

**BENZONIA and PLATTE TOWNSHIPS, MICHIGAN
WEST BENZIE JOINT ZONING ORDINANCE**

An Ordinance to establish zoning districts and regulations governing the unincorporated portions of Benzonia and Platte Township, Michigan, in accordance with the provisions of the Michigan Zoning Enabling Act , 2006 PA 110 of 2006, as amended [MCL 125.3101 et seq] (MZEA) to provide for regulations governing nonconforming uses and structures; to provide for a Board of Appeals and its duties and powers; to provide for land use and other permits and the collection of fees thereof; to provide for the administration of this Ordinance, including the official whose duty it shall be to enforce the provisions hereof; to provide for penalties for the violation of this Ordinance; and to provide for conflicts with other Ordinances or regulations.

**THE BOARDS OF TRUSTEES OF THE TOWNSHIPS OF BENZONIA and PLATTE,
STATE OF MICHIGAN, ORDAIN:**

**ARTICLE I
PREAMBLE**

Section 1.1 GENERAL PURPOSES

The districts and other provisions of this Ordinance are based upon the Zoning Plan and Future Land Use Map and policies contained within the Benzie County Comprehensive Plan. The Benzie County Comprehensive Plan and this Zoning Ordinance are adopted for the following purposes: 1) to promote the public health, safety, and general welfare; 2) to provide adequate light and air, and protect air and water quality; 3) to encourage the use of lands in accordance with their character and adaptability; 4) to limit the improper use of land, 5) to conserve natural resources and energy; 6) to meet the needs of the state's residents for food, fiber and other natural resources, places of residence, recreation, industry, trade, service and other uses of land; 7) to ensure that uses of land are situated in appropriate locations and relationships; 8) to avoid the overcrowding of population, 9) to lessen congestion on public streets and highways, 10) to reduce hazards to life and property due to fire, flooding, erosion, pollution, excessive dust, fumes, smoke, noise, vibration, noxious odors or other hazards, 11) to prevent the overburdening of existing or available public services and utilities, 12) to facilitate the adequate provision of a system of transportation, sewage disposal, solid waste disposal, drainage, public water supply, education, recreation and other public requirements, 13) to conserve the expenditure of funds for public improvements and services, 14) to conform with the most advantageous use of land, resources and properties, 15) to conserve land, community character and property values, and 16) to prevent nuisances.

Section 1.2 SPECIAL PURPOSES

The purpose and intent of the Sections of this Ordinance pertaining to the regulation of sexually oriented businesses is to regulate the location and operation of, but not to exclude, sexually oriented businesses within the portions of the Townships subject to this Ordinance, and to minimize their negative secondary effects. It is recognized that sexually oriented businesses, because of their very nature, have serious objectionable operational characteristics which cause negative secondary effects upon nearby residential, educational, religious and other similar public and private uses—especially if a concentration of such uses, and related uses were to occur. The regulation of sexually oriented businesses is necessary to ensure that their negative secondary effects will not contribute to the blighting or downgrading of surrounding areas and will not negatively impact the health, safety and general welfare of residents and businesses. The provisions of this Ordinance are not intended to offend the guarantees of the First Amendment to the United States Constitution or to deny adults access to sexually oriented businesses and their products, or to deny sexually oriented businesses access to their intended market. Neither is it the intent of this Ordinance to legitimize activities which are prohibited by local ordinance, state or federal law. If any portion of this Ordinance relating to the regulation of sexually oriented businesses or referenced in those Sections is found to be invalid or unconstitutional by a court of competent jurisdiction, the Townships intend said portion to be disregarded, reduced and/or revised so as to be recognized to the fullest extent possible by law. The Townships further state that it would have passed and adopted what remains of any portion of this Ordinance relating to regulation of sexually oriented businesses following the removal, reduction or revision of any portion so found to be invalid or unconstitutional.

The Benzie County Comprehensive Plan, including both its provisions of general application and, particularly, its provisions and recommendations relative to those lands within Benzonia and Platte Townships, is, for purposes of Section 203 of the MZEA [MCL 125.3203], the plan upon which this zoning ordinance is based.

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Section 1.3 VALIDITY AND SEVERABILITY

If any clause, sentence, sub-sentence, paragraph, section or part of this Ordinance be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, sub-sentence, paragraph, section, or part directly involved in the controversy in which said judgment shall have been rendered.

Section 1.4 VESTED RIGHTS

Nothing in this Ordinance shall be interpreted or construed to give permanent vested rights in the continuance of any particular use, district, zone classification, or any permissible activities therein, and all lands and uses subject to this Ordinance are hereby declared to be subject to subsequent amendment, change, or modification, as may be necessary for the preservation or protection of public health, safety, and welfare.

Section 1.5 REPEAL OF PRIOR ORDINANCES

All existing zoning ordinances of Benzonia and Platte Townships, if any, are hereby repealed except that a situation that was not a lawful, non-conforming situation under any prior Benzonia or Platte Township Zoning Ordinance and any County Zoning Ordinance does not achieve lawful nonconforming status under this Ordinance and a lot which was not a lot of record under any prior Zoning Ordinances does not achieve the status of a new lot of record herein.

Section 1.6 COMPUTATION OF TIME

Unless otherwise specifically provided, the time within which an act is to be done shall be computed by excluding the first and including the last day. If the last day is a Saturday, Sunday, or legal holiday, that day shall not be counted. A legal holiday includes; New Years Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving, Christmas Day, Martin Luther King Day, Lincoln's birthday, President's Day, Columbus Day, and Veterans Day.

Section 1.7 INTERPRETATIONS AND EFFECT OF ORDINANCE

- A. The following rules of construction apply to the text, tables and illustrations of this Ordinance:
1. The particular shall control the general.
 2. 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.
 3. Words used in the present tense include the future tense; and the singular includes the plural unless the context clearly indicates the contrary.
 4. The word "person" includes a corporation, partnership, association, trust, company, corporation, LLC or firm as well as an individual.
 5. The word "building" or "structure" includes any part thereof.
 6. The word "lot" includes the word "plot", "tract", or "parcel".
 7. The term "shall" is always mandatory and not discretionary; the word "may" is permissive.
 8. The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied".
 9. Words in any gender shall be deemed to include the masculine, feminine, and neuter.
 10. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or," or "either...or," the conjunction shall be interpreted as follows:
 - a. "And" indicates that all the connected items, conditions, provisions or events shall apply.
 - b. "Or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.
 - c. "Either...or" indicates that the connected items, conditions,

provisions or events shall apply singly but not in combination.

11. The words "this Ordinance" means the text of this Ordinance as well as all maps, tables, graphics, schedules as included or attached and as enacted or subsequently amended.
12. The "Township" includes the Townships of Benzonia and Platte, State of Michigan; the "Planning Commission" is the West Benzie Joint Planning Commission of the Townships of Benzonia and Platte, the "Board of Appeals" is the Board of Appeals of the Township of Benzonia or Platte and the "Township Board" is the Benzonia or Platte Township Board of Trustees.
13. All statutory citations are to statutes as amended, including codifications and repeals if a new statute is adopted with a similar scope and purpose. See also Section 1.9.
14. Any word or term not defined in this Article shall be given a meaning of common or standard acceptance. A dictionary may be consulted.

B. In interpreting and applying the provisions of this Ordinance, the provisions shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity and general welfare.

1. It is not intended by this Ordinance to interfere with or abrogate or annul any ordinance, rule, regulation, or permits previously adopted or issued and not in conflict with any of the provisions of this Ordinance, or which shall be adopted or issued pursuant to law relating to the use of land, buildings, structures or premises, and not in conflict with this Ordinance.
2. It is not intended by this Ordinance to interfere with or abrogate or annul any easements, covenants, deed or other agreements between parties, provided however, that where this Ordinance imposes a greater restriction upon the use of land, buildings, structures or other premises, or upon height of buildings, or requires larger open spaces, or larger lots, or requires mitigating measures or other limitations on a property different from those imposed or required by an easement, covenant, deed or other agreement, then the provisions of this Ordinance shall control in addition to all nonconflicting requirements of an easement, covenant, deed or other agreement.
3. In the interpretation, application and enforcement of this Ordinance, whenever any of the provisions or limitations imposed or required herein are more stringent than any other law, rule, regulation or ordinance, then the provisions of this Ordinance shall govern. However, if the requirements of any other law, rule, regulation or ordinance impose more stringent requirements than are imposed or required by this Ordinance, then the provisions of such other law or ordinance shall govern.
4. In the event that the combined effect of the requirements of this Ordinance, and any easement, covenant, deed, private agreement, and/or any other law, rule, regulation or ordinance so severely limit the use of

property subject to this Ordinance that no economically viable use of the property remains and a well substantiated claim of taking under the 5th Amendment to the U.S. Constitution is made, then prior to seeking any redress in a court of law, the property owner shall either file a petition with the Board of Appeals for a variance under Section 29.5 of this Ordinance or with the Township Board of Trustees under Section 17.7. If either body finds merit to the taking claim, they shall take action under the relevant Sections of this Ordinance to eliminate the basis for the taking claim by permitting some economically viable use of land which does not unreasonably cause negative impacts on abutting lands and uses. If no redress under either Section 29.5 or Section 17.7 is possible without unreasonable negative impacts on abutting lands and uses, the Township Board of Trustees shall within thirty (30) days make a good faith offer to buy the properties subject to a taking petition at its market value using the procedure required for such offers under Michigan law. If agreement on the value of such property cannot be reached in thirty (30) days, the Township Board of Trustees may initiate condemnation proceeding pursuant to the Michigan Uniform Condemnation Procedures Act, Public Act 87 of 1980.

- C. Many words, terms and phrases within this Ordinance have a meaning that may be different from their everyday use. Article II, Definitions presents definitions of words, terms, and phrases used within this Ordinance.
- D. To the extent that there is any conflict between provisions contained in this Ordinance and the Michigan Zoning Enabling Act, Public Act 110 of 2006 (MZE), as amended, the provisions of the MZE shall take precedence.

Section 1.8 PROVISIONS NOT AFFECTED BY HEADING

Article and section headings contained herein shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of any section hereof.

Section 1.9 AMENDED MICHIGAN STATUTES

Whenever any provision of this Ordinance refers to or cites a section of the Michigan Compiled Laws and that Michigan Statute is later amended or superseded, the Ordinance shall be deemed amended to refer to the amended Michigan Compiled Law section or the section thereof that most nearly corresponds to the superseded section.

ARTICLE II DEFINITIONS

Section 2.1 PURPOSE & INTERPRETATION

A. It is the purpose of this article to establish the definitions of the words, terms and phrases that comprise the text used in this Ordinance. Many of these words, terms and phrases have a meaning that is different than their use in everyday conversation. Illustrations of many definitions are offered to enhance understanding of the meaning of the word, term or phrase.

B. Where a question arises as to the interpretation of the text of a definition relative to an accompanying illustration, that meaning which appears to not conflict from a careful analysis of both the text and the illustration in context with the various uses of the word, term or phrase in this Ordinance, shall be the meaning ascribed to the word, term or phrase, until or unless the Zoning Board of Appeals reaches a different conclusion, or the governing body amends this ordinance.

C. See also the provisions of Section 1.7 and the formal interpretation procedure of the Zoning Board of Appeals in Section 29.7 concerning interpretations of the text of this Ordinance.

D. Some words, terms and phrases are only used in special sections of this Ordinance and so are defined there for the convenience of the reader.

Section 2.2 DEFINITIONS

For the purpose of this Ordinance, certain words, terms or phrases used herein shall be interpreted or defined as follows:

Accessory Building or Structure: A subordinate building or structure on the same lot with a principal or main building, but detached from it. When appropriate, an accessory building may only be built with or after the construction of the principal building.

Accessory Use: A use customarily incidental and subordinate to the principal use or building located on the same lot as the principal use or building. In some cases, as with certain home occupations, it may be a part of the main or principal building devoted exclusively to an accessory use.

Access Easement: A vehicular access or right-of-way to an abutting lot or lots or parcel(s) of land constructed and maintained to a standard which will provide access for safety services operating within the Townships. For purposes of this Ordinance, an access easement to a single lot shall be a minimum of twenty (20) feet in width, and, for two (2) to four (4) lots, a minimum of thirty-three (33) feet in width, and for five or more lots a minimum of sixty-six (66) feet in width.

Access Lot: See Lot, Access.

Actual Construction: The commencement of new construction and the purchase of building materials of a substantial character toward erecting the subject project. The making of preparatory plans, landscaping, removal of an existing structure, vegetation or soils, or approvals of a site plan or a building permit is not actual construction.

Act of God or Natural Disaster: Severe destruction caused by the violence of nature, as in a flood, tornado, earthquake, windstorm, ice storm, lightning strike or fire.

Affordable Housing: A sales price or rent within the means of a low- or moderate-income household and calculated as follows:

1. For moderate-income households: eighty (80) percent of the median family income for households in the area as established by the U.S. Department of Housing and Urban Development, and as adjusted for household size, and with not more than thirty (30) percent of the family income used for rent (including utilities) or twenty-eight (28) percent for purchase (including principal and interest, condo fees, and insurance) (see www.huduser.org/datasets/il.html select current year "Income Limits", State of Michigan, Benzie County).
2. For low-income households: fifty (50) percent of median family income.
3. Affordable housing may be market housing or subsidized housing that meets the above affordability criteria.

Agriculture or Agricultural Use: Means the production of plants and animals useful to humans, including forages and sod crops; grains, feed crops, and field crops; dairy and dairy products; poultry and poultry products; livestock, including breeding and grazing of cattle, swine, captive cervidae, and similar animals; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; Christmas trees; and other similar uses and activities. Agricultural use includes use in a federal acreage set-aside program or a federal conservation reserve program. Agricultural use does not include the management and harvesting of a woodlot. [AS DEFINED IN PA 116 OF 1974]

Agriculture, Animals (Large): Members of the animal kingdom other than human beings and small animals raised on a farm including livestock such as cattle, sheep, new world camelids, goats, bison, captive cervidae, swine, and equine.

Agriculture, Animals (Small): Members of the animal kingdom other than human beings and large animals raised on a farm including poultry, rabbits, bees and apiary, mink, and aquaculture.

Agriculture, Crops: A harvestable product, planted, grown and cultivated in the soil.

Agriculture Service Establishments: Establishments primarily engaged in supplying soil preparation services, crop services, landscaping, horticultural services, and farm labor and management services.

Alterations: Any modification, additions, or change in construction or type of occupancy, any change or rearrangement in the structural parts of a building; any enlargement of a building, whether by extending a side or by increasing in height; or the moving from one location to another in accordance with all approved field changes.

Anemometer Tower: A freestanding tower containing instrumentation designed to provide present moment wind data for use by the supervisory control and data acquisition (SCADA) system which is an accessory land use to a utility grid or multi-tower community WECS.

As-Built Plans: Revised plans which are based on actual measurements of a completed building or development, including the exact building footprints, elevations, driveways, parking areas, landscaping, utilities, sidewalks, bikepaths and trails.

Bed and Breakfast Establishment: A single family, owner occupied dwelling unit in which transient guests are provided a sleeping room and board for compensation as an accessory use of the single-family dwelling. A continental or American breakfast, lunch and/or dinner may be served to overnight guests only. A bed and breakfast operation has four (4) or less sleeping rooms available for transient occupancy, including sleeping rooms occupied by the innkeeper and his/her family.

Basement: That portion of a building which is partly or wholly below finished grade, but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement shall not be counted as a story (see Figure 2-1). A cellar is a basement. See also definition of "story".

Benefit, Recognizable and Substantial: A clear benefit, both to the ultimate users of the property in question and to the community, which would reasonably be expected to accrue, taking into consideration the reasonable foreseeable detriments of the proposed development and use(s), including, without limitation: long-term protection and/or preservation of natural resources and natural features and/or historical and/or architectural features of a significant quantity and/or quality in need of protection or preservation on a local, state and/or national basis; reducing to a significant extent the nonconformity of a nonconforming use or structure so that, to a significant extent, it is rendered more conforming, or less offensive, to the zoning district in which it is situated.

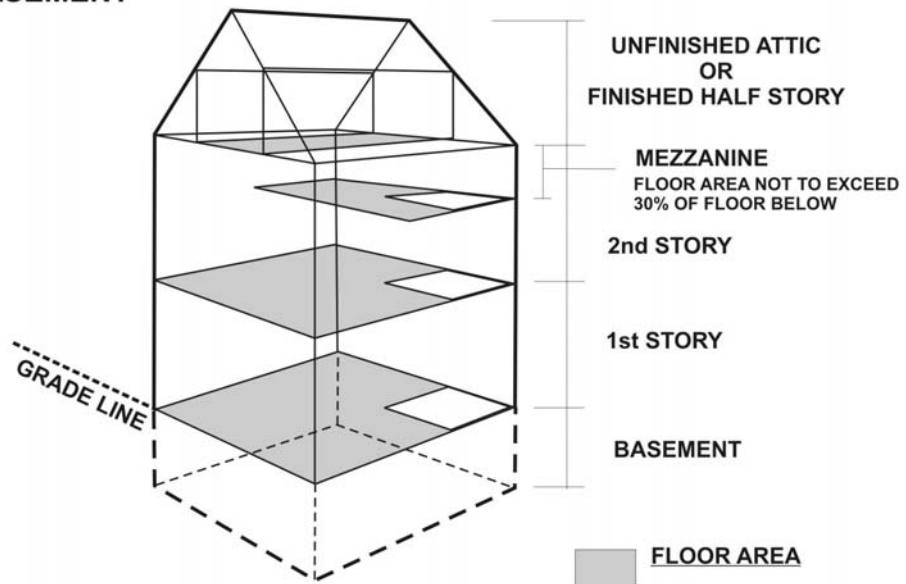
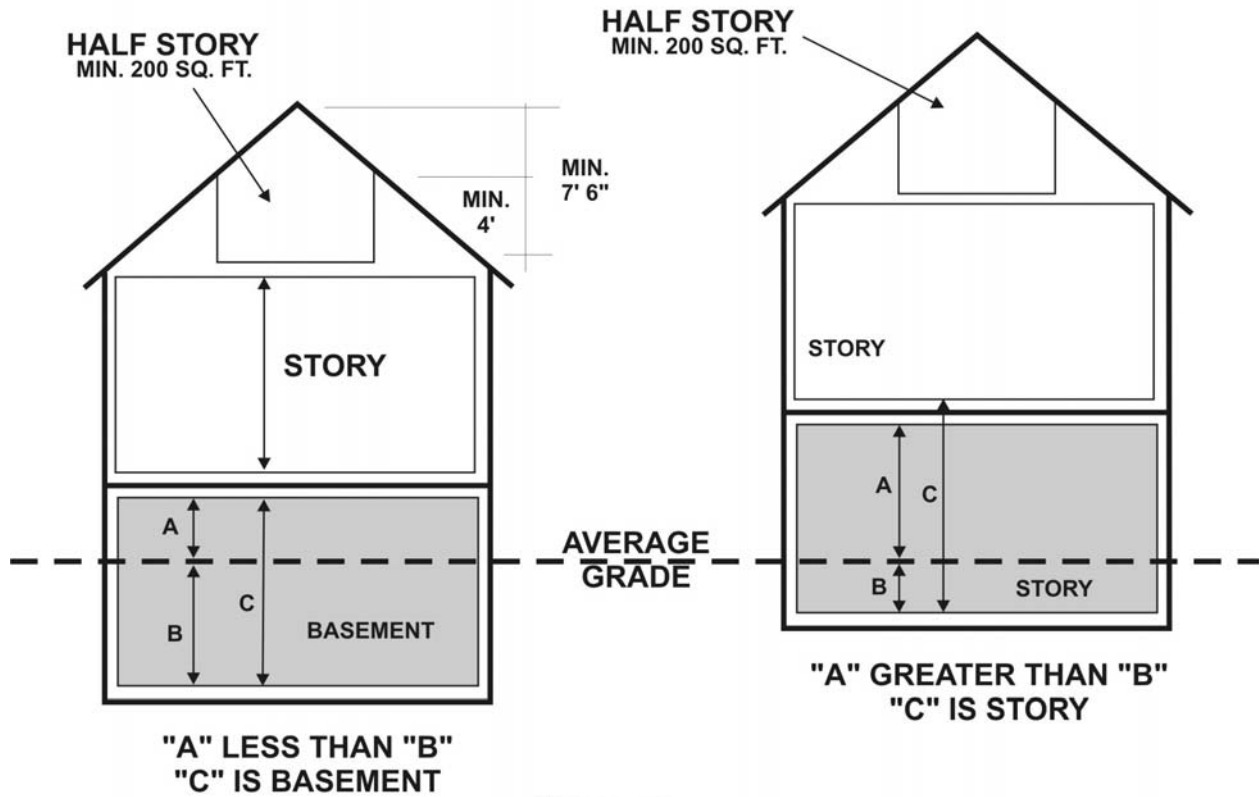
Blade Clearance: Minimum distance between the lowest point of the blade or air foils and the ground.

