinance. The Zoning Administrator may, at his discretion, request consultation with the Planning Commission prior to his approval or disapproval of the site plan.
- D. If the proposed development requires issuance of a Special Land Use Permit, the Zoning Administrator shall transmit his findings as described in paragraph C. above, to the Planning Commission along with a copy of the site plan and covering letter. The proposer of the development shall be notified of the status of his requested site plan approval.

- E. If the proposed development requires a rezoning of land, the Zoning Administrator shall transmit his findings as described in paragraph C., above, to the Township Board which shall follow the amendment procedure as provided in Article XV (15). The site plan or scaled drawing and cover letter shall accompany the Zoning Administrator's findings. The proposer of the development shall be notified of the status of his requested site plan or scaled drawing for approval.
- F. If the proposed development requires a Variance, the Zoning Administrator shall transmit his findings as described in paragraph C., above, to the Board of Appeals which shall follow the Variance procedure as provided in Article XIII (13). The site plan or scaled drawing and cover letter shall accompany the Zoning Administrator's findings. The proposer of the development shall be notified of the status of his requested site plan or scaled drawing for approval.
- G. The decision rejecting, approving, or conditionally approving a site plan shall be based upon the requirements contained in Section 11.03, A. The decision rejecting, approving or conditionally approving a scaled drawing shall be based upon the requirements contained in Section 11.03, B.
- H. A site plan or scaled drawing shall be approved if it contains the information required by this Ordinance and is in compliance with this Ordinance and the conditions imposed thereunder, other applicable Township, County, State or Federal laws, rules or regulations.
- I. The site plan or scale drawing as approved shall become part of the record of approval, and subsequent actions relating to the activity authorized shall be consistent with the approved site plan or scaled drawing, unless a change conforming to this Ordinance receives the mutual agreement of the landowner and approving body.
- J. Upon approval of a site plan, the secretary of the approving body shall, within five (5) days, file with the Zoning Administrator a copy of the approved site plan or scaled drawing.

ARTICLE XXI

Excavation

Section 21.01 – Intent

- A. The intent of this Article is to provide a procedure for the removal of soil, sand, clay, gravel or similar materials, excavation or filling operations.
- B. It is the intent to allow for Excavation in AG, Agricultural, R-AG, Residential Agricultural, C-AG, Commercial Agricultural, C, Commercial and I, Industrial Districts, subject to a Special Land Use Permit as set forth in this Article and Article X (10).
- C. It is the intent of the Township to require that upon completion of an Excavation Operation, said land subject to the excavation shall be restored in such manner that the property can be suitably used for the uses prescribed by district in which the property is located.

Section 21.02 – Definition

- A. **Excavation:** The term “Excavation” is defined as the removal of soil, sand, clay, gravel or similar materials... The removal of, grading or stripping of any topsoil, sand, clay, gravel or similar material, except that necessary for construction issued pursuant to an approved Building Permit and the stockpiling of soil or rock within the unincorporated area.
- B. Excavations for ponds, detension/retention, drainage and other purposes constructed pursuant to plans and/or approvals of the Berrien County Drain Commissioner, Soil Conservation Service, Michigan Department of Natural Resources, Michigan Department of Environmental Quality, Michigan Department of Agriculture (generally accepted agricultural management standards) are exempt from the provisions of this Article.

Section 21.03 – Application Procedure

- A. **Applicant:** Any person owning or having an interest in the subject property may file an application for Excavation, provided for in this Article in the zoning district in which the land is situated. No Excavation Operation shall begin in the Township without first having acquired all permits as described in this Article.
- B. **Application:** An application and site plan shall be submitted through the Zoning Administrator, to the Planning Commission. Each application shall be accompanied by the payment of a fee in accordance with the schedule of fees adopted by the Township Board to cover the costs of processing the application. No part of any fee shall be refundable.