Board of Appeals: Benzonia or Platte Townships Zoning Boards of Appeals (ZBA).

Boat: See Watercraft.

Figure 2-1

BASEMENT AND STORY



BASIC STRUCTURAL TERMS

Boat Dock: A platform or walkway, either permanent or temporary, extending outward from shore, used as a means to access boat dockages.

Boat Dockage: Any means to secure a watercraft in or above the water, whether it be a dock, mooring, shore station, slip, hoist, tether, or any other means, regardless of the distance from the water's edge.

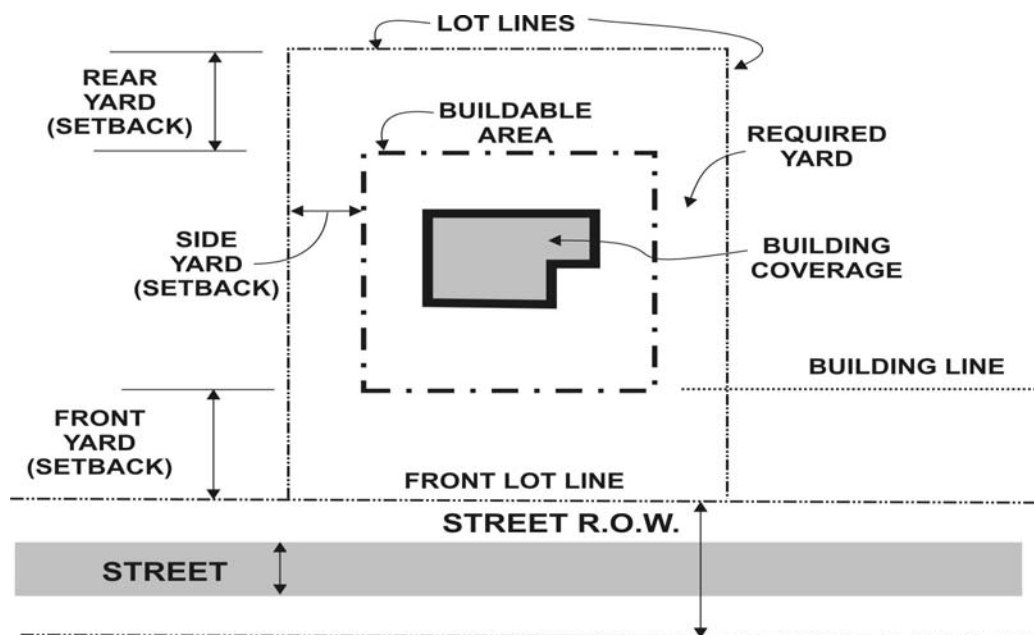
Bottom-land: The land area of an inland lake or stream which lies below the ordinary high water mark and which may or may not be covered by water at a particular time.

Buffer strip: Natural, landscaped and open space areas or any combination thereof used to filter, impede or control storm water runoff or physically separate or screen one use or land feature from another in order to visually shield or reduce noise, artificial lighting, or other nuisances.

Buffer Strip or Greenbelt: Open spaces, landscaped areas, walls, berms, or any combination thereof that meets the terms of this Ordinance to physically separate or screen one use or property from another so as to visually shield or block noise, lights, or other potential nuisances. See requirements in Article XXI.

Buildable Area: The area of a lot remaining after the minimum yard and open space requirements of the Zoning Ordinance have been met. See Figure 2-2.

Figure 2-2



Building: Any structure, either temporary or permanent, having a roof supported by columns, walls or other supports, and used or built for the shelter or enclosure of persons, animals, chattels or property of any kind or for the conduct of business. This shall include but is not limited to tents, awnings, mobile homes, inflatable structures, sheds, garages, greenhouses and other principal and accessory buildings. It shall also include tents, trucks, vans, recreational vehicles or other vehicles or parts of vehicles

situated on private property for more than thirty (30) days, and used for purposes of a building, whether or not mounted on wheels.

Building Area: The total of area taken on a horizontal plane at the average grade level of the principal building and all accessory buildings exclusive of uncovered porches, terraces, patios and steps.

Building, Height Of: In the case of a principal building, the vertical distance measured from the average grade in the yard with the greatest building height to the highest point of the roof surface for flat roofs and A-frames, to the deck line of mansard roofs, and to the average height between eaves and ridge for gable, hip and gambrel roofs (see Figure 2-3). A cupola, widows watch or tower that extends above the roof line shall be considered the highest point of the roof surface on roofs with such features. The measurement of the height of an accessory building or structure shall be determined as the greatest vertical distance from the average grade of any side to the highest point of the roof surface.

Building Line or Setback Line: A line parallel to a street right-of-way line, shore of a lake, or stream bank, side or rear lot line established for the purpose of prohibiting the erection of a structure between such line and road right-of-way, side or rear lot line.

Business Center: A building or group of buildings on one or more parcels of land constructed as an integral land use for commercial, institutional and similar occupancy.

Business Service Establishments: Establishments primarily engaged in rendering services to business establishments on a fee or contract basis as well as finance, insurance and real estate services.

Campground: Means any part or tract of land under the control of any person wherein sites are offered for the use of the public or members of an organization, either free of charge or for a fee, for the establishment of temporary living quarters for five (5) or more recreational units, and as otherwise defined within Michigan Public Act 368 of 1978 as amended.

Commercial Agriculture or Horticulture: The commercial production, harvesting and storage of farm products on a farm and the farm operations typically attendant thereto, as defined in the Michigan Right to Farm Act, Public Act 93 of 1981; except that the raising of livestock and other animals in animal confined feedlot operations is not included in this definition. See definition of confined feedlot.

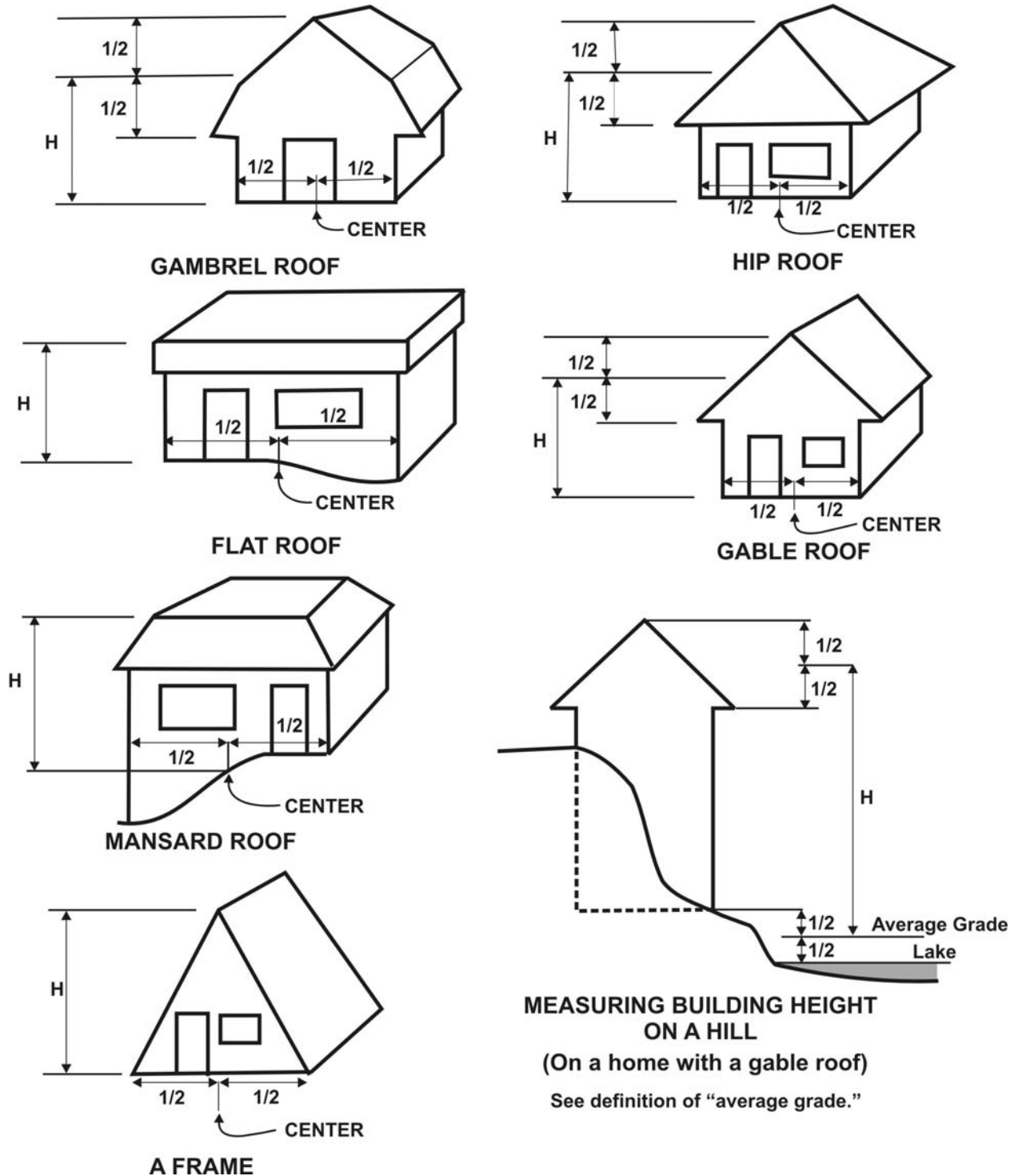
Commercial Development: A facility providing building area, parking area, service area, screen plantings and traffic areas designed for the conduct of commerce.

Common Land: A parcel or parcels of land together with the improvements thereon, the use, maintenance, and enjoyment of which are intended to be shared by the owners

and occupants of the individual building units in a planned unit development or condominium project.

Figure 2-3

BUILDING HEIGHTS



Common Open Space - Land within or related to a development, not individually owned, that is designed and intended for the common use or enjoyment of the residents and their guests of the development or the public at large if dedicated to and accepted by the public, and may include such complementary structures and improvements as are necessary, appropriate and approved as part of the development according to the requirements of this Ordinance.

Community Residential Care Facilities: Community residential care facilities provide shelter and care for individuals with special needs in single family dwellings for six or less persons or in larger facilities when more persons are assisted. These are all state-regulated facilities.

Community Wind is a WECS that is owned by more than one entity, by a co-operative organization or by a public entity. Community wind will be locally-owned and managed. Community wind can include the following:

- Single tower WECS designed to supply some or all of its owners but not to supply energy to the power grid.
- Single tower WECS designed primarily to supply energy to the power grid.
- Multiple, interconnected towers designed to either supply energy to the owners, to the larger community, or the power grid.
- Community wind may also include a DISTRIBUTED WECS, where multiple towers are owned on a community basis as described above but are located on non-contiguous sites.

Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but are also included as part of Community WECS.

Comprehensive Development Plan (or Master Plan): A plan adopted by the Benzie County Planning Commission pursuant to the County Planning Act, Public Act 282 of 1945, for the physical development of the Townships, showing the general location of major streets, parks, schools, public building sites, land use and other similar information. The plan may consist of maps, data and other descriptive matter. By resolution adopted by the West Benzie Joint Planning Commission, said plan is that plan on which this Zoning Ordinance is based for purposes of MCL 125.3203.

Condominium Master Deed: The document recorded as part of a condominium subdivision to which are attached as exhibits and incorporated by reference the approved bylaws for the condominium subdivision, the condominium subdivision plan and the road maintenance agreement for any private roads in the condominium project.

Condominium Project: Means a plan or project consisting of not less than two (2) condominium units if established and approved in conformance with the Condominium Act, Public Act 59 of 1978.

Condominium Subdivision: A division of land on the basis of condominium ownership, pursuant to the Condominium Act and which is not subject to the provisions

of the Land Division Act, Public Act 288 of 1967, as amended. Also known as a site condominium or site condo. As used in reference to a "Condominium Subdivision" in this ordinance, the terms below are defined as follows:

- A. **Condominium Unit:** That portion of a condominium project that is designed and intended for separate ownership and use, as described in the master deed, regardless of whether it is intended for residential, office, industrial, business, recreational, use as a time-share unit, or any other type of use. The owner of a condominium unit also owns a share of the common elements. The term "condominium unit" shall be equivalent to the term "lot" or "building site", for purposes of determining compliance of the site condominium subdivision with the provisions of this Ordinance pertaining to minimum lot size, minimum lot width, and maximum lot coverage, and within which a building or other improvements may be constructed by the condominium unit owner. The condominium unit shall not include any limited common elements.
- B. **General Common Area:** That portion of a site condominium project designed and intended for joint ownership and maintenance by the condominium association as described in the Master Deed.
- C. **Limited Common Area:** That portion of a site condominium project designed and intended for separate ownership, but outside the building setbacks for the zoning district the property is located in, as described in the Master Deed.
- D. **Building Envelope:** The area of a condominium unit within which the principal building or structure may be constructed, together with any accessory structures, as described in the Master Deed.
- E. **Building Site:** That portion of a condominium project that shall include the condominium unit and that may also include limited common elements as described in the Master Deed. For purposes of determining compliance with the applicable requirements of the Zoning Ordinance (including, without limitation, area, width, and setback requirements) or with other applicable laws, ordinances, or regulations, "building site" shall be considered to be the equivalent of a "lot."
- F. **Limited Common Element:** That portion of a condominium project other than the condominium unit that is reserved in the master deed for the exclusive use of the owner of the condominium unit.

Condominium Subdivision Plan: The drawings attached to the master deed for a condominium subdivision which describe the size, location, area, horizontal and vertical boundaries and volume of each condominium unit contained in the condominium subdivision, as well as the nature, location and size of common elements.

Confined Feedlot: The place of confined keeping of livestock or other animals in yards, lots, pens, building, or other areas not normally used for pasture or crops, and in

which abnormal amounts of manure or other related animal wastes may originate by reason of keeping such animals.

Convenience Retail Establishments: A retail establishment offering for sale prepackaged food products, milk, bread, donuts, sandwiches, beverages, newspapers and magazines, household items, pharmaceuticals, and other items for off-premises consumption. These are usually short trip, high volume uses not more than 3,500 square feet in size. A convenience retail establishment can share a building with another use, such as an automobile service station. Drive-through establishments are not convenience retail establishments.

County Board: The Benzie County Board of Commissioners.

County Drain Commissioner: An elected official of Benzie County.

County Health Department: The District Health Department serving the County of Benzie.

County Plat Board: The Benzie County Plat Board.

County Road Commission: The Benzie County Road Commission.

County Zoning Act: Any reference in this ordinance to the County Zoning Act shall mean the Michigan Zoning Enabling Act, 2006 PA 110, as amended [MCL 125.3101 et seq] (MZEA).

Crosswalkway (Pedestrian Walkway): Right-of-way, dedicated to public use, which crosses a block to facilitate pedestrian access to adjacent streets and properties.

Dangerous Chemicals, Manufacturing, Storage and/or Distribution: Manufacturing establishments which produce flammable, explosive or corrosive substances subject to state or federal regulation.

Decibels: A decibel is a unit of measurement of the intensity of sound. Sound level meters which are employed to measure the intensity of sound are calibrated in decibels.

Deck: An unroofed structure used for outdoor living purposes which may or may not be attached to a building and protrudes twelve (12) or more inches above finished grade.

Dedication: The intentional appropriation of land by the owner to public use.

Density: The number of dwellings or dwelling units per net acre of land. Density is established by the minimum lot size standards in each district as listed in Article V. A minimum lot size of one acre equals a density of one dwelling unit per acre. A minimum lot size of 10 acres equals a density of one dwelling unit per 10 acres. A minimum lot size of 12,000 square feet equals a density of one dwelling unit per 0.275 acres or 3.63 dwellings per acre. The number of dwelling units situated on or to be developed on a

net acre (or smaller unit) of land, shall be calculated by taking the total gross acreage of the parcel and subtracting the area in rights-of-way for streets and roads and any other area excluded from consideration by a particular Ordinance requirement. (See Figure 2-7 and definitions of Lot Area, Gross and Lot Area, Net). If a parcel description includes no area in a right-of-way, or access easement, or none will be included on a lot proposed for creation, or there is no other excepted area, then a net acre equals a gross acre.

Development Rights: The right to develop land by a land owner who maintains fee-simple ownership over the land or by a party other than the owner who has obtained the rights to develop. Such rights usually are expressed in terms of density allowed under existing zoning. For example, one development right may equal one unit of housing or may equal a specific number of square feet of gross floor area in one or more specified zone districts.

District: An area of land for which there are uniform regulations governing the use of buildings and premises, density of development, yard requirements and height limitations.

Dockage: See “boat dockage”.

Drive-Through Establishments: An establishment that by design, physical facilities, service or by packaging procedures encourages or permits customers to conveniently make deposits, view specified objects, receive services, or obtain goods without disembarking from their motor vehicles, and then proceeding elsewhere. Distinguished from a drive-in establishment by the absence of parking while the service is being provided (as in a drive-in theater).

Dwelling, Dwelling Unit: Any building or structure or part thereof occupied as the home, residence or sleeping place of one or more persons either permanently or transiently regardless of whether cooking facilities exist. The number of persons occupying such units shall not exceed that for which the septic system is sized, or in the case of “holding tanks”, two (2) persons per actual bedroom. See Figure 2-4.

Dwelling, Multiple or Multiple family: A building, other than a single or a two (2) family dwelling, including apartment houses, co-operatives and condominiums, used and designed to contain separate living quarters for three or more families on one or more levels, but which may have joint services or facilities, such as for laundry or storage. See Figure 2-4.

Dwelling, Rental Cottage: A detached building designed for and occupied by one (1) family, but in no event occupied by a group or a family of unrelated individuals, of no more than two (2) people per bedroom as authorized by the Benzie-Leelanau District Health Department and/or Benzie County Building Department or no more than a maximum of ten (10) individuals who occupy the building for a set duration of no less than one week.

Dwelling, Single Family: A detached building designed for or occupied exclusively as the home, residence or sleeping place of one (1) family. See Figure 2-4.

Dwelling, Temporary: A dwelling unit, recreational vehicle or other approved structure used during on a temporary basis per the requirements of Section 3.14(a). See also definition of ‘temporary housing’.

Dwelling, Two Family: A building containing not more than two dwelling units, each designed and used exclusively as the home, residence or sleeping place of one-family. An ECHO unit approved pursuant to the provisions of this Ordinance does not redefine a single-family dwelling as a two-family dwelling for the purposes of this Ordinance. See definition of ECHO housing and Figure 2-4.

Easement to water: The interest in or the ownership or use of property having water frontage on a water resource by the occupants of one or more easement grantee lots.

ECHO Housing or ECHO Unit: A small dwelling unit added as accessory to a principal dwelling usually to provide a residence for an elderly relative, caregiver, maid’s quarters or similar purpose.

Educational and Social Institutions: An educational institution is any building or part thereof which is designed, constructed, or used for education or instruction in any branch of knowledge.

A social institution is any building or part thereof which is designed, constructed, or used to provide a service of a public, nonprofit or charitable nature to the people of the community on an ongoing basis (not just special events).

Educational and social institutions may have offices, meeting areas, food preparation or serving areas, and athletic facilities as accessory uses.

Effective Date of this Ordinance: Whenever this Ordinance refers to the effective date of this Ordinance, the reference shall be deemed to also include the effective date of any amendments to this Ordinance if the amendment, rather than this Ordinance as originally adopted, creates a non-conforming situation.

Emergency Vehicle Set-up Area: An unobstructed reasonably level area or improved surface area at least twenty (20) feet wide, forty (40) feet long and clear to a height of fifteen (15) feet above the ground. This area is for use by fire trucks, ambulances and other police or rescue vehicles as a set-up or operations area in an emergency.

Erected: The building, construction, alteration, reconstruction, moving upon, or any physical activity upon a premise or lot.

Essential Services: The erection, construction, alteration or maintenance by public utilities or municipal departments or commissions, of underground or overhead gas, electrical, communication, television, telephone transmission or distribution system including poles, wires, steam, fuel or water distribution or transmission systems, collection, supply or disposal systems including main drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories in connection therewith, which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general public health, safety, convenience, or welfare but not including towers or office buildings, substations, or structures for service equipment, or maintenance depots buildings reasonably necessary for the furnishing of adequate service by such public utilities, departments, or commissions.

Figure 2-4

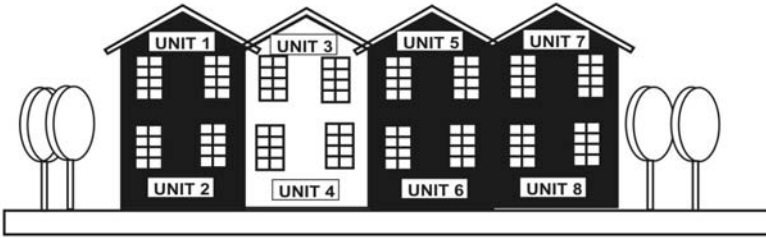
DWELLING, ROW HOUSE OR TOWN HOUSE



DWELLING -- ATTACHED



DWELLING -- DETACHED



DWELLING -- MULTI-FAMILY



DWELLING -- SINGLE FAMILY



DWELLING -- TOWNHOUSE



DWELLING -- TWO FAMILY

Existing Building: A building existing or for which the foundation is in place prior to the effective date of this Ordinance or any amendment thereto.

Existing Use: A use of premises or structure actually in operation, openly, visibly and notoriously prior to the effective date of this Ordinance or any amendment thereto.

Fall Zone: The area, defined as the furthest distance from the tower base, in which a tower will collapse in the event of a structural failure. The fall zone radius will be assumed to be equal to the tower height. This distance may be reduced if the applicant provides a registered engineer's certification that the WECS is designed to collapse, fall, curl, or bend within a distance shorter than the tower height, or such certification is provided by the tower manufacturer.

Family:

A. An individual or group of two (2) or more persons related by blood, marriage, or adoption, together with foster children and servants of the principal occupants, with not more than one additional unrelated person, who are domiciled together as a single, domestic, housekeeping unit in a dwelling unit, or

B. A collective number of individuals domiciled together in one (1) dwelling unit whose relationship is of a continuing domestic character and who are cooking and living as a single unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, coteries, organization, or group whose domestic relationship is of a transitory or seasonal nature.

Flood Plain: The area of land adjoining the channel of a river, stream, water course, lake or other similar body of water which will be inundated by a flood which can reasonably be expected for that region to occur at a frequency of once each one-hundred years.

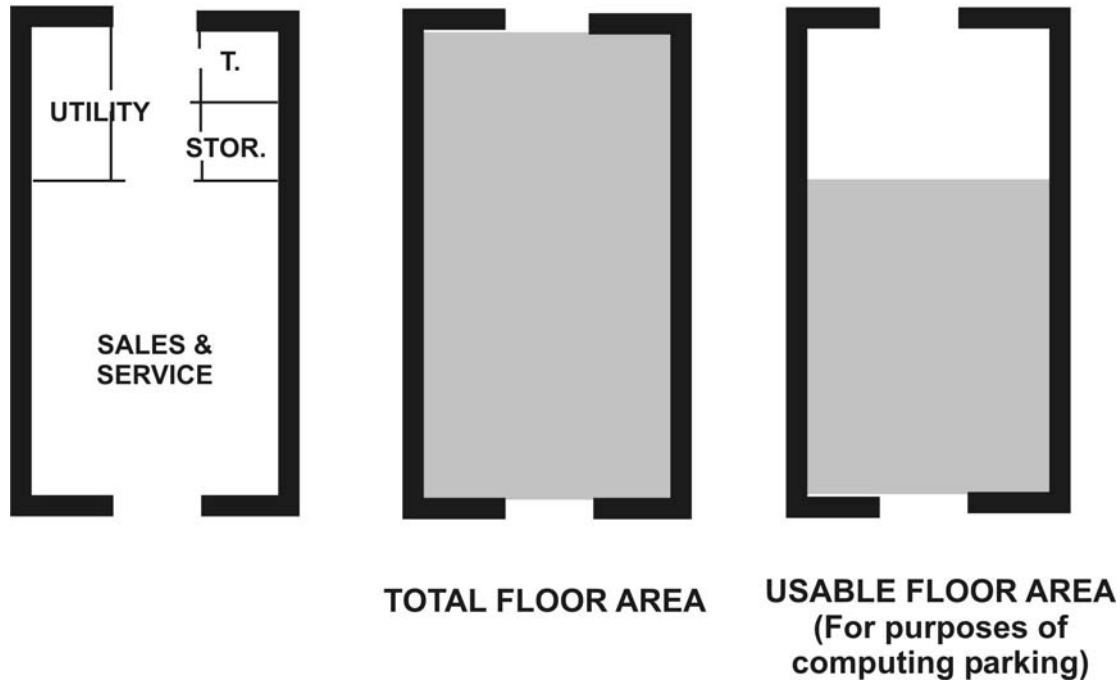
Floor Area, Usable (for the purposes of computing parking): The term "usable floor area" as applied to offices, merchandising or service types of uses, shall mean the gross floor area used or intended to be used for services to the public, including those areas occupied by fixtures and equipment used for display or sale of merchandise, but excluding floor areas which are used exclusively for storage, housing or mechanical equipment integral with the building, maintenance facilities, or those areas where customers, patients, clients, salesmen, and the general public are denied access. "Floor area" shall be measured from the interior faces of exterior walls. See Figure 2-5.

Food Service Establishment: An establishment where food and drink are prepared, served and consumed primarily on the premises.

Footprint or Building Footprint: The ground area a structure covers.

Figure 2-5

FLOOR AREA



Forest: A tract of land that is at least ten (10) percent stocked by trees of any size, whether of commercial or noncommercial species, or formerly having tree cover and not currently developed for nonforest use including woodlands, woodlots, windbreaks, and shelter belts. [SEE PA 676 OF 2002, RIGHT TO FOREST ACT.]

Forestry Use or Forestry Operations: Activities related to the harvesting, reforestation, and other management activities, including but not limited to thinning, pest control, fertilization, and wildlife management, that are consistent with principles of sustainable forestry. [SEE PA 676 OF 2002, RIGHT TO FOREST ACT.]

Forest Management: Activities conducted on or directly pertaining to forest land relating to the growing, managing, harvesting, and interim storage of merchantable timber for commercial value.

Garage, Private: An accessory building or an accessory portion of a principal building designed or used solely for non-commercial storage.

Gasoline Service Station: Any area of land, including any structures thereon, used or designed for the supply of gasoline, oil, or other fuel for the propulsion of vehicles. For the purpose of this Ordinance, this term shall also mean any area or structure used or designed for polishing, greasing, washing, cleaning, or servicing such motor vehicles.

General Retail Establishments: The principal activity of general retail establishments is the purchase and resale, leasing or renting of goods or merchandise to the public for personal, household, or business use or consumption and rendering services incidental to the sale of such goods. There may be processing or manufacturing of products incidental or subordinate to the selling activities (such as a bakery or delicatessen at a grocery store). A common accessory use is repair of products sold on the premises.

Governing Bodies: The Benzonia or Platte Township Boards of Trustees.

Grade, Finished: The completed surfaces of lawns, walks and roads brought to grades as shown on official plans or designs related thereto.

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 (see Figure 2-6).

Gross Decommissioning Costs: The cost of removal of all towers and turbines, removal of all related infrastructure, removal of all accessory building and access road, and restoration and revegetation of lands changed as a result of WECS construction and operation. These costs will exclude any salvage or re-use revenues associated with the decommissioning process.

Group Housing: Group housing is characterized by the residential occupancy of a structure by a group of people who do not meet the definition of a "family" but often share a common situation. The size of the group may be larger than the average size of a household. Tenancy is usually arranged on a monthly or longer basis. It is a form of transient lodging. There is usually a common eating area for residents.

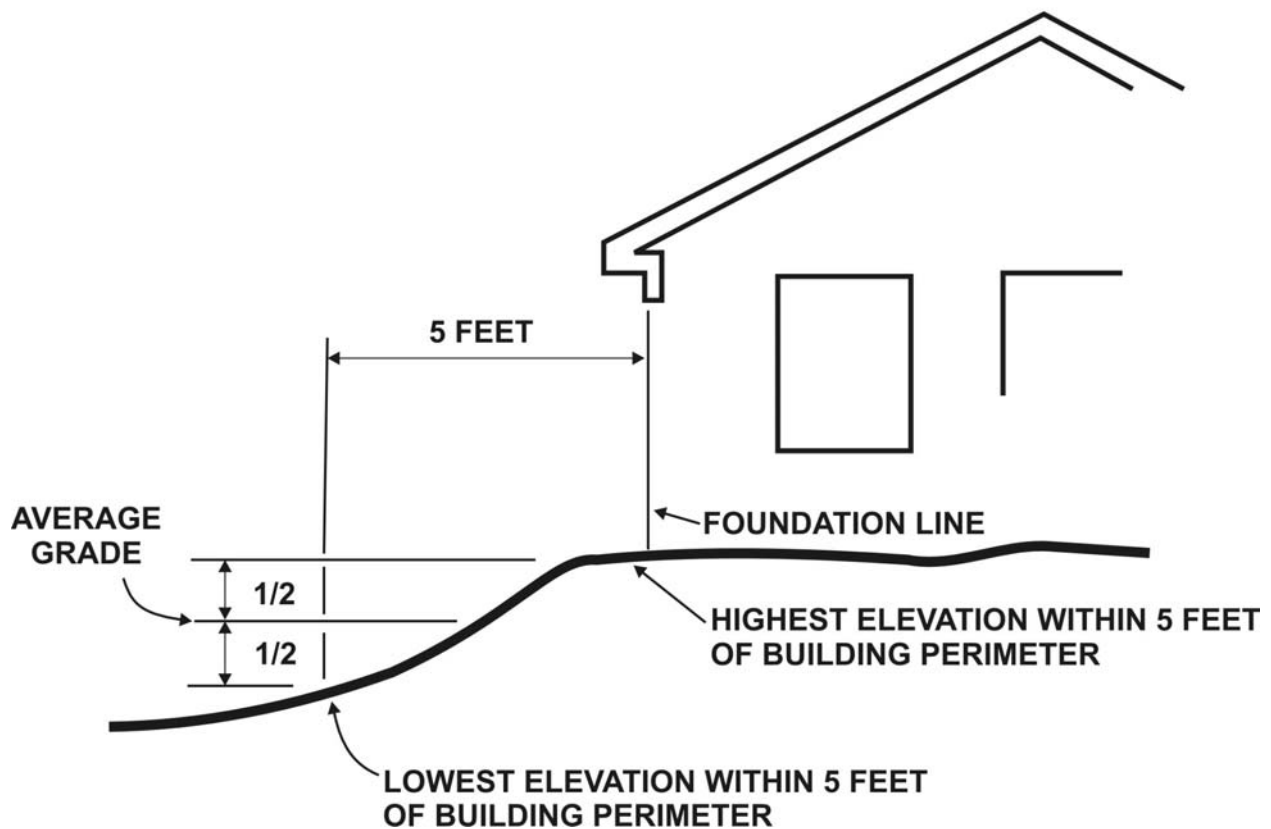
Health Department: See County Health Department.

High Water Mark: See Water Mark, High.

Highway: Any public thoroughfare in Benzonia or Platte Townships including Federal, State, and County highways. (See Road)

Home Occupation: An accessory use of professional, service, or business character conducted within a residential area by the family residents thereof, which is clearly secondary and incidental to the use of the structure for living purposes and does not change the character thereof.

Figure 2-6
AVERAGE GRADE



Housing, Temporary: A dwelling unit, recreational vehicle or other approved structure, which is permitted on-site only during the actual construction of a principal residence. See Section 3.14.B. See also definition of “temporary dwelling”.

Hunting Cabin: Seasonal building or structure with a fixed roof used incidental to hunting; are exempt from minimum floor area, but use is limited to sixty (60) days in any calendar year and fifteen (15) days in succession, unless built to comply with all Building Code and zoning requirements applicable to a single family dwelling. A tent or recreational vehicle is not a hunting cabin. See also regulations for temporary dwellings in Section 3.14.A.

Impervious Surface: Any surface, including streets, roads, driveways, parking lots, sidewalks, patios and rooftops, which prevents storm water from percolating into the ground.

IEC: The International Electrotechnical Commission (IEC) refers to the organization that prepares and publishes international standards for all electrical, electronic and related technologies. These standards serve as a basis for national standardization and as references when drafting national and international tenders and contracts.

Improvements: Any structure incident to servicing or furnishing facilities for a subdivision such as grading, street surfacing, curb and gutter, driveway approaches, sidewalks, crosswalks, water mains and lines, sanitary sewers, storm sewers, culverts, bridges, utilities, lagoons, slips, waterways, lakes, bays, canals, roadways, lighting, screening, drainage and other appropriate ties, with appurtenant construction.

Indoor Entertainment Establishments: Business establishments providing recreation that diverts, amuses, entertains, or provides entertainment or other hospitality associated with food service or accommodations. Does not include drive-through establishments.

Industrial Service Establishments: Industrial service firms are engaged in the repair or servicing of industrial, business or consumer machinery, equipment, products or by-products. Firms that service consumer goods do so by mainly providing centralized services for separate retail outlets. Contractors and building maintenance services and similar uses perform services off-site. Few customers, especially the general public, come to the site.

Institutions for Human Care and Habitation: Institutions for human care include a broad spectrum of public and private facilities for the diagnosis, treatment, care, rehabilitation or training of persons who may be ill, physically disabled, mentally retarded, emotionally disturbed, drug or alcohol dependent. Also includes facilities designed to meet the temporary housing needs of special populations (e.g. homeless, abused spouses, etc.). Does not include correctional facilities.

Junk Yard: Any land or building where waste, used, recycled or secondhand materials are bought and sold, exchanged, stored, baled, parked, disassembled or handled; including, but not limited to, scrap iron and other metals, paper, rags, rubber tires and bottles. A "junk yard" includes automobile wrecking yards and includes any area of more than fifty (50) square feet for storage, keeping or abandonment of junk, but does not include uses established entirely within enclosed buildings.

Kennel: Any lot or premises used for the sale, boarding, or breeding of dogs, cats, or other household pets. Kennel shall also mean the keeping of five (5) or more household pets over the age of six (6) months.

Land Use Permit: A Zoning Permit required for any change in use of land or structure in accordance with the provisions of this Ordinance.

Lease Unit Boundary: A boundary around property leased for purposes of a Wind Energy System, including adjacent parcels to the parcel on which the Wind Energy System tower or equipment is located. For purposes of setback, the Lease Unit Boundary shall not cross road right-of-ways. In cases where a lease unit is present, the lease unit boundary will be considered the property line in determining WECS setbacks.

Line, Street: The dividing line between a street right-of-way and property line of a lot.

Local Ownership: At least one of the owners of a WECS has permanent residence in Benzie County or one of the surrounding counties. A WECS capitalized by non-local ownership is considered local if there is an explicit plan to transfer majority ownership to residents of Benzonia or Platte Townships or one of the surrounding townships over a period of 10 years. If during the tenth year, the period needed to complete this transfer needs to be extended, the owners may apply to the Zoning Administrator or West Benzie Joint Planning Commission for an extension.

Lodging Accommodations: A facility offering transient lodging accommodations to the general public and possibly providing additional services, such as restaurants, meeting rooms, entertainment, and recreational facilities as accessory uses.

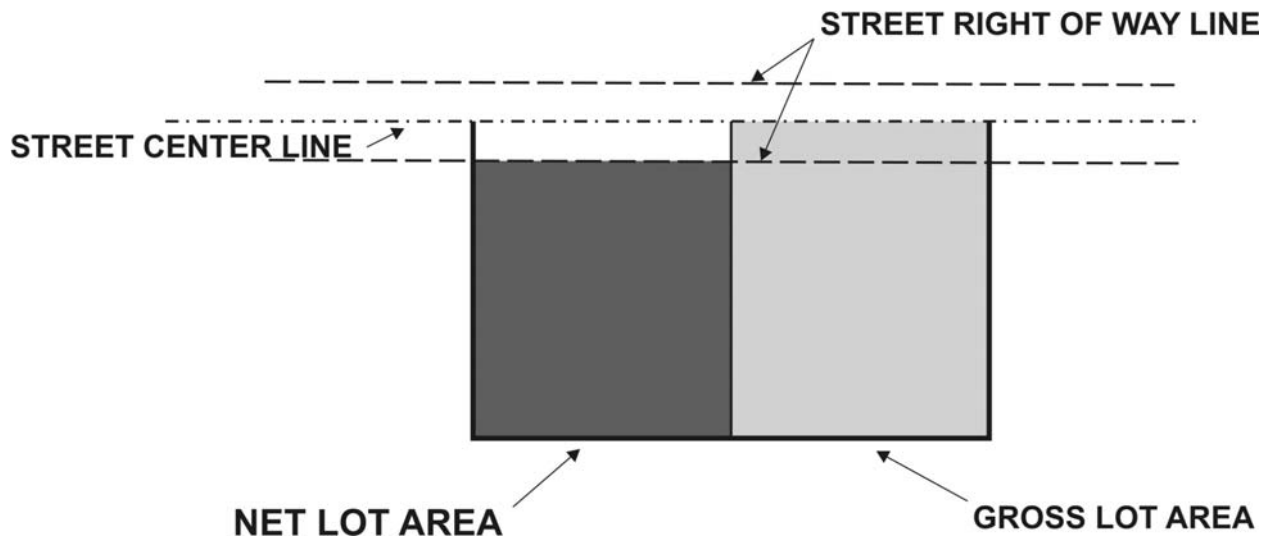
Lot/Parcel or Building Site: Land described in a recorded plat or by metes and bounds description, including a condominium unit in a condominium subdivision, occupied or to be occupied by a building, structure, land use or group of buildings having sufficient size to comply with the frontage, area, width-to-depth ratio, setbacks, yards, coverage and buildable area requirements of this Ordinance, and having its principal frontage upon a public street or on an approved private road or approved access easement (see Figure 2-7). Such lot may consist of: a) a single lot of record; b) a portion of a lot of record; c) a combination of contiguous lots of record or portions of contiguous lots of record , or; d) a parcel of land described by metes and bounds; provided that in no case shall a division or combination of any residential lot or parcel be created which does not meet the requirements of this Ordinance.

Lot, Access: A lot having frontage on a lake, river, or stream which does not meet the dimensional lot requirements of the zoning district in which it is located and is of insufficient lot area to accommodate the minimum dimensional requirements for a dwelling.

Lot Area, Gross: The area contained within the lot lines or property boundary including street right-of-way (see Figure 2-7).

Lot Area, Net: The total area of a horizontal plane within the lot lines of a lot, exclusive of any public street right-of-way abutting any side of the lot (see Figure 2-7).