- C. **Required Information:** The Zoning Administrator shall then submit to the Planning Commission after review for completeness pursuant to Article X (10) and the following:
1. Names and addresses of parties of interest in said premises setting forth their legal interest in said premises.
 2. Full legal description of the premises wherein operations are proposed.
 3. Location of all buildings on the site and within five hundred (500) feet of the perimeter of the site.
 4. Detailed proposal as to method of operation, what type of machinery or equipment will be used, estimated period of time that such operation will cover, and all haul roads and truck entrance locations to be used.
 5. Detailed statement as to exactly what content and type of soil, sand, clay, gravel, or similar material is proposed to be extracted deposited or stockpiled.
 6. Topographical survey map showing existing grades and final grades after, to be prepared by a registered civil engineer or registered land surveyor such survey shall include:
 - a. Existing spot elevations on a fifty (50) foot grid system on parcels not exceeding four acres in area and one hundred (100) foot grid system on areas exceeding four acres in area;
 - b. The contour interval shall not exceed two (2) feet or as determined by the Planning Commission;
 - c. Existing spot elevations on the grid system and a line parallel to and exterior to at a distance of twenty (25) feet (minimum) from the lot boundary lines in order to indicate existing grade elevations of abutting parcels of land; and
 - d. Existing and proposed contour lines, drainage swales, storm sewers and methods of storm water run-off drainage.
 7. Existing roadways, drains, roadway ditches, and existing utility locations, widths and elevations.
 8. Location of floodplain wetlands and any other natural features on site.
 9. Such other information as may be reasonably required by the Planning Commission to determine whether a permit should be issued.
 10. Restoration plans showing final topography and a proposed development plan or other form of evidence determined acceptable by the Planning Commission showing that the site after completion of the excavation can be suitably used for the uses designated in the zoning district in which the property is located.

11. If rezoning is the subject property is required to comply with this provision, said rezoning shall be completed prior to the approval of the permit in conformance with Article XV (15).
 12. A site plan in conformance with Article XI (11).
 13. A statement and other evidence or proof by the applicant of present and future compliance with the standards required for approval in Section 10.04 C and other standards imposed by this Ordinance affecting the special land use under consideration.
- D. **Incomplete Application:** An application which is incomplete or otherwise not in compliance with this Ordinance shall be returned to the applicant. No application shall be processed until properly prepared and submitted and all required fees paid in full.

Section 21.04 – Processing

- A. **Copy of Application to Planning Commission:** The Zoning Administrator shall forward a copy of the application for the Excavation Operation to the Planning Commission within thirty (30) days of receiving the request.
- B. **Hearing:** After a preliminary review of the site plan and an application for Excavation, the Planning Commission shall hold a hearing on the site plan and special land use request in accordance with Article X (10).

Section 21.05 – Review and Approval

- A. All procedures for review will comply with those procedures and regulations set forth in this Article and Article X (10).
- B. No permit shall be approved without sufficient evidence and after affirmative decision by the Planning Commission that the excavation and proposed reuse plan is sufficient to assure compliance with the intent of the Township Policy that all excavated land shall be restored to a condition that allows development of or continuation of the uses prescribed in this Ordinance in which the land is located.
- C. For the terms of this Article, there shall be a five hundred (500) foot setback area surrounding the perimeter of any excavation site which shall remain undisturbed with respect to elevation and vegetative cover, except for access ways as approved by the Planning Commission.
- D. The Planning Commission may approve such Special Land Uses and exceptions for such Excavation Operations subject to the following limitations:

1. Where an excavation in excess of five (5) feet will result from such operations, the applicant shall erect and maintain a fence with warning signs completely surrounding the portion of the site where the excavation extends, said fence will be wire mesh or other suitable material and is to be not less than five (5) feet in height complete with gates, which gates shall be kept locked when operations are not being carried on.
2. Any roads used for the purpose of ingress or egress to said excavation site which are located within one thousand (1000) feet of occupied residences shall be kept dust free by hard-topping with cement, bituminous substance or chemical treatment.
3. No cut or excavation shall be made closer than one hundred (100) feet from the nearest street or highway right-of-way line nor nearer than five hundred (500) feet to the nearest residence, nor closer than one hundred (100) feet to any property line; provided however, that the Township Board may prescribe more strict requirements in order to give sublater support to surrounding property where soil or geographic conditions warrant it.
4. The recommended slope of the banks within the second one hundred (100) feet measuring from the near edge of a public highway, or within the second one hundred (100) feet measuring from the property line of an adjoining land owner shall not exceed a minimum of one (1) foot vertical drop to each seven (7) feet horizontal and where permanent ponded water results from the mining operation the slope of all banks adjoining the pond must be maintained at the one (1) to seven (7) ratio above and must be extended into the water of such permanent pond to a water depth of at least five (5) feet.
5. The Planning Commission may require such other performance standards where, because of peculiar conditions, they deem it necessary for the protection of health, safety, morals and well being of the citizens of the Township.

E. Stripping or Removal Operations:

1. No excavation shall be conducted within five (500) hundred feet of any right-of-way, natural water course, drain without the approval of the Berrien County Drain Commissioner, Berrien County Road Commission, Michigan Department of Environmental Quality and Issuance of Applicable Permits by said agencies.
2. Any roads used for the purpose of ingress or egress to said excavation site which are located within one thousand (1000) feet of occupied residences shall be kept dust free by hard-topping with cement, bituminous substance or chemical treatment.
3. No soil, sand, clay, gravel or similar materials shall be removed in such manner as to cause water to collect or to result in a place of danger or a menace to the public health or safety. The premises shall at all times be graded so that surface water drainage is not interfered with.