Figure 2-7
NET AND GROSS LOT AREA



Lot, Corner: A lot where the interior angle of two adjacent sides at the intersection of two streets is less than one hundred and thirty-five (135) degrees. A lot abutting upon a curved street or streets shall be considered a corner lot for the purposes of this Ordinance if the arc is of less radius than one hundred and fifty (150) feet and the tangents to the curve, at the two points where the lot lines meet the curve or the straight street line extended, form an interior angle of less than one hundred and thirty-five (135) degrees (see Figure 2-8).

Lot Coverage: The amount of impervious surface on a lot, stated in terms of percentage, that is covered by all buildings, and/or structures located thereon. This shall be deemed to include all buildings, roofed porches, arbors, breezeways, patio roofs, whether open box types and/or lathe roofs, or fully roofed, as well as sidewalks, driveways, garage aprons and parking areas, but shall not be deemed to include fences, walls, or hedges used as fences, unroofed decks (twelve (12) inches or more above the finished grade) or swimming pools. Lot coverage shall be measured from the drip line of the roof or from the wall or foundation if there is no projecting portion of the roof.

Lot, Depth of: The horizontal distance between the front and rear lot lines, measured along the median between the side lot lines. (See Figure 2-9).

Lot, Flag: A lot whose access to the public street is by a narrow, private right-of-way that is either a part of the lot or an easement across another property. See Figures 2-8 and 2-10. Flag lots are discouraged.

Lot Frontage: The length of the front lot line. (See Figure 2-9.)

Lot, Front of: That lot line which is the street line of the principal street or right-of-way providing access to a lot.

Lot, Interior: Any lot other than a corner lot which, with the exception of a "through lot", has only one lot line fronting on a street (see Figure 2-8).

Figure 2-8
LOT TYPES

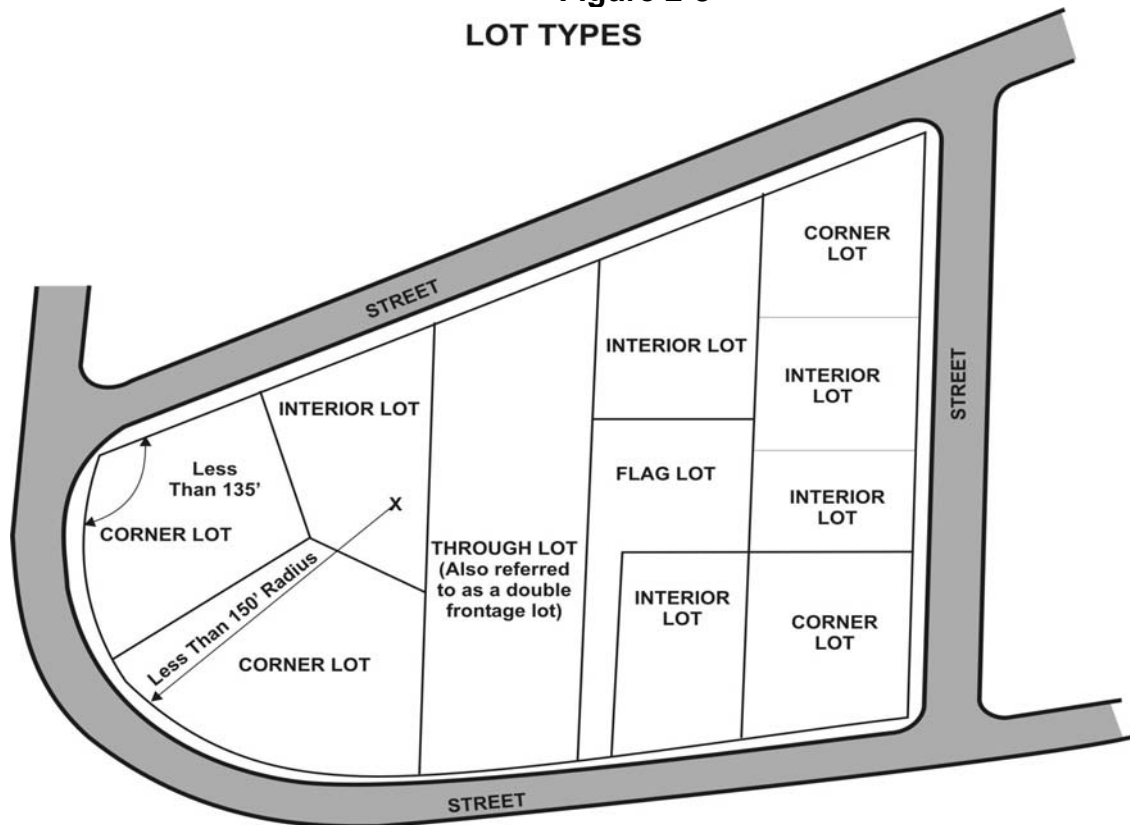
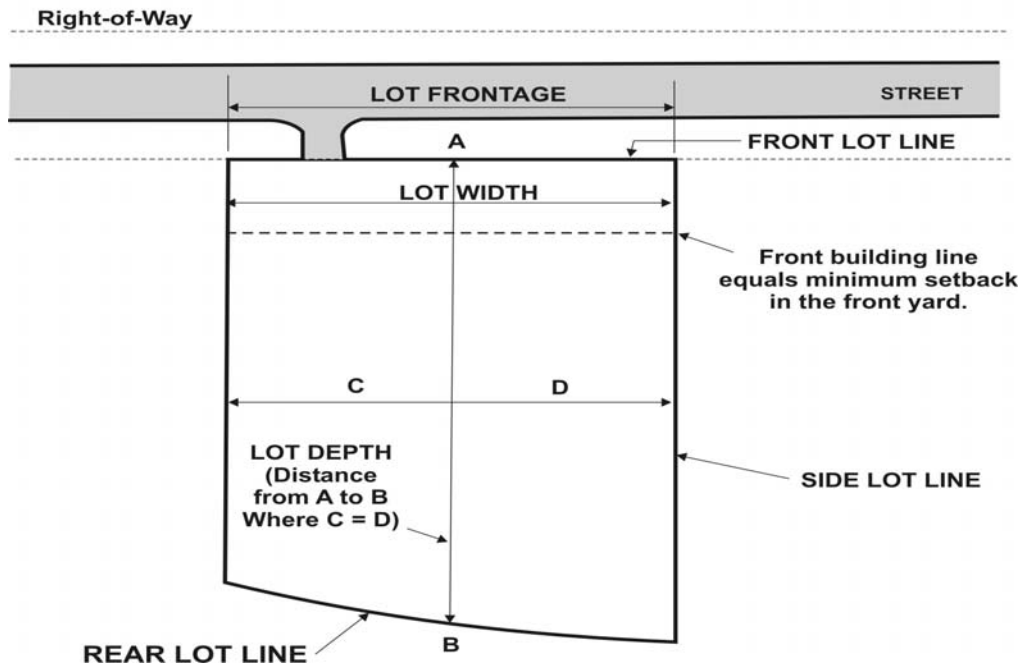


Figure 2-9

LOT FRONTAGE, WIDTH & DEPTH



Lot Line:

Front: In the case of an interior lot, that line separating said lot from the street, a private road, or other access easement. In the case of a through lot, that line separating said lot from either street private road, or other access easement. In the case of a flag lot, that line parallel to the main roadway, not the side lot line which is perpendicular to the main roadway. (See Figure 2-9 and 2-10).

Rear: The line opposite the front lot line. In the case of a through lot or a lot having frontage on more than one street, the line which is opposite the street address. In the case of a triangular or otherwise irregularly shaped lot or parcel, an imaginary line at least ten (10) feet in length entirely within the lot or parcel, parallel to and at a maximum distance from the front lot line. (See Figure 2-9 and 2-10).

Side: Any lot line other than the front lot line or rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line. (See Figure 2-9 and 2-10).

Lot of Record: A lot which is part of a subdivision, the map of which was recorded in the Office of the Register of Deeds in Benzie County on the effective date of this Ordinance or a lot described by metes and bounds, the deed, survey or land contract, or land contract memoranda, which had been recorded in the Office of the Register of Deeds in Benzie County on the effective date of this Ordinance. Any one lot of record created after the effective date of this Ordinance without frontage on any public road or

right-of-way shall not be occupied without access to a public road or right-of-way and must have access provided by an easement or other right-of-way no less than 20 feet wide.

Lot, Through: Any interior lot having frontage on two more or less parallel streets as distinguished from a corner lot (see Figure 2-8). In the case of a row of through lots, all yards of said lots adjacent to streets shall be considered frontage, and front yard setbacks shall be provided as required. Through lots in residential districts may only be accessed by motor vehicles from the side on which the street address is assigned. Through lots are discouraged.

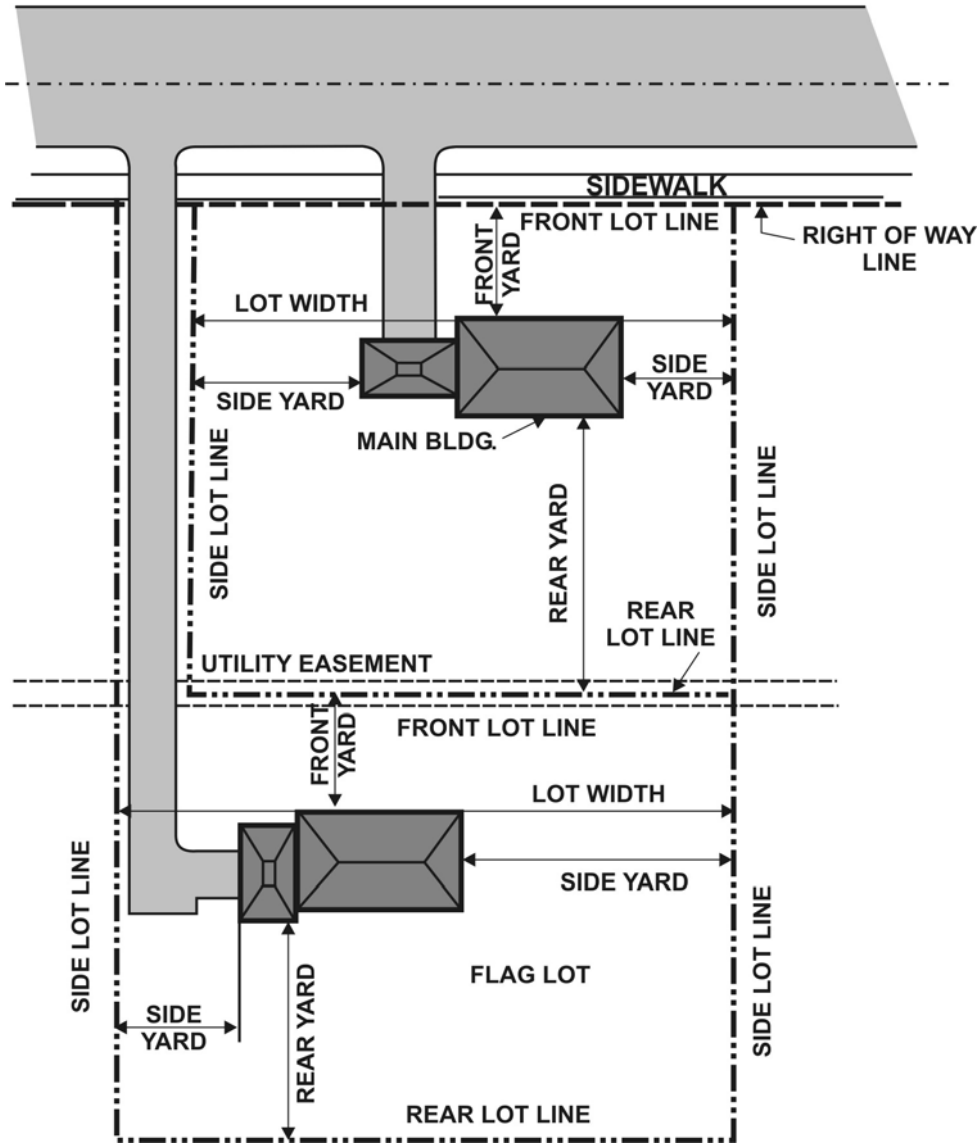
Lot, Water Front: A lot that has water frontage on a water body.

Lot line, Water Front: The ordinary high water mark of surface water or watercourses or boundary line of a wetland area (as defined by Section 307 of 1994 P.A. 451).

Lot, Width of: The horizontal straight line distance between the side lot lines, measured between the two points where the line establishing the setback for the front yard (also known as the front building line) intersects the side lot lines. (See Figure 2-9).

Figure 2-10

LOT LINES AND YARDS



Lot Width/Depth Ratio: Newly created lots shall not exceed four (4) times the lot width in depth.

Manufacturing Establishments—Light or Heavy: Manufacturing and production firms are involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, man-made, raw, secondary, or partially completed materials may be used. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. Goods are generally not displayed or sold on site, but if so, they are a subordinate part of sales. Relatively few customers come to the manufacturing site.

Major Thoroughfare: A public street, the principal use or function of which is to provide an arterial route for through traffic, with its secondary function the provision of access to abutting property and which is a County Primary, State Trunkline, Interstate Highway, or is classified as a “principal arterial” or “major collector” on the Street and Highway Classification Map (see Figure 2-11).

Minor Thoroughfare: A public street identified as a secondary street or road or “minor collector” on Figure 2-11.

Marina: A facility engaged in the sale, service and storage of all types of watercraft and small engine recreational vehicles and other related equipment and supplies, including, if with water frontage, docking and mooring facilities.

Mechanical Amusement Arcades: Any place or premises occupied by or under the control of the operator of mechanical amusement devices, room or establishment in which a substantial and significant portion of the business is devoted to the operation of mechanical amusement devices, or in which more than five (5) mechanical amusement devices are located and available for operation. For purposes of this Ordinance, a mechanical amusement arcade shall not include mechanical amusement devices located in restaurants or bars, motels or hotels and private clubs, where the devices are only available primarily to guests or patrons, nor to vending machines which dispense food, drink, tobacco or other similar items.

Mechanical Amusement Device: Any machine which, upon the insertion of a coin, slug, token, plate or disk or upon payment of a price, may be operated by the public generally for use as a game, entertainment or amusement, including but not limited to games registering a score, electronic video games, mechanical and/or electronic devices such as marble machines, pinball machines, mechanical grab machines, shuffle board game machines, pool tables, billiard tables and all game operations or transactions similar thereto, whether operated by hand, electric power, or combination thereof. For purposes of this Ordinance, a mechanical amusement device shall not include the following:

- A. Jukebox or other similar device which plays only music for money;
- B. Full-size bowling lane or alley;
- C. Movie theater seating more than ten persons.

Medical Service Establishments: Health care facilities providing medical, dental, surgical and preventive health services to patients as well as establishments providing support to health professionals and patients such as medical laboratories, medical suppliers and service establishments.

therefor, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home, or as otherwise defined in Michigan Public Act 96 of the Public Acts of 1987, as amended.

Mobile Home Subdivision: A mobile home development in which lots are privately owned.

Mowing and Cutting: The process of cutting the grass or ground vegetation in a way which allows the cuttings to be removed for deposition elsewhere.

Non-conforming Dimension: A non-conforming situation that occurs when the height, size, or minimum floor area of a structure or the relationship between an existing building or buildings and other buildings or lot lines does not conform to the regulations applicable to the district in which the property is located.

Non-conforming Lot: A lot lawfully existing at the effective date of this Ordinance (and not created for the purposes of evading the restrictions of this Ordinance) that does not meet the minimum area, width or depth requirements of the district in which the lot is located.

Non-conforming Sign: A sign lawfully existing on the effective date of this Ordinance which does not conform to one (1) or more of the regulations set forth in the Ordinance.

Non-conforming Situation: A situation that occurs when, on the effective date of this Ordinance, a lawfully created existing lot or structure or use of a lawfully-created existing lot or structure does not conform to one or more of the regulations applicable to the district in which the lot or structure is located. Among other possibilities: a non-conforming situation may arise because a lot does not meet minimum area or size requirements; because structures exceed maximum height limitations; because the relationship between existing buildings and the land (in such matters as density and setback requirements) is not in conformity with this Ordinance; or, because land or buildings are used for purposes made unlawful by this Ordinance. Non-conforming signs shall not be regarded as non-conforming situations for purposes of this Ordinance.

Non-conforming Use: A building, structure or use of land lawfully existing at the time of enactment of this Ordinance, or an amendment, and which does not conform to the regulations of the district or zone in which it is situated.

Non-Point Source Pollution: General storm water runoff from impervious surfaces and sediment from urban, agriculture and forestry sources, as well as subterranean water influx to a waterbody.

Office Establishments: Office uses are characterized by activities conducted in an office setting and generally focusing on business, government, professional, medical or

financial services. Accessory uses may include cafeterias and health facilities established primarily to service the needs of employees on the premises.

On-Site System (Small): A wind energy conversion system under 200 feet in height and is intended to primarily reduce on-site consumption of utility power.

On-Site System (Large): A wind energy conversion system that has a tower height 200 feet or greater and is intended to primarily reduce on-site consumption of utility power.

Open Space: Any unoccupied space open to the sky on the same lot with a building; as well as any parcel or area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for public or private use or enjoyment or for the use and enjoyment of owners, occupants, and their guests of land adjoining or neighboring such open space.

Ordinary High Water Marks: The line between upland and bottom land which persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil and the vegetation.

Organic Beach Debris: Organic matter that washes up on the shoreline. To include but not be limited to leaves, aquatic plants, chara, filamental algae, dead fish, dead animals and shoreline vegetation that has broken loose and washed up, etc

Outdoor Recreation and Entertainment Establishments: Outdoor recreation and entertainment uses provide continuous, intermittent or seasonal recreation and/or entertainment-oriented activities largely in an outdoor setting. They may take place in a number of structures that are arranged together in an outdoor setting. There may be concessions, restaurants, retail shops selling items related to the recreation or entertainment uses, office for management functions, spectator seating and service areas, including locker rooms and rest rooms, caretaker's quarters and maintenance facilities in addition to structures for the principal uses.

Outlot: When included within the boundary of a recorded plat, means a lot set aside for purposes other than a development site, park, or other land dedicated to public use or reserved to private use.

Overlay Zone - A zoning district that encompasses one or more underlying zones and that imposes additional requirements above that required by the underlying zone.

Parking Space: A land area of not less than ten (10) by twenty (20) feet, exclusive of driveways and aisles, and so prepared as to be usable for the parking of a motor vehicle and so located as to be readily accessible to a public street or alley. See Figure 2-12.

Pattern Book: A book detailing the explicit design details for a new urbanist or traditional neighborhood development including all the public spaces and private

buildings.

Patio: An open space area used for outdoor living purposes constructed of any materials which provide a hard, durable surface and which protrudes less than twelve (12) inches above the finished grade of the property.

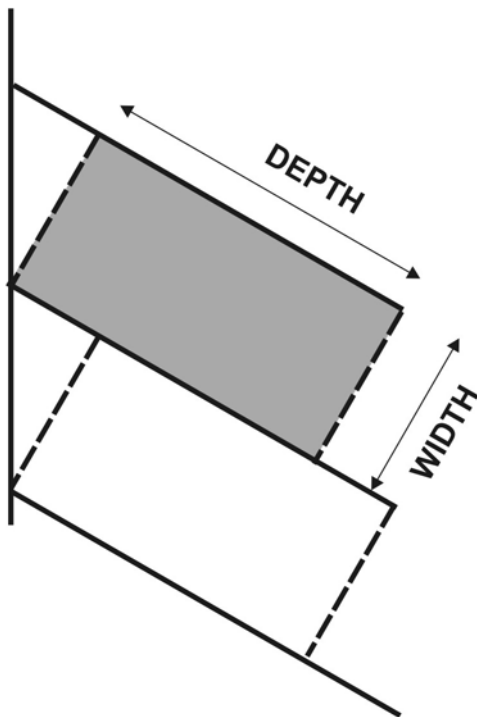
Performance Guarantee: Cash, completion bond, certified check, irrevocable bank letter of credit or other financial security acceptable to the Township as assurance that required improvements or conditions associated with project approval are properly built or conformed with.

Permeable Materials: Materials that permit full or partial absorption of storm water into underlying soils, including, but not limited to shredded bark, wood chips, paving bricks if installed without mortared joints, landscape stone and wood decks.

Person: A corporation, company, association, society, firm, partnership, or joint stock company, as well as an individual, a state, and all political subdivisions of a state or any agency or instrumentality thereof.

Figure 2-12

PARKING SPACE DIMENSIONS



Personal Services Establishments: Establishments primarily engaged in providing services involving the care of a person or his or her personal goods or apparel.

Phosphate Containing Fertilizer: Any fertilizer of any type that contains phosphorus.

Plan, General Development: Benzie County Comprehensive Plan or other plan adopted pursuant to the County Planning Act, Public Act 282 of 1945, as amended.

Planned Unit Development (PUD): A land area comprised of one or more lots or parcels, or portions of lots or parcels, which has both individual building sites and common property such as a park, or permanently preserved open space, and which is designed and developed under the control of one (1) person as a separate project, neighborhood or community unit pursuant to the requirements of Article XVII.

Planner: Any reference in this ordinance to “Planner” shall mean the person or persons assigned by the Township Board to perform those duties associated with planning for the Township.

Planning Commission: Any reference in this ordinance to “Planning Commission” shall mean the “West Benzie Joint Planning Commission” representing Benzonia and Platte Townships.

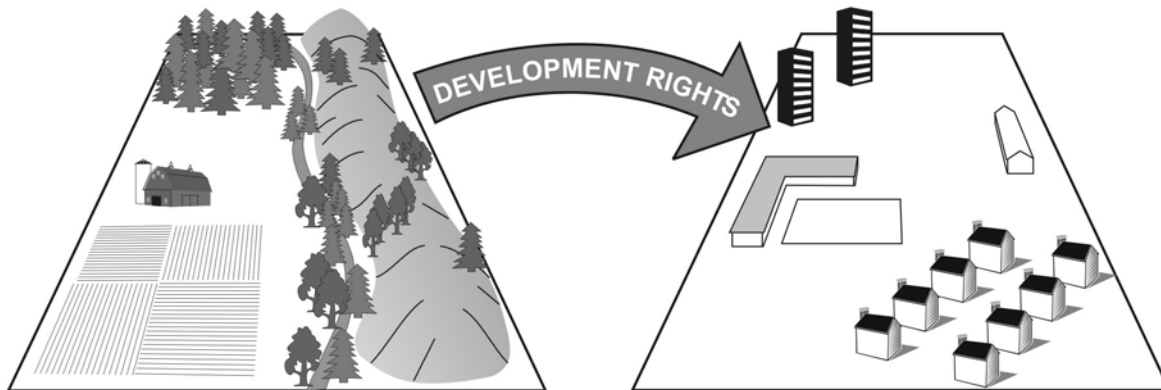
Plat: A map representing a tract of land showing the boundaries and location of individual lots and streets; or a map of a subdivision of land created under the provisions of the Land Division Act, Public Act 288 of 1967, as amended, or a predecessor statute.

- A. **Pre-Preliminary Plat:** An informal plan or sketch, drawn to scale, showing the existing features of a site and its surroundings and the general layout of a proposed subdivision.
- B. **Preliminary Plat:** A map showing the main features of a proposed subdivision of land for purposes of preliminary consideration.
- C. **Final Plat:** A map of a subdivision of land made up in final form ready for approval and recording.

Preservation Zone: Land designated for permanent preservation. Also known as the sending area. Development rights are sold by the landowner and transferred to a receiving zone where a developer is allowed to build at a higher density using the transferred development rights. See Figure 2-13.

Figure 2-13

TRANSFER OF DEVELOPMENT RIGHTS



PRESERVATION ZONE

Existing permitted low development density reduced further by transfer of development rights to transfer zone.

[Also known as Sending Area]

TRANSFER ZONE

Zoning regulations allow density increase to accommodate development rights accepted from the preservation zone.

[Also known as Receiving Area]

Principal Use or Principal Permitted Use: The main use to which the premises are devoted and the principal purpose for which the premises exists. Also known as a use permitted "by right".

Proprietor, Subdivider or Developer: A natural person, firm, association, partnership, corporation, or combination of any of them which may hold any recorded or unrecorded ownership interest in land. The proprietor is also commonly referred to as the owner.

Public Buildings: Buildings housing public services usually in offices; but not including "Utility and Public Service Installations" or "Educational and Social Institutions".

Public Utility: Any person, firm, corporation, municipal department or board, regulated by the Michigan Public Service Commission and fully authorized to furnish to the public electricity, gas, steam, telephone, cable television, transportation or water.

Public Open Space: Land dedicated or reserved for use by the general public. It includes parks, parkways, recreation areas, school sites, community or public building sites, streets and highways and public parking spaces.

Receiving Area or Transfer Zone –Land designated for development at a higher density or intensity than the base district because development rights were purchased from a qualified seller in the preservation zone or sending area. See Figure 2-13.

Recreation, Private: A recreational space or structure, or combination thereof, belonging to and/or operated by private interests for use by private individuals and/or organizations and/or other artificial apparatus which are necessary to form the basis for said use.

Recreational Unit: A tent, or vehicular type structure, primarily designed as temporary living quarters for recreational camping or travel use, which either has its own motive power or is mounted on or drawn by another vehicle which is self-powered. A tent means a collapsible shelter of canvas or other fabric stretched and sustained by poles and used for camping outdoors. Recreation unit shall include "travel trailers", "camping trailer", "motor home", "truck camper", "slide-in-camper", and "chassis-mount camper" as defined in Public Act 525, Michigan Public Acts of 1982.

Recreational Vehicle: Means a recreational unit, exclusive of tents and including a trailer used for the transport of motorized recreational equipment such as snowmobiles, watercraft, non-motorized recreational equipment such as a fish shanty, or a trailer along with motorized or non-motorized recreational equipment loaded for transport.

Religious Institutions: Religious institutions primarily provide meeting areas for religious activities. They may be associated with a convent or friary (group housing), provide caretaker housing, or a parsonage on-site (as an accessory use).

Removal of Vegetation: Includes but is not limited to the cutting, pruning, pulling, digging out, chemical treatment, etc. such that a sufficient amount of the plant and or related root structure are removed/destroyed such that the plant will no longer continue to grow and bare soil is exposed.

Repair Services: Establishments that service or repair appliances, electrical equipment or other mechanical equipment or consumer goods. Includes customer drop-off and pick-up as well as off-site service calls.

Replat: The process of changing of the map or plat which changes the boundaries of a recorded subdivision plat or part thereof. The legal dividing of an outlot within a recorded subdivision plat without changing the exterior boundaries of the outlot is not a replat.

Research and Development Establishments: An establishment or other facility for carrying on investigation in the natural, physical or social sciences which may include engineering and product development.

Right-of-Way: A road, street, alley, or other thoroughfare or easement permanently established for passage of persons or vehicles.

Riparian Buffer: The area surrounding all natural waterbodies including creeks, rivers, intermittent waterways and lakes that attenuate and filter overland runoff, provide space for water storage and natural alterations in the pattern and profile of streams, supply

natural organic material that supports downstream aquatic ecology, controls water temperature and provide necessary wildlife habitat.

Road: A public or private thoroughfare, easement or right-of-way for the ingress, egress and regress of motor vehicles, which affords the principal means of access to abutting property.

- A. **Arterial (Primary) Road:** Designated state and federal highways and those roads of considerable continuity which are designated primary roads or major or minor collectors by the Benzie County Road Commission or which may be used primarily for fast or heavy traffic. See Figure 2-11.
- B. **Cul-de-sac:** A minor road of short length having one end terminated by a vehicular turn-around.
- C. **Local Road:** A road intended primarily for access to abutting properties and is designated a local road by the Benzie County Road Commission.
- D. **Marginal Access Road:** A minor road which is parallel and adjacent to arterial roads and which provides access to abutting properties and protection from through traffic.
- E. **Road Width:** The shortest distance between the lines delineating the right-of-way of roads.

Road, Private: Any non-public road serving two (2) or more dwellings or principal uses (See Access Easement).

Road, Public: A road dedicated to the public, such dedication having been accepted by the appropriate public Road Commission or Department of Transportation, which meets the minimum construction standards of said Road Commission or Department of Transportation.

Roadside Stand: A "roadside stand" is a structure for the display and sale of agricultural products, without space for customers within the structure itself.

Roof-Mounted WECS: A wind generating facility which generates original power on site for on-site use by the property owner or home-owner, mounted on the principal building's roof and with a maximum height no greater than 15 feet as measured from the highest point of the roof, excluding chimneys, antennae, and other similar protuberances.

Sale, Garage (or Yard Sale, Moving Sale or Estate Sale): The sale or offering for sale to the general public of items of personal property by the owner or tenant of an improved lot in a residential district, whether within or outside any building.

Satellite Signal-Receiving Antennas: Also referred to as "satellite dish", "earth stations" or "ground stations" shall mean one, or a combination of two or more of the following:

- A. A signal-receiving device (antenna, dish antenna, or dish-type antenna), the purpose of which is to receive communication or other signals from satellites in earth orbit and other extraterrestrial sources.
- B. A low noise amplifier (LNA) which is situated at the focal point of the receiving component and the purpose of which is to magnify, store, transfer and/or transmit electronic or light signals.
- C. "Dish" shall mean that part of a satellite signal receiving antenna characteristically shaped like a saucer or a dish.
- D. "Grounding rod" shall mean a metal pole permanently positioned in the earth to serve as an electrical conductor through which electrical current may safely pass and dissipate.
- E. "Receiver" shall mean a television set or radio receiver.

Sediment: Solid particulate matter, mineral or organic that has been deposited in water, is in suspension, or being transported by water, or has been removed from its site of origin by the process of soil erosion whether natural or induced.

Sending Area or Preservation Zone – See Preservation Zone and see Figure 2-13..

Sexually Oriented Businesses: Business or commercial enterprises engaging in the provision of sexually oriented products and services to adults. Often of an adult entertainment character. For special definitions of certain types of sexually oriented businesses, see Section 25.3.

Shadow Flicker: Alternating changes in light intensity caused by the moving blade of a wind energy system casting shadows on the ground and stationary objects, such as but not limited to a window at a dwelling.

Shed: A term used to describe a wide array of accessory structures or accessory buildings used to store equipment, materials or supplies; such as but not limited to a tool shed, garden shed, storage shed or similar small building. See especially Sections 3.10 and 3.11 in Article III.

Sign Face: That part of a sign structure which is used to graphically communicate a message or announcement.

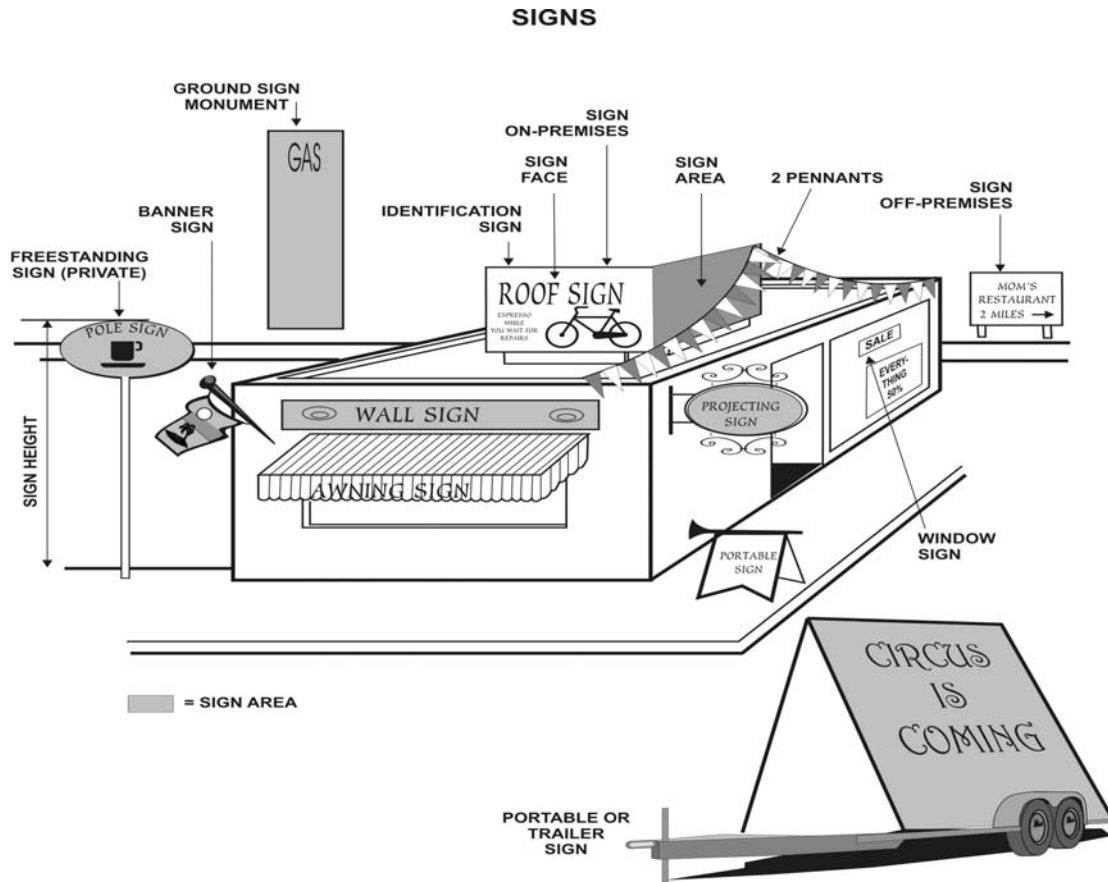
Sign Regulation Definitions (see Figure 2-14):

- A. Banner: A sign made of natural, synthetic or plastic material used to call attention to a land use or product, service or activity; however, not including pennants or flags.
- B. Billboard Highway Advertising Sign: An off-premises sign owned by a person, corporation or the entity that engages in the business of selling the advertising space on that sign.
- C. Business Center Sign: A sign which gives direction, name, and identification to a business center and which does not contain any additional information regarding individual stores, businesses, institutions, organizations, located within the planned complex or contiguous stores.
- D. Directional Sign: An on- or off- premises sign which sets forth no advertising display, but is used to direct visitors or customers to a particular land use.
- E. Entrance Way Sign: A sign that designates the street entrance way to a residential or industrial sub- division, apartment complex, condominium development, or permitted institution, from a public right-of-way.
- F. Flag: A sign made of natural, synthetic or plastic material having a distinctive size, color and design used as a symbol or emblem.
- G. Flashing Sign: Any illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color at all times when such sign is in use.
- H. Ground or Pole Sign: A free standing sign supported by one (1) or more uprights, poles, braces or some other structure, placed in the ground surface and not attached to any building.
- I. Highway Advertising Sign: See Billboard.
- J. Home Occupation Sign: A non-illuminated sign announcing a home occupation or professional service.
- K. Identification Sign: A sign containing the name of a business operating on the premises where located, the type of business, owner or resident, and/or the street address and sets forth no other advertisement display.
- L. Illuminated Sign: A sign that provides artificial light by either emission or reflection.

- M. Informational Sign: A small, non-advertising sign used to identify architectural features of a land use such as building entrances, drop boxes, restrooms, handicapped ramps and similar features.
- N. Ingress-Egress Sign: A sign located adjacent to the entrance or exit drives of a development to identify the points of vehicular ingress and egress.
- O. Marquee Sign: An "identification or business" sign attached to a marquee, canopy, or awning projection from the building.
- P. Off-Premises Advertising Sign: A sign which advertises a business or activity conducted elsewhere than on the premises where the sign is located.
- Q. Pennant: A small, often triangular, tapering flag used in multiples as a device to call attention to a land use or activity.
- R. Portable Sign: A freestanding sign not permanently anchored or secured to either a building or the ground, but are trailored or similarly mounted signs or signs on parked vehicles where the sign is the primary use of the vehicle or wheeled object while it is parked.
- S. Projecting Sign: A sign which is affixed to any building or structure other than a marquee and projects in such a way that the message is not parallel to the wall to which it is attached.
- T. Roof Sign: Any sign which is erected above the roof of a building.
- U. Sign: Any identification, description, illustration, display or device illuminated or non-illuminated which is visible from any public place or is located on private property and exposed to the public and which directs attention to a product, service, place, activity, person, institution, business or solicitation, including any permanently installed or situated merchandise; or any emblem, painting, banner, pennant, placard or temporary sign designed to advertise, identify or convey information. For the purpose of removal, signs shall also include all sign poles and similar supporting structures.
- V. Subdivision Sign, Site Condominium Sign or PUD Sign: A free-standing sign used in connection with a subdivision plat, condominium project, or PUD illustrating said plat, condominium project or PUD, for the purpose of indicating the location of lots within the plat or project and/or their availability for purchase.

- W. Seasonal Commodity Sign: An on- or off-premise sign which indicates the name of the farm, the sale of farm products produced seasonally on the premises, the location of the premises, and/or the hours open to the public.
- X. Temporary Sign: A display sign, banner, or advertising device with or without a structural frame intended for a limited period of display, including displays for holidays or public demonstrations.
- Y. Wall Sign: A sign which is attached directly to or painted upon a building wall which does not project more than twelve (12) inches therefrom. The exposed face of the sign must be in a plane parallel to the building wall or structure (such as a water tower). The sign shall not extend above the height of the building, wall or structure.

Figure 2-14



Site Plan - A drawing showing all salient features of a proposed development and accompanying documents that are submitted along with a permit application so that it may be evaluated in order to determine whether it meets the provisions of this Ordinance (see Article XIV, Part IV). A plot plan depicts a subset of the information required by this Ordinance for a site plan

Site Plan Review Committee: Any reference in this ordinance to the Site Plan Review Committee shall mean the West Benzie Joint Planning Commission.

Sketch Plan: A pre-preliminary plat or simplified residential site plan.

Slope: A portion of land that has either an upward or downward inclination.

Slope, Steep: A slope that has a topographic grade of eighteen percent (18%) or greater.

Soil Erosion: The wearing away of land by the action of wind, water, gravity or a combination thereof including ice.

Sound Level, Ambient: The amount of background noise at a given location prior to the installation of a WECS which may include, but is not limited to, traffic, machinery, lawnmowers, general human activity and the interaction of the wind with the landscape. Ambient Sound Level is measured on the Decibel – dB(A) – weighted scale as defined by the American National Standards Institute (ANSI).

Story: That part of a building, except a mezzanine included between the surface of one floor and the surface of the next floor, or if there is no floor above, then the ceiling next above. A basement shall not be counted as a story (see Figure 2-1).

Story, Half: An uppermost story lying under a sloping roof having an area of at least two hundred (200) square feet with a clear height of seven feet six inches (7'-6"). For the purposes of this Ordinance, the usable floor area is only that area having at least four (4) feet clear height between floor and ceiling. See Figure 2-1.

Stream: Any natural flow of water which has a defined bank and bottom, whether it be continuous or intermittent.

Street: See road.

Street Line: The legal line of demarcation between a street right-of-way and abutting land.

Structure: A structure is any production or piece of material artificially built up or composed of parts joined together in some definite manner; any construction, including dwellings, garages, buildings, mobile homes, signs and sign boards, towers, poles, antennae, swimming pools, decks, fences (4) four feet in height or more or other like objects; but not including fences up to four (4) feet in height, uncovered steps, docks, access steps required to negotiate changes in site elevation, and sidewalks, drives, paved areas and patios which protrude less than twelve (12) inches above the finished grade.

Subdivision: The partitioning or dividing of a parcel or tract of land pursuant to the standards and restrictions on the number, size and shape of lots for sale, lease or building development as provided in the Land Division Act, Public Act 288 of 1967, as amended.

Subdivision Control Act: The former name of the Land Division Act, being State of Michigan Public Act 288, of 1967, as amended.

Substation: Any electrical facility designed to convert electricity produced by wind turbines for interconnection with high voltage transmission lines.

Supervisory Control and Data Acquisition (SCADA) System: An operations control facility that maintains two-way communications with each wind turbine.