4. Wherever topsoil exists, suitable for growing turf or for other land use, at the time the operations begin a sufficient quantity of topsoil shall be stockpiled on said site so that the entire site, when stripping or removal operations are completed, may be recovered with a minimum of four (4) inches of topsoil and the replacement of such topsoil shall be made immediately following the termination of the excavation, however, that such operations continue over a period of time greater than thirty (30) days, the operator shall replace the stored topsoil over the stripped areas in incremental stages. At no time shall the excavated, stockpile and operations encompass an area in excess of five (5) acres stripped of top soil.
5. The Planning Commission may require such further requirements as are deemed necessary in the interest of the public health, safety, morals and general welfare of the citizens of Bainbridge Township.

F. Filling Operations:

1. The filling of land with construction, building materials (of any type), rubbish, or garbage or any other waste matter is hereby prohibited in all unincorporated areas of the Township except in an approved land fill.
2. No soil, sand, clay gravel or similar materials shall be deposited in such manner as to cause water in violation of rules of the Berrien County Drain Commissioner or the Berrien County Health Department.
3. The Planning Commission may require a temporary fence to be erected to prevent the scattering of fill materials.
4. The Building Inspector may waive the regulations for filling operations and the review by the Planning Commission and conduct an independent review to permit those filling operations which meet the following requirements:
 - a. The fill material does not include garbage, rubbish, or any other waste matter;
 - b. The actual area on which the filling operation is to be performed does not exceed ten thousand (10,000) square feet and does not lie within fifteen (15) feet of any property line;
 - c. The fill operation has been approved by the Berrien County Drain Commissioner. Final grades of the perimeter of the filled area are compatible with existing off-site grades of abutting properties; and
 - d. All requirements of the Michigan Department of Environmental Quality have been met, if applicable.

5. The Planning Commission shall, to insure strict compliance with any regulations contained herein and required as a condition of the issuance of a permit either for mining, topsoil stripping and removal or filling operations, require the permittee to furnish a security bond executed by a reputable security company authorized to do business in the State of Michigan in an amount determined by the Planning Commission to be reasonably necessary to insure compliance hereunder. In fixing the amount of such security bond, the Planning Commission shall take into account the size and scope of the proposed operation, current prevailing 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 may be relevant in determining the sum reasonable in light of all facts and circumstances surrounding each application.
6. In addition, the Planning Commission may recommend as a condition of the permit a tonnage fee or annual fee assessment to reimburse the Township for any and all cost associated with the monitoring and periodic inspection of the operations in determining this fee, the Township shall establish the amount considering:
 - a. Cost for periodic inspection of the site and operations by Township personnel and any consulting engineer and land surveyor needed to inspect and verify if the operation complies with the terms of the approved permit; and
 - b. Cost for road maintenance and resurfacing for any and all truck routes designated for access to the subject property. The fee shall be determined based on the guidance of the Berrien County Road Commission concerning the projected cost and timing for any road improvements needed to maintain the current level of road surface quality in face of increased truck traffic expected for the operation.

Section 21.06 – Issuance, Revocation or Suspension of Permit

- A. A permit may be revoked upon finding by the Township Board that the applicant operates in any manner inconsistent with the terms of the approved permit to statements in the application or by amendment thereto, or fails to comply with any special requirements or conditions which the Township may order set forth in the permit to protect the health, welfare and safety in the general circumstances of the situation.

Section 21.07 – Notification of Intent to Revoke Permit

- A. The applicant shall be give notice, mailed or personally served, at least five (5) days prior to the date of the meeting of the Township at which revocation is considered, and shall be granted the opportunity to be heard in person or by counsel. Said notice shall specify the date, time and place of the meeting and the reason or reasons why the revocation in under consideration and of the applicant's right to be heard either in person or by counsel. Revocation of a permit shall not exempt the applicant from punishment for violation of this Ordinance as provided herein.

Section 21.08 – Appeals

- A. Any person, firm, corporation or department, board or bureau of the Township aggrieved by the decision of the Planning Commission on Special Land Uses for the purpose of establishing an Excavation Operation may seek review by the Board of Appeals in the manner prescribed in Article XIII (13).

Section 21.09 - Effect of Approval of Planning Commission

- A. The approval of the application by the Planning Commission shall allow the Zoning Administrator to issue a Zoning Compliance Permit in conformity with the application as approved and Article X (10).