Surveyor: A land surveyor licensed to practice in the State of Michigan.

Survival Speed: The maximum wind speed a turbine and tower is designed to withstand before sustaining damage.

Third-Party, Qualified Professional: An individual holding the normal educational and experiential credentials to establish expertise in their field.

Topographical Map: A map showing existing physical characteristics, with contour lines at sufficient intervals to permit determination of grades and drainage.

Tower Height: The vertical distance measured from the ground level at the base of the tower to the uppermost vertical extension of any blade, or the maximum height reached by any part of the WECS.

Township: Any reference to the “Township” shall mean the Townships of Benzonia and/or Platte, Benzie County, Michigan.

Township Board of Trustees: Any reference in this ordinance to the “Township Board of Trustees” shall mean the Township Board of Trustees of Benzonia Township or Platte Township.

Township Planning commission: Any reference in this ordinance to “Township Planning commission” shall mean the “West Benzie Joint Planning Commission”, representing Benzonia and Platte Townships.

Township Zoning Act: Any reference in this ordinance to the Township Zoning Act shall mean the Michigan Zoning Enabling Act, 2006 PA 110, as amended [MCL 125.3101 et seq] (MZEA).

Township Zoning Commission : Any reference in this ordinance to the Township Zoning Commission shall mean the “West Benzie Joint Planning Commission” representing Benzonia and Platte Townships.

Trailer Coach: Mobile Home as defined herein.

Trailway: A cleared way for pedestrians and/or bicycles that may or may not be improved.

Transfer Zone: See Receiving Area and Figure 2-13.

Travel Trailer Park: Campground as defined herein.

Traveled Surface of Roadway: For the purpose of establishing setbacks, it is that portion of the roadway surface whose principal function is to provide for the passage of motor vehicles as they traverse the roadway, excluding therefrom the shoulder of the road which is principally used for the emergency stopping or parking of motor vehicles or for the passage of pedestrians and bicycles. On a road with a white “fog line” it shall demarcate the edge of the traveled surface of the roadway. The Townships will declare such traveled surface of each lane of the roadway to be no less than eleven (11) feet wide, thereby having a minimum of eleven (11) feet of traveled surface either side of the centerline of a two (2) lane road; three (3) traveled surfaces of eleven (11) feet each in width for a three (3) lane road or a two (2) lane road with a passing lane or turning lane at an intersection; and four (4) traveled surfaces of eleven (11) feet each in width for a four lane road or a three (3) lane road with a passing lane or a turning lane at an intersection.

Underlying Zone - A zoning district that lies underneath an overlay zone.

Upland: The land area that lies above the ordinary high water mark or wetland.

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

Utility Grid Wind Energy System: Wind generating facilities which generate original power on site to be transferred to a transmission system for distribution to customers. This may include wind towers at multiple locations and accessory uses such as but not limited to a SCADA TOWER, and electric substation. This definition shall not include Community WECS or any individual WECS erected and used primarily for private use.

Utility and Public Service Installation: A building or structure within which a utility or transportation service deemed necessary for the public health, safety or general welfare (an essential service) is provided to the public by an entity under public franchise or ownership; including but not limited to facilities created for the generation, transmission and/or distribution of electricity, gas, steam, communications, television, and water; the collection and treatment of sewage and solid waste; and the provision of roads, rails, air or mass transportation. Accessory uses may include offices, truck and large equipment parking, fueling and maintenance. Also see definition of Essential Services.

Vehicle Sales and Service Establishments: Retail sales and service of motorized land and water vehicles. Generally the customer does not wait at the site while the service or repair is being performed. Accessory uses may include offices, showrooms, sales of parts, and vehicle storage.

Water Body: Any natural or artificial inland lake or stream, all being water resources.

Waterbody: Any body of water, including any creek, stream, canal, river, lake or bay, or any other body of water, natural or artificial, except a swimming pool or ornamental pool located on a single lot.

Watercraft: Any motorized boat or water vehicle, regardless of size or length, or any nonmotorized boat or water vehicle more than sixteen (16) feet in length.

Water Frontage – The horizontal distance measured along the water front line.

Water Mark, High (or Ordinary High): The highest normal water level of the major lakes, rivers or streams within the Townships based on the water level history of each respective body of water, or as established by the Benzie County Circuit Court.

Watershed: A land area, known as a drainage area, which collects precipitation and contributes runoff and flow to a receiving body of water; the entire region drained by a waterway or watercourse that drains into a lake or reservoir.

Way: A roadway, See Road.

WECS: Shall be the approved form of abbreviation of "wind energy conversion system". The following associated definitions are also pertinent.

A. **WECS:** A combination of:

1. A surface area, either variable or fixed, for utilizing the wind for generation of electrical power; and
2. A shaft, gearing, belt or coupling utilized to convert the rotation of the surface area into a form suitable for driving a generator, alternator, or other electricity producing device; and
3. The generator, alternator, or other device to convert the mechanical energy of the surface area into electrical energy; and
4. The tower, pylon or other structure upon which any, all, or some combination of the above are mounted.

B. **Tower Height:**

1. **Horizontal Axis Wind Turbine Rotors:** The distance between the ground and the highest point of the WECS, as measured from the ground, plus the length by which the rotor blade on a

horizontally-mounted WECS exceeds the structure which supports the rotor and blades;

2. Vertical Axis Wind Turbine: The distance between the ground and the highest point of the WECS.

C. **Survival Wind Speed**: The maximum wind speed as designated by the WECS manufacturer, at which a WECS, in unattended operation (not necessarily producing power) is designed to survive without damage to any structural equipment or loss of the ability to function normally.

D. **Interconnected WECS**: A WECS which is electrically connected to the local electrical power utility system and which could feed power back into the local electrical power utility system.

West Benzie Joint Planning Commission: Any reference in this ordinance to the West Benzie Joint Planning Commission shall mean the Planning Commission appointed by the Benzonia and Platte Township Boards of Trustees pursuant to section 301 of the Michigan Zoning Enabling Act [MCL 125.3301](MZEA).

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. Additionally, any area that has the presence of saturated hydrological conditions during ten percent (10%) of the growing season and a dominant presence of hydrophilic vegetation or hydric soils.

Wholesale Trade Establishments: Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users; to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies. There is little on-site sales activity with the customer present. Accessory uses may include offices, truck fleet parking, fueling and maintenance.

Wildlife Habitats: Areas of natural environment upon which wildlife depend for survival as self-sustaining populations in the wild, including land and water needed for cover, protection or food supply. Wildlife may include mammals, birds, reptiles, amphibians, fishes, and invertebrates. Areas may include nesting areas, aquatic habitat, waterfowl staging areas, deeryards and habitat of endangered and threatened species.

Wind Energy Conversion Systems (WECS): Shall mean any mechanism designed for the purpose of converting wind energy into electrical energy.

Yard: An open space on the same lot with a building, unoccupied and unobstructed from the ground upward, except as otherwise provided herein. The measurement of a

yard shall be construed as the minimum horizontal distance between the lot line and the building line.

Yard, Front: A yard extending across the front of a lot between the front line of the lot and the nearest point of the main building or land use.

Yard, Rear: An open space on the same lot with a main building, unoccupied, except as herein permitted, extending the full width of the lot and situated between the rear line of the lot and the rear line of the building projected to the sidelines of the lot.

Yard, Side: An open, unoccupied space on the same lot with the building, situated between the building and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a front or rear line shall be deemed a side line.

Yard, Waterside: The open space extending across the full width of a lot between the building line and the ordinary high water mark of any water resource and measured perpendicular to the building at the closest point to the ordinary high water mark. This shall be the rear of the yard for a water front lot.

Zoning Administrator: See Article 14.4 Zoning Administrator.

Zoning Permit: Permit required for any change in use of land, or structure in accordance with the provisions of this Ordinance. See Land Use Permit.

Zoning Ordinance: The West Benzie Joint Zoning Ordinance.

Section 2.3 WORDS NOT DEFINED

Any words requiring special interpretation and not listed above shall be used as defined in the dictionary maintained in the office of the Zoning Administrator, unless defined by specific action of the Zoning Board of Appeals.

ARTICLE III GENERAL PROVISIONS

Section 3.1 PURPOSE & SCOPE

A. It is the purpose of this Article to establish supplemental regulations for lots, uses, and activities addressed in Articles IV - XIII, that relate to accessory uses, dimensional standards, various exceptions, access and other aspects of land use and design that are not addressed in the remaining Articles of this Ordinance.

B. Except as otherwise provided in this Ordinance, no lot or parcel of land, no existing building, structure or part thereof and no new building, structure or part thereof shall hereafter be located, erected, constructed, re-constructed, altered or used for purposes other than in conformity with the provisions of this Ordinance.

Section 3.2 LOT AND YARD AREA REQUIREMENT EXCEPTIONS

Nonconforming Lots of Record: In any district in which single family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Ordinance, a single family dwelling and customary accessory buildings may be erected on any lawfully created single lot of record recorded with the Register of Deeds at the effective date of adoption or amendment of this Ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district; provided the use of the lot conforms with the following requirements or a yard requirement variance is obtained through approval of the Zoning Board of Appeals. See also Section 28.7 and Section 29.8.

A. Lot Areas and Widths: On a lot of record, the Zoning Administrator is authorized to waive the minimum lot size, width, and width at the building line requirements, provided that the intended structure is in full compliance with all other requirements of this Ordinance.

B. Front and Rear Yards: On any lot of record where the front and rear yard setbacks reduce the buildable area to less than twenty-five (25) feet, the Zoning Administrator is authorized to reduce both the front yard and the rear yard setback requirements by up to ten (10) percent of the depth of the lot to accommodate a requested buildable area. If the rear yard abuts a lake or stream, emphasis shall be given to the protection of the lake or stream. The front yard setback shall be reduced up to the full ten (10) percent first before the rear yard setback is reduced.

C. Existing Structures: Where a structure already exists on a parcel and it is nearer a front or a rear lot line than the setback required for that district, the Zoning Administrator is authorized to issue a Zoning Permit to expand said structure or erect an accessory building, provided such addition or new construction is not located nearer a

front or rear lot line than the existing structure and will not cause a significant health or safety hazard.

D. Side Yards: On any lot of record where the side yard setback requirements reduce the buildable width to less than twenty-five (25) feet, the Zoning Administrator is authorized to reduce the side yard setback requirements by up to ten (10) percent of the lot width, however, no interior side yard shall be reduced by more than three (3) feet, and no exterior side yard shall be reduced by more than six (6) feet.

Section 3.3 FIRE HAZARDS AND EMERGENCY VEHICLE ACCESS

A. In order to reduce fire hazards, no building or structures, including roof overhangs, shall be closer than ten (10) feet to any neighboring property line, except as provided in Sec. 3.2, above.

B. Each dwelling unit shall be provided reasonable vehicular access by a driveway which may be negotiated under normal weather conditions by emergency vehicles serving the Townships, or an emergency vehicle set up area suitable for accommodating fire fighting apparatus shall be provided within a reasonable distance and reasonable pedestrian access provided to the structure.

C. Driveways shall be clear to a width of fifteen (15) feet and an overhead clearance of fifteen (15) feet throughout its length, and shall not exceed ten (10) percent in grade, except with permission of the Fire Chief, in which case it may not exceed fifteen (15) percent in grade if paved.

D. Any driveway or dead-end private road longer than eight-hundred (800) feet in length shall provide an above ground or below ground water reservoir not closer than fifty feet nor more than seventy-five feet (75) from the first principal structure served by the driveway or private road and shall provide sufficient fire storage for two (2) hours at the highest fire demand in the zone. All reservoir design and construction shall conform to A.W.W.A. standards and/or requirements of the Fire Chief with jurisdiction.

Section 3.4 STRUCTURE SETBACKS ON ROADWAYS

A. Except as provided for in Article XIX for signs, the minimum setback for all principal buildings and accessory structures from all state or federal owned and operated highways shall be seventy-five (75) feet from the highway right-of-way, whether it be for a front, side or rear yard, regardless of setbacks listed in Districts or Table of Dimensional Requirements.

B. If the road right-of-way line is readily determinable (by reference to a recorded survey and set irons), the setback shall be measured from such right-of-way line. If the road line is not so determinable the setback on a road with sixty-six (66) feet of right-of-way shall be measured one-hundred (100) feet from the centerline of the traveled surface of the right-of-way. For roads with right-of-way more than sixty-six (66) feet, the

minimum setback from the centerline shall be one (1) foot for each additional foot of right-of-way up to one-hundred (100) feet and then one-hundred twenty-five (125) feet of setback for any right-of-way greater than one-hundred (100) feet.

C. No portion of any structure or freestanding sign may be located closer to any lot line than is authorized in the District provisions and Table of Dimensional Requirements.

D. All structures, including signs, located on multiple road frontage lots shall observe the minimum required front yard setback from all arterial or primary roads.

Section 3.5 NUMBER OF DWELLINGS AND USE OF LOTS OR PREMISES

A. Every dwelling, cottage, cabin, or mobile home erected outside of a mobile home park shall be located on a lot or premise, and no more than one (1) such building or structure shall be erected on such lot or premise. Provided, however, that in the R-4 and RP districts an additional dwelling may be constructed on a single lot, provided that the lot has double the land area and double the width to accommodate the additional dwelling in accord with the required provisions of the District.

B. A lot in a commercial district may contain more than one principal building and/or principal use provided all uses are permitted by right, right with conditions, approved special use permit, or an approved PUD, and the buildings and uses meet the cumulative lot area, lot width, parking, signage, and lot coverage requirements and that none of the principal buildings violate any of the yard size, setback or other dimensional requirements.

C. All commercial activity shall take place within an enclosed building, unless specifically authorized to be conducted outside as part of the use regulations of the District, or via special land use standards of this Ordinance.

Section 3.6 UNSAFE, RAZING & MOVING BUILDINGS

A. Nothing in this Ordinance shall prevent compliance with an order by the Building Inspector, the County Prosecutor, or a judge to demolish, correct, improve, strengthen, or restore to a safe condition any building declared to be unsafe.

B. No building which requires a demolition permit under the Michigan Building Code shall be razed until a permit has been obtained from the Zoning Administrator who shall be authorized to require a performance guarantee, in any amount not to exceed one thousand dollars (\$1,000) for each one thousand (1,000) square feet or fraction thereof of floor area of the building to be razed. Said bond shall be conditioned on the applicant completing the razing within such reasonable period as shall be prescribed in the permit and complying with such regulations as to health and safety as the Zoning Administrator may, from time to time, prescribe, including filling of excavations, proper termination of utility connections and the proper removal and closure of any water well and septic

system. If the building is safely razed and the site cleaned as specified in the permit, then the bond shall be returned within thirty (30) days of completion of the razing. If razing is not accomplished according to the terms of the approval, then the Township shall cash the performance bond and use the money to restore the site to a safe condition. Costs in excess of the bond shall be charged back to the property owner and placed as a lien on the property if not paid in a timely fashion.

C. Moving Buildings: No existing building or structure of any type or kind larger than two hundred (200) square feet, shall be moved into the Township or moved from one lot in the Township to another lot in the Township unless authorized by the Zoning Administrator. Before granting or denying such authorization, the Zoning Administrator shall consider the following standards:

1. The type and kind of construction of the existing building in relation to its strength and whether or not the building may be a fire hazard.
2. Whether or not the type and age of the building is in keeping with adjoining and neighboring buildings.

Section 3.7 WATER ACCESS LOTS

A. Access lots may be lawfully created after the effective date of this Ordinance provided they have a minimum front yard width of fifty (50) feet, and a minimum of fifty (50) feet wide through the length, and have fifty (50) feet of frontage along the water line of the adjacent lake, river or stream.

B. Access lots having a minimum width of fifty (50) feet through its depth may be used for a beach structure provided said structure meets all dimensional setback requirements, is no larger than one hundred fifty (150) feet gross square footage in size, and is not used for other than non-commercial waterfront recreational uses and related storage.

C. Unless the residences having privilege to use an access lot are within three hundred (300) feet of the access lot, a minimum of two (2) parking spaces shall be provided off of the road right-of-way for each fifty (50) feet in width of the access lot.

D. No more than two (2) families may share each fifty (50) feet of an access lot, whether access is gained by easement, joint or common fee ownership, lease, license, condominium unit, stock or membership in a corporation, or by any means.

E. Access lots to water created after the effective date of the amendment adding this provision to the Ordinance that are less than fifty (50) feet in width shall not be less than twenty-five (25) feet in width from the start of the access to the water's edge, shall not be used for dockage and shall not have any building erected on the access. A temporary structure, like a sunshade or picnic table shall not be placed closer than fifty (50) feet to the water's edge.

Section 3.8 BOAT DOCKS LIMITATIONS

- A. The purpose of this section is to regulate the use of lakefront property and control boat docks and dockages in order to: protect natural resources; guide the proper development of shoreline areas; prevent overcrowding of land and water; minimize pollution and degradation of public waters; protect life and property by reducing the risk of boating accidents; preserve the recreational use of lakes and lake environments; protect property values; and, protect the public health, safety and general welfare.
- B. Except as otherwise provided in this Ordinance for access lots, not more than one (1) dwelling unit may have the use of water frontage per one hundred (100) feet thereof as measured along the water's edge. Not more than one (1) dock and no more than (2) boat dockages (as defined in Sec. 2.2 of this Ordinance) shall be permitted for each fifty (50) feet of contiguous lake frontage.
- C. Notwithstanding the foregoing, lots of record less than one hundred (100) feet in width, but greater than fifty (50) feet in width will be allowed one (1) dock. In these instances, one (1) boat dockage will be allowed for every twenty-five (25) feet of contiguous water frontage.
- D. Public recreational areas regulated by governmental agencies are not subject to the standards set forth in this Section.
- E. Dock and boat dockage privileges are not severable from the lot to which they are appurtenant, and may not be separately sold, leased, assigned, or otherwise alienated, conveyed, or encumbered.
- F. No docks are permitted at stub road ends, public accesses, or access walkways.

Section 3.9 PROHIBITED USES

No building or structure or part thereof shall be erected, altered or used on land used, in whole or in part, for any use, process or activity resulting in the emission of odor, fumes, dust, smoke, waste, noise or vibration, light encroachment, accumulation of trash or other unsightly conditions which shall make it obnoxious to the public interest, health or welfare, or is not specifically permitted by the terms of this Ordinance. Also see Section 22.7.

Section 3.10 ACCESSORY USES

- A. No construction of an accessory use structure shall be permitted without the foundation for a principal use structure first being in place in the R-1, R-2, R-3, R-4, VR, RP-2.5, and C/R districts. However, an accessory structure may be constructed on a separate lot(s) provided the separate lot(s) is immediately adjacent to the lot on which the principal use structure is located. An affidavit shall be recorded with the County

Register of Deeds combining both lots and that both lots are/will remain as one lot and under common ownership.

B. No accessory building or structure on the same lot or on an adjacent lot (pursuant to subsection A above) with a principal building shall be used for dwelling purposes, except as specifically permitted in this Ordinance.

C. Accessory structures shall meet the same setback requirements as a principal structure.

**AMENDED BY BENZONIA AND PLATTE TOWNSHIP BOARDS AT A SPECIAL JOINT MEETING AT PLATTE TWP. HALL ON NOVEMBER 27, 2013, AND WAS EFFECTIVE ON DECEMBER 2, 2013.

Section 3.11 MAXIMUM SIZE ACCESSORY STRUCTURES

Storage buildings or other accessory structures shall not be allowed in the R-1, R-2, R-3, R-4, VR, and C/R districts without the presence of a principal use or at least the foundation for a principal structure and visible progress or 25% completion of the upper story(s) above either the crawl space or basement and completion of the principal structure in one-year. See Section 3.10. The total ground level gross square footage of all accessory structures on any single residential lot or parcel in the R-1, R-2, R-3, R-4, and VR districts residential use shall not exceed the first floor gross square footage of the principal structure residence on such lot or parcel exclusive of attached accessory structures. . Agricultural use structures are exempt from this provision.

**AMENDED BY BENZONIA AND PLATTE TOWNSHIP BOARDS AT A SPECIAL JOINT MEETING AT PLATTE TWP. HALL ON NOVEMBER 27, 2013, AND WAS EFFECTIVE ON DECEMBER 2, 2013.

Section 3.12 HEIGHT LIMITATIONS & EXCEPTIONS

A. Subject to the remaining provisions of this section and subject to provisions in Article XII for lots in the Crystal Lake Watershed, structure height limitations in the various zoning districts shall be as indicated on the Table of Dimensional Requirements in Article XXX.

B. Subject to subsection (C), the following features are exempt from the district height limitations set forth in subsection (A):

1. Chimneys, church spires, elevator shafts and similar structural appendages not intended as places of occupancy or storage,
2. Flagpoles, television, amateur radio towers and similar devices, heating, air conditioning and similar equipment, fixtures and devices.

C. The features listed in Subsection (B) are exempt from the height limitations provided, not more than ten percent (10%) of a total roof area if so located may be consumed by such features.

Section 3.13 MINIMUM REQUIREMENTS FOR DWELLINGS

A. It is the intent of this Section to provide a wide variety of single family housing options in Benzonia or Platte Township, including the need for lower cost single family housing while protecting the public health and safety. It is recognized that the modern mobile home and manufactured home compares favorably with existing site constructed dwellings, provided that such mobile homes and manufactured homes are similar in appearance, design, and construction with existing single family dwellings in the vicinity. It is the purpose of this Section to provide standards for the construction, installation, and appearance of all single family homes in order to insure compatibility with existing dwellings located in the surrounding area.

B. The following minimum requirements apply to all dwelling units outside of mobile home parks except as provided in subsection C of this Section.

1. All construction required in this Section shall be commenced only after a building permit has been obtained in accordance with the applicable Michigan Building Code provisions and Ordinance requirements. Mobile homes which do not conform to the standards of this Section shall not be used for dwelling purposes within the Township unless located within a mobile home park or unless used for temporary residence purposes as provided in Section 3.14.
2. All dwelling units located outside of mobile home parks shall comply with the following requirements:
 - a. The wheels, pulling mechanism, and tongue of any mobile home shall be removed prior to placement on a foundation.
 - b. All dwellings shall be connected to a sewer system and water supply system approved by the Benzie-Leelanau District Health Department.
 - c. All dwellings shall provide steps or porch areas, permanently 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.
 - d. The dwelling shall not contain additions or rooms or other areas which are not constructed with similar or better quality work as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein. All additions to dwellings shall meet all of the requirements of this Ordinance and any applicable Codes.
 - e. All dwellings shall be aesthetically compatible in design and appearance with other residences in the vicinity including: a 1:4 roof pitch, with either a roof overhang 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 sides of the dwelling; not less than two exterior doors with the first one facing

the front yard and the second one being in either the rear or side of the dwelling; and, contains permanently attached steps connected to said exterior door areas or to porches connected to said door areas where a difference in elevation requires the same.

- f. The compatibility of design and appearance shall be determined in the first instance by the Zoning Administrator upon review of the plans submitted for a particular dwelling. An appeal by an aggrieved party may be taken to the Board of Appeals within a period of fifteen (15) days from the receipt of notice of said Zoning Administrator's decision. Any determination of compatibility shall be based upon the standards set forth in this Section as well as the character, design, and appearance of single family dwellings located outside of mobile home parks within two thousand (2,000) feet of the subject dwelling where such area is developed with dwellings to the extent of not less than 20% 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 single family dwellings located outside of mobile home parks within four (4) square mile area. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from the common or standard designed home.
- g. Prior to issuance of a zoning 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 Zoning Administrator. If the dwelling unit is a mobile home, there shall also be submitted adequate evidence to assure that the dwelling complies with all the standards applicable to mobile homes set forth in Section 3.13 (B).
- h. All mobile homes shall meet the standards for mobile home construction contained in the United States Department of Housing and Urban Development 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. All dwellings shall meet or exceed all applicable roof snow load and strength requirements.
- i. A minimum of one hundred (100) square feet of enclosed storage space, excluding closets, shall be provided for each dwelling. Said enclosed storage space may consist of a basement, garage, shed or other structure, approved by the Zoning Administrator.
- j. For legal nonconforming mobile homes that are located outside mobile home parks, mobile home plats, or of places where Temporary Permits for placement of a mobile home have been issued; once that mobile home is removed it must be replaced with a mobile home in good condition that is also certified by the

American National Standards Institute or the HUD Mobile Home Construction and Safety Standards or by a site constructed home or manufactured home that meets all applicable code requirements.

C. A single family dwelling in the R-1, R-2, and R-3 districts, including a mobile home except in a mobile home park, shall have a minimum width of twenty (20) feet over fifty (50) per cent of the entire structure length.

D. The minimum gross living area of a dwelling, and the minimum size for the footprint of the living portion of a dwelling shall be seven hundred-twenty (720) square feet.

Section 3.14 TEMPORARY BUILDINGS, STRUCTURES AND USES

Temporary buildings, structures, and uses are permitted in all districts only under the following conditions:

A. Habitation of Accessory Structures, Tents and Travel Trailers as Temporary Dwellings: Except for tents and recreational vehicles in bona fide campgrounds, no structure shall be used for dwelling purposes for more than fifteen (15) days in succession nor more than sixty (60) days in one (1) year, that does not meet the minimum standards for a dwelling unit as defined in this Ordinance and the State Construction Code Act, Public Act 230 of 1972, with amendments. This means that no garage or other accessory building, cellar, basement, cabin, or partial structure, whether of a fixed or portable construction, nor any tent, travel trailer, recreational vehicle, trailer coach, mobile home, or other structure not in compliance with P.A. 230 of 1972, or the previous sentence, shall be erected or moved onto a lot and used for any temporary dwelling purpose unless authorized by the Zoning Administrator by the issuance of a Temporary Zoning Permit as provided for in Section 14.9, or by means of a Special Land Use Permit pursuant to Section 16 or unless constructed as a year around dwelling per the applicable requirements of this Ordinance.

B. Temporary Housing: The Zoning Administrator may issue a temporary Zoning Permit for a mobile home or other temporary dwelling unit used for temporary dwelling purposes, subject to the following limitations and procedures:

- 1) The purpose of the temporary housing is either to provide on-site housing for residents of the lot while a new dwelling unit is being constructed or while rebuilding due to fire, collapse, explosion, act of God or acts of a public enemy;
- 2) The permit is for a period not longer than one (1) year based on evidence presented by the applicant that he/she can have the foundation and complete building framing in place within six (6) months and the entire residence completed within one (1) year. This period may be extended up to one (1) additional year by the Zoning Administrator when the following standards are met:
 - a) A good faith effort has been shown to build a new or rebuild a

- destroyed dwelling unit;
 - b) The time extension is reasonably necessary considering the practical difficulties associated with actual construction;
 - c) Occupancy of the structure being rebuilt is reasonably possible within the time extension;
 - d) Granting of the time extension to the applicant and other similarly situated parties will not prohibit enforcement of any provisions of this Ordinance, unduly overburden administration and enforcement resources, or adversely affect general health, welfare and safety of adjacent properties or the general community.
- 3) The lot or parcel is located in any residential district;
- 4) A performance guarantee as provided for in this ordinance is collected and said temporary dwelling is removed within fifteen (15) days after construction is complete.
- 5) The following additional approvals are obtained:
 - a) Any applicable permits from the Building Inspector
 - b) Approval of a septic system and well from the Benzie-Leelanau District Health Department
 - c) A driveway permit from the County Road Commission or Michigan Department of Transportation, as applicable.
- 6) Any mobile home permitted by temporary permit for purposes other than a) or b) above prior to the effective date of this amendment, may be issued a temporary permit by the Zoning Administrator for continuation of use of an existing mobile home by the present occupant, but no other, provided the dwelling remains in good structural condition, the septic system and well remain approvable by the Benzie-Leelanau District Health Department and a performance guarantee as provided for in this ordinance is collected to insure the temporary mobile home is removed within thirty (30) days of its no longer being used by the present occupant.

C. Temporary Contractor's Buildings: Temporary structures and temporary uses incidental to construction work, such as contractor storage buildings, semis or mobile homes used for contractor equipment, foreman offices and related activities, but not for habitation are not required to observe setbacks, and no temporary Zoning Permit is needed, provided:

- 1) Such buildings, structures or uses impede no clear vision area (see Section 3.20); and
- 2) are removed upon the completion or abandonment of the construction work or within the period of one (1) year, whichever period of time is the shortest.

D. Temporary Real Estate Offices: Are permitted within approved development projects. No cooking or sleeping accommodations shall be maintained. The temporary Zoning Permit shall be valid for not more than one (1) year, but is renewable. The office shall be removed upon completion of the development of the subdivision. A model home may be used as a temporary sales office.

E. Churches & Schools: Temporary buildings incidental to a church or school, provided that all wiring, plumbing, fire protection and exits are approved by the Fire Chief and Building Inspector, and by relevant state agencies and all yard requirements of this Ordinance are met.

F. Christmas Tree Sales: The display and sale of Christmas trees on a farm in the RP Districts or at a business in the Commercial Districts, or at a church in any District, is permitted without a temporary Zoning Permit, provided it is incidental and accessory to the principal use or a temporary use of a vacant lot. The display and sale of Christmas trees is permitted for a period not to exceed forty-five (45) days. All unsold trees must be removed from the property by December 31 of each calendar year. Any Christmas tree sales in a location or under circumstances other than those defined above is permitted only by a Temporary Zoning Permit issued at the discretion of the Zoning Administrator.

G. Auctions: The public sale of property to the highest bidder shall be permitted for not more than five (5) days and no sales activity shall occur within thirty (30) feet of any street or road right-of-way. Off-street parking areas shall be provided and parking is prohibited within the right-of-way of a major thoroughfare.

H. Garage Sales: Garage sales, rummage sales, yard sales, moving sales, and similar activities shall be considered temporary accessory uses within any residential zoning district subject to the following conditions:

- 1) Any garage sale, rummage sale or similar activity shall be allowed without a temporary Zoning Permit for a period not to exceed three (3) days within a six (6) month period.
- 2) All such sales shall be conducted a minimum of thirty (30) feet from the front lot line and fifteen (15) feet from a side lot line.
- 3) No signs advertising a garage sale or similar activity shall be placed upon a public right of way or other public property. All signs advertising a garage sale shall be placed upon private property with the consent of an owner of said property and shall be removed within twenty-four (24) hours of the conclusion of said garage sale or similar activity.
- 4) Signs shall also conform with the requirements of Section 19.4.A.6.

I. Sawmills (portable): Establishment of a temporary sawmill for cutting of trees from a single parcel or lot is permitted by Temporary Zoning Permit. The sawmill shall not be located closer than five hundred (500) feet to a dwelling unit other than that of the owner of the property on which the temporary sawmill is established. The Temporary Permit shall be valid for six (6) months, but may be renewed.

J. Firewood Sales: Firewood sales shall be limited to firewood cut from that parcel or lot only. Cutting and splitting by machines shall conform with the location requirements for temporary sawmills above. Storage of firewood for sale and use by persons off the premises shall be restricted to the side and rear yards.

K. Roadside Stands: Roadside stands selling products grown on the premises are permitted in the RP Districts provided the following standards are complied with:

- 1) Space for the parking of the customers' vehicles shall be furnished off the road right-of-way in the ratio of one (1) parking space for each fifteen (15) square feet of roadside stand floor area with a minimum of three (3) off-street parking spaces.
- 2) The roadside stand shall be located at least twenty-five (25) feet from the edge of the road.
- 3) Any roadside stand structure shall be seasonally erected and removed once the growing season is complete or November 1st, whichever comes first.

L. Transient and Amusement Enterprises: Circuses, carnivals, other transient amusement enterprises, music festivals, and similar temporary gatherings of people, may be permitted as a conditional use in specified zoning districts if approved by the Planning Commission and upon the finding by the Planning Commission that the location of such activity will not adversely affect adjoining properties or adversely affect public health, safety, morals, or general welfare. The requirements of Section 22.7 and 22.10 must be met. The Planning Commission may require posting of a bond or other acceptable security payable to the Township, in which the event occurs, in an amount sufficient to hold the Township free of all liabilities incidental to the operation of such activity and indemnify any adjoining land owners for any damage resulting from operation of such activity. Such damages shall be provable before the court having jurisdiction over the premises upon which the damages occurred and shall be payable through such court.

Section 3.15 LOT FRONTAGE/DEPTH RATIO

In order to conserve land resources and limit inappropriate crowding of land, all lots created after the effective date of this Ordinance with a lot area of less than forty (40) acres, shall have a lot width or frontage which is equal to or greater than 1/4 the depth of the longest side of said lot.

Section 3.16 USE OF OPEN SPACE

A. No yard surrounding a dwelling, or structure used for dwelling purposes, may be used for the location, parking, disposition, storage, deposit, or dismantling in whole or in part of junked vehicles, machinery, second hand building materials or other discarded, disused or rubbish-like materials or structures.

B. The location, parking or storage of recreational vehicles shall be allowed on a lot used for a dwelling, provided; wherever possible, such location, parking, or storage is not in the front yard nor in the minimum setback areas required for structures in the side and rear yards.

C. No outdoor storage or parking of vehicles or trucks, over one (1) ton rated capacity, or similar heavy equipment or construction equipment, shall be permitted in a yard or on a lot located in R-1, R-2, or R-3 Districts, other than for the temporary parking of trucks or equipment engaged in construction on the site or being used for temporary pickup or delivery purposes. Such vehicles are permitted on lots in all other districts.

Section 3.17 DAMAGED BUILDINGS

Any building that has been partially destroyed by fire, storm, water, tornado or other disaster or is in such a state of disrepair as to be uninhabitable and a hazard to the public health and safety shall either be entirely removed or repaired within twelve (12) months from the date of the occurrence of the damage or the effective date of this Ordinance. In the interim, the site shall be protected or screened from hazards to children.

Section 3.18 KEEPING OF ANIMALS AND LIVESTOCK

The following shall apply to the keeping of animals and livestock:

- A. Except for individual pets or children's projects such as 4-H or FFA, the raising or keeping of a reasonable number of small animals such as rabbits, poultry, goats and sheep shall not occur on a lot or parcel of less than two and ½ (2.5) acres. The raising or keeping of livestock such as cattle, horses and hogs, shall not occur on a parcel of land less than two and one-half (2.5) acres in area, and only one (1) such animal, over six (6) months of age shall be allowed per each two and ½ (2.5) acres on parcels under twenty (20) acres in area.
- B. Non-domesticated, wild, or exotic species of animals, or crossbreeds or hybrids thereof, shall be allowed only with written approval of the County Animal Control Officer or supervising agency with jurisdiction.
- C. No storage or unusual accumulation of manure or odor or dust-producing materials shall be permitted within one hundred (100) feet of any side or rear property line abutting a residential district or existing structure used for residential purposes.
- D. The provisions of this section shall not be interpreted to restrict any rights of farmers on land in districts in which agriculture is permitted in this Ordinance from the keeping of livestock in a manner permitted under Michigan's Right to Farm Act, being Public Act 93 of 1981, as amended, or consistent with any management practices established pursuant to that act.

Section 3.19 ACCESS TO PUBLIC ROAD

In any zoning district, every use, building or structure established after the effective date of this Ordinance shall be on a lot or parcel that fronts upon a public road right-of-way, or a private road easement held in common by all property owners abutting, and shall

be shown on all sketch and site plans (see definition of “easement” in Section 2.2). The location and characteristics of the private road easement, other access point or driveway to a public road shall conform with the requirements in Section 3.22 as well as with those in Sections 3.3 and 3.20.

Section 3.20 CLEAR VISION CORNERS

These regulations govern the protection of clear vision site distances on property outside of the road right-of-way and are in addition to the site distance requirements of the County Road Commission.

A. No fence, wall, sign, screen, any planting, berm, boulder, or other structure shall be erected or maintained in such a way as to obstruct clear vision between a height of three (3) and ten (10) feet within the triangular area formed by the intersection of the street right-of-way lines and a line connecting two (2) points which are located on those intersecting right-of-way lines and a line connecting two (2) points which are located on those intersecting right-of-way lines thirty (30) feet from the point of intersection of the right-of-way lines. The three (3) foot height limit shall be measured from the lowest elevation of the segment of the intersecting roads' centerline which lays between the point of intersection of the other centerline and the extension of line drawn through the points thirty (30) feet from the intersection of the right-of-way lines. (See Figure 3-1).

B. No fence, wall, sign, screen, any planting, berm, boulder, or other structure shall be erected or maintained in such a way as to obstruct vision between a height of three (3) and ten (10) feet within the triangular area formed by the intersection of a street right-of-way line and a driveway and a line connecting two points which are located on the right-of-way line and the driveway twenty (20) feet from the point of intersection of the right-of-way line and driveway. The three (3) foot height limit shall be measured from the lowest elevation of the segment of the intersecting road and the driveways' centerlines which lays between the point of intersection of the centerlines and the extension of the line drawn through the points 20 feet from the intersection of the right-of-way line and driveway. (See Figure 3-2).

Figure 3-1
CLEAR VISION ON CORNER

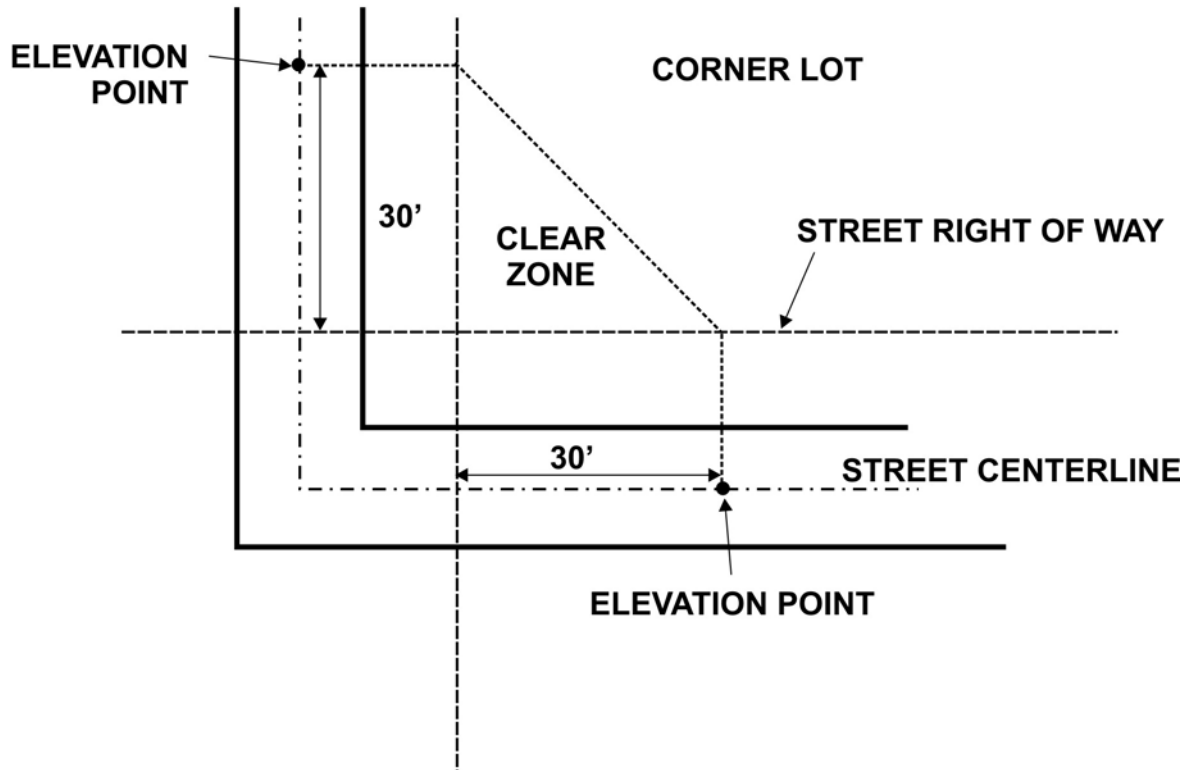
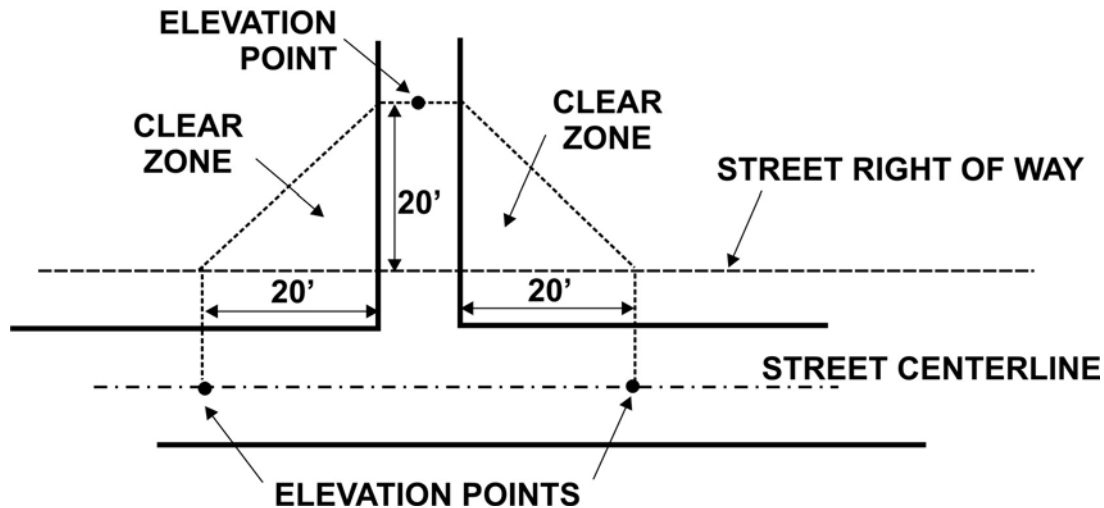


Figure 3-2

CLEAR VISION AT DRIVEWAYS



Section 3.21 VACATED STREET

Whenever any street, alley, or other public way is vacated by official action, the zoning district adjoining each side of such public way shall automatically be extended to the center of such vacation.

Section 3.22 ACCESS MANAGEMENT

3.22.1 Purpose: The purpose of this Section is to establish minimum regulations for access to property. These regulations ensure: all newly created lots and existing lots being redeveloped or upgraded have adequate access for emergency vehicles and do not unnecessarily impede traffic flow or create a safety problem on the public road to which they connect. Standards are established for curb cuts and driveways, service roads, and new public and private streets.

3.22.2 Minimum Frontage and Access: No person, firm or corporation shall hereafter divide any land without providing for public access or permanent private easements for access to such divided lands. All lots created after the effective date of this Ordinance, or an amendment thereto, shall have the required minimum frontage along a public street or private road, or at the building line, depending on the Zoning District, and shall have access consistent with the requirements of this Article. A second means of access to a group housing development, subdivision, mobile home park or nonresidential development is not subject to the minimum lot frontage requirement for the second means of access. Pursuant to the Land Division Act, Public Act 288 of 1967, as amended, access shall be reviewed and approved when any land division is reviewed for compliance with this Ordinance. Local Township land division and road maintenance

ordinances and agreements pursuant to them may also apply. A traffic impact assessment may be required pursuant to Section 22.10.C. prior to determining conformance of proposed access to this Section.

3.22.3 Curb Cuts and Driveways: No driveway shall connect to a public street or private road without first receiving approval of the driveway location and cross-section specifications from the County Road Commission on a County Road or the Michigan Department of Transportation on a State or Federal Highway. Provided, however, such approval shall not be given where such curb cuts and driveways will cause an unreasonable increase in traffic hazards, including but not limited to allowing adequate sight distance for ingress and egress.

A. All plans for structures to be erected, altered, moved or reconstructed, and use of premises within the Townships shall contain a plan for the proposed driveway access to the premises. Said plan shall be approved by the Zoning Administrator prior to the issuance of a Zoning Permit. No such plan shall be approved unless such driveway access is onto a dedicated public street, an approved private road or alley. Driveways shall, at a minimum, meet the following standards:

1. Storm drains, or culverts, if allowed, shall be installed in line with and on the same grade as those being connected with.
2. Drives shall enter perpendicular to the existing public street, private road, or alley.
3. No portion of the driveway entrance within the right-of-way shall have a grade of greater than ten (10) percent (1 foot vertical rise in ten (10) feet of horizontal distance) unless a greater slope is necessary to meet the sidewalk elevation from the street
4. The driveway shall meet clear vision standards of Section 3.20.
5. Driveways shall be a minimum of fifty (50) feet from the nearest right-of-way line of an intersecting road or street.
6. Driveways shall be designed to minimize runoff and erosion and shall not alter existing drainage unless approved by the Zoning Administrator.

B. The Zoning Administrator shall inspect the driveway as developed for compliance with the above standards prior to issuance of a Certificate of Zoning Compliance.

C. In commercial (C-1, C-3 and C-4 Districts), light industrial (LI) and office (O) zones, no more than one driveway shall be allowed per lot or parcel unless separated by two hundred (200) feet, or unless traffic safety requires another driveway within a shorter distance as established by a qualified traffic engineer, or unless additional driveways are permitted in special land use standards for a particular use, such as drive-through restaurants.

D. The new driveways shall align with existing or planned driveways, crossovers, turn lanes or other access features. This shall only be required if the resulting alignment provides safe access and if all other access requirements of this Ordinance are met.

E. The location of new driveways shall conform with road improvement plans or corridor plans that have been adopted by the County Road Commission or Michigan Department of Transportation.

F. No single or two-family driveway shall have a width less than ten (10) feet nor more than sixteen (16) feet at the street right-of-way line. The curb cut, including flares, shall not be more than 1.5 times the width of the driveway at the street right-of-way.

G. Driveways serving commercial, industrial or institutional uses, shall have a width at the sidewalk of at least twenty-five (25) feet for two-way access and at least fifteen (15) feet for one-way access.

H. A single driveway serving more than one non-residential use is encouraged provided the design meets contemporary engineering standards for safe access and efficient traffic flow. Similarly, shared parking lots between uses with peak uses at different times of the day, or connected parking lots between abutting parcels are encouraged. A shared driveway, shared parking lot and/or connected parking lot agreement shall be prepared and shall be approved by the County Prosecutor, before being signed and recorded with the County Register of Deeds (see Section 14.11). Such agreements shall detail the terms and conditions concerning use and maintenance of a shared driveway, shared parking lot, or connected parking lot.

I. No driveway shall serve more than one (1) dwelling unit unless the use is a duplex, a multiple family structure, a PUD, an apartment building, or meets the requirements for a joint or common driveway in Section 3.22.8.

J. A driveway shall be located no closer than fifteen (15) feet from a lot line unless it is a joint driveway serving more than one (1) dwelling unit (see I above); or unless the road authority and Zoning Administrator agree that a closer location is the safest location under the particular circumstances.

3.22.4 Business Access: No business access shall cross residentially-zoned property.

3.22.5 One Driveway per Parcel: All land in each parcel having a single tax code number, as of the date of the amendment adding this provision to the Ordinance, which front on a major thoroughfare shall be entitled to only one (1) driveway access from said street or highway. Subsequent division of each parcel, either as metes and bounds descriptions, as plats created in accord with the Land Division Act, Public Act 288 of 1967 as amended, or as site condominiums in accord with the Condominium Act, Public Act 59 of 1978 as amended, shall provide access by a single subdivision road, other public road or by an approved service drive. No direct additional access to the major thoroughfare shall be permitted with subsequent divisions unless more than thirty (30) residential lots are created, or more than one-hundred (100) dwelling units in an apartment complex are created, then a second access shall be provided to the major thoroughfare only if no other access is possible via another public or private road.

3.22.6 Service Drives: Service drives which parallel a major thoroughfare and connect multiple parcels in either the front or the rear of the property are encouraged. The Site Plan Review Committee shall review and either approve, deny or approve with conditions all service drives to insure safe and adequate continuity of the service drive between contiguous parcels. The standards for service drives follow:

A. Width: A minimum of twenty-four (24) feet with construction to standards established by the County Road Commission for base and thickness of asphalt.

B. A minimum of fifteen (15) feet snow storage/landscaping area must be reserved along both sides of the service drive with the edge of the service drive located a minimum of fifteen (15) feet from the major thoroughfare right-of-way.

C. All driveway radii shall be concrete curbs.

D. The entrance to the service drive from a public road other than the major thoroughfare shall be at least one hundred-fifty (150) feet from the centerline of the major thoroughfare to provide for adequate stacking and maneuvering.

E. The service drive shall be a public street, or a private road maintained by adjoining property owners or users who shall enter into a formal agreement together for the joint maintenance of the service drive. The County Prosecutor shall approve the terms of the agreement before it is recorded with the County Register of Deeds. No service drive shall be established on existing public right-of-way.

F. Landscaping along the service drive shall conform with the requirements of Sections 21.3 and 21.9. Installation and maintenance of landscaping shall be the responsibility of the developer or a property owners association.

G. All separate parking areas shall use no more than one (1) access point or driveway to the service drive.

H. All traffic signage and pavement markings along the service drive shall conform to the current Michigan Manual of Uniform Traffic Control Devices.

3.22.7 Existing Road Width: Where a private road or street in existence prior to the effective date of this provision has no recorded width, the width will be considered to be sixty-six (66) feet for the purposes of establishing setbacks and measured equal distance from the midpoint of the road surface.

3.22.8 Common Driveways Serving Two Residential Dwelling Units:

A. The purpose of this Section is primarily to provide for the use of common driveways that serve no more than two (2) dwelling units in situations where sight distance limitations and/or natural features limitations produce a situation where two lots that otherwise meet the minimum lot width requirements of this Ordinance are better served by a common driveway. Common driveways are not intended as the first step in

creating a private road nor are common driveways intended to create access to a parcel which does not have access on a public or private road.

B. A Zoning Permit shall be required for the establishment of a common driveway. A single thirty-three (33) foot right-of-way which serves as ingress and egress for no more than two (2) dwelling units or parcels of land may be permitted by the Zoning Administrator.

1. The easement shall not be less than thirty-three (33) feet in width.
2. The applicant for a common driveway shall provide the Zoning Administrator with certified copies of recorded irrevocable property covenants and/or deed restrictions that limit the driveway easement to serving only two (2) parcels.
3. Eligible lots shall conform to the minimum lot width requirements for the zoning district in which they are located.
4. A common driveway may straddle two lots or take all its easement for ingress and egress from one or the other.
5. The common driveway shall be in compliance with the standards of the Benzie County Road Commission and shall be specifically permitted under rules adopted by the Board of the County Road Commission.
6. No common driveway easement shall extend more than five hundred (500) feet from the center line of the public or private road which it accesses.
7. The common driveway width, surface condition and adjacent vegetation shall be kept in good passable condition in all seasons sufficient to permit emergency vehicles to safely and easily pass over the common driveway. This means a passable area at least fifteen (15) feet wide and fifteen (15) feet high for the entire length of the common driveway.
8. All culverts shall be sized and constructed of materials sufficiently strong to permit safe and convenient passage by emergency vehicles.
9. Area at the end of the common driveway shall be sufficient to permit safe and convenient turnaround and set up area for emergency vehicles.

3.22.9 Standards of County Road Commission or MDOT: If the standards of the Benzie County Road Commission or Michigan Department of Transportation are more restrictive than those of this Section, the more restrictive standards shall apply.

Section 3.23 PUBLIC STREET STANDARDS

3.23.1 Requirements to be Met: New public streets or public roads shall conform to the requirements of this Section and those of the County Road Commission.

3.23.2 Construction Standards: The creation of a public street that serves a division of land, a subdivision or a parcel shall meet or exceed the cross-sectional construction standards, site distance, drainage and any other requirements as specified in "Standards and Specifications for Plat Development and Street Construction" or other standards adopted by the County Road Commission.

3.23.3 Proposed new public roads which are not part of a subdivision shall either be developed as private roads pursuant to Section 3.24 or may be approved by the Site Plan Review Committee and the Township Board of Trustees in the township(s) in which the road is (are) located.

3.23.4 Dedication of Rights-of-Ways or Easements: All new public streets shall be dedicated to and accepted by the public, and no structure or development activity shall be established within approved rights-of-ways or easements. All plans as submitted for approval must show the proposed street including a legal description, and must include the grades for these streets.

3.23.5 Connection to County Roads and State Highways: Construction authorization from the County Road Commission is required for connection to Township roads and from the Michigan Department of Transportation for connection to a State or Federal Highway. Interconnection between public roads is strongly encouraged. At the discretion of the Planning Commission, a proposed public street may be disapproved unless it connects to another public street or road when necessary to provide safe traffic flow and emergency vehicle access.

3.23.6 Cul-de-sacs: Cul-de-sacs shall meet or exceed cross-section specifications established by the County Road Commission and:

A. Any cul-de-sac shall terminate at the property line except when precluded by a natural barrier or when the cul-de-sac terminates at the last available lot or parcel within the development which lot or parcel fronts upon the cul-de-sac.

B. Frontage measurements for cul-de-sac lots shall be from the curve tangent that meets both side lot lines. See Figure 3-3.

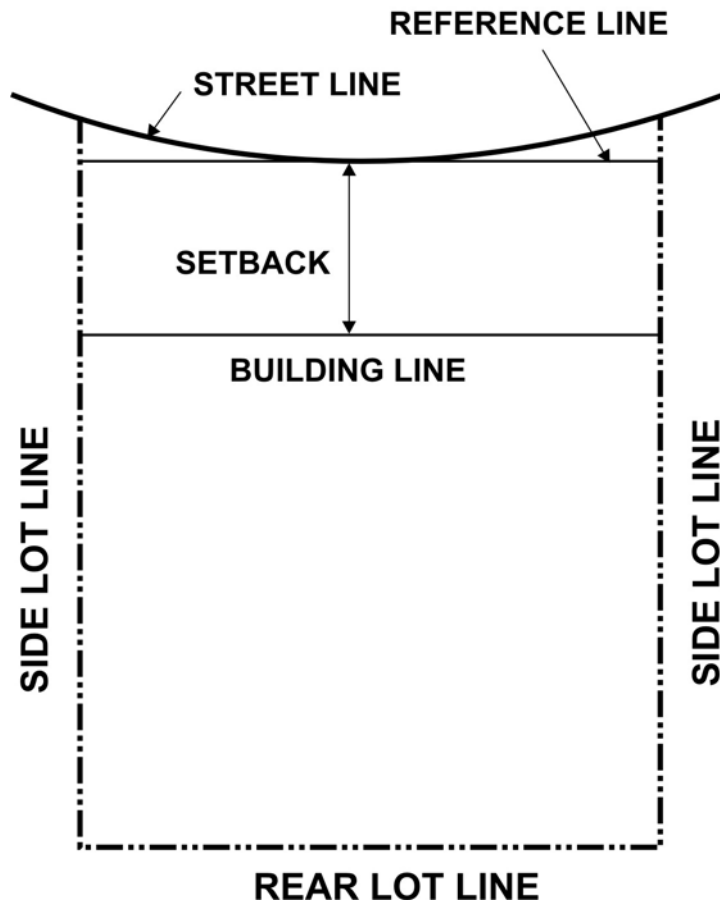
C. Not more than four (4) lots or parcels shall have frontage on a cul-de-sac.

3.23.7 Limit on Length: New public or private streets with only one connection to another public street, county road or state highway shall not be longer than one thousand three hundred-twenty (1,320) feet. Dead end roads more than eight-hundred (800) feet in length may require the installation of a water hydrant tank, at the discretion of the Fire Chief with authority in the Township.

3.23.8 Maximum Number of Lots Served: No more than thirty (30) lots may gain access to a single public street if only one point of intersection is provided between the new public street and another existing public street.

Figure 3-3

LOTS FRONTING ON A CUL-DE-SAC



3.23.9 Application Review and Approval or Rejection:

A. The Zoning Administrator shall review, and send to the Site Plan Review Committee, the plans of a new public street not a part of a proposed plat for review and comment. If the new street is proposed to connect to a state or federal highway, a copy of the application shall be sent to the Michigan Department of Transportation (MDOT), for review and comment with a date specified as to when comments are needed.

B. The Site Plan Review Committee shall approve or disapprove the new public street with conditions necessary to ensure conformance with the standards of this Ordinance.

C. If the application is rejected, the reasons for the rejection and any requirements for approval shall be given in writing to the applicant.

3.23.10 Failure to Perform: Failure by the applicant to begin construction of the new street according to approved plans on file with the Zoning Administrator within one (1) year from the date of approval shall void the approval and a new plan shall be required subject to any changes made by the Township in its standards and specifications for road construction and development.

3.23.11 Issuance of Zoning Permit: No Zoning Permit shall be issued for a structure on any new public street until such street is given final approval by the Board of the County Road Commission.

3.23.12 Posting: All new public streets shall be designated as such and shall be posted by the applicant on a sign meeting standards on file in the office of the County Road Commission. The sign shall be paid for by the applicant. The Zoning Administrator shall check with the County Addressing Designee to avoid a duplicate of names and gain approval of same.

Section 3.24 PRIVATE ROAD DEVELOPMENT

3.24.1 Intent: The purpose of this Section is to provide for the general location, character, and extent of private roads in Benzonia and Platte Townships. Lot orientation and other development circumstances also are regulated herein. The private road development Section is hereby established to provide for the proper development and utilization of land abutting private roads while at the same time making proper provision for the present and future health, safety and welfare of the people of the community.

3.24.2 Uses Regulated: Except as provided below, any development resulting in the use by one or more lots, parcels or site condominium units of a roadway other than a public road for direct access must be reviewed and the private road approved before any Zoning Permits are issued. In the case of a private road that is part of a development requiring site plan review, the private road may be approved as part of the site plan review process. In those cases, the Zoning Commission may require the same information as in this Article for private road approval and shall use the same standards for approval as contained in this Article.

A. If the Township has a private road ordinance in effect which conflicts with this Ordinance, the provisions of such private road ordinance shall control.

B. Private roads in place at the effective date of the amendment which adds this Section are nonconforming and exempt from the provisions of this Section 3.24, provided:

1. The private roads were built and have been subsequently maintained in accordance with any regulations, permit or agreement in place at the time they were approved; and
2. Any increase in the number of dwelling units served by a nonconforming private road will require the private road serving that lot to be examined in light of these standards, except as provided by B.1. and 2. above, and the private road may be required to be upgraded per the standards of this Section 3.24 and prior to issuance of a Zoning Permit for any new dwellings served by the private road, if the private road is found to be substandard.

3.24.3 Preliminary Conference with Zoning Administrator: The applicant shall contact the Zoning Administrator to request a preliminary conference prior to any financial investment in the proposed development, in order to ensure it will be compatible with Township Ordinances. There is no extra fee for the preliminary conference.

3.24.4 Application for Private Road Development Permit:

A. Following a preliminary conference with the Zoning Administrator, if the applicant wishes to proceed, the applicant must file an application for a Private Road Development Permit with the Zoning Administrator, pay the required filing fee and request placement of the request on the Planning Commission agenda.

B. The applicant must provide proof of ownership or written consent of the property owner to make the application, along with the address of the applicant and owner (if different).

3.24.5 Site Plan Submittal Requirements:

A. The information in B. below shall be on or accompany a site plan depicting the proposed private road unless waived by the Zoning Administrator.

B. Sufficient copies of a site plan in a scale of at least 1" = 100' must be provided to the Zoning Administrator at least forty-five (45) days prior to a Planning Commission meeting. The site plan shall include the following:

1. A sketch showing the general relationship of the proposed property division to the surrounding area within one-half (1/2) mile in a scale of not less than 1" = 200'.
2. Property lines of existing or proposed parcels to be served by the private road, property lines of adjacent tracts of subdivided and un-subdivided land, shown in relation to the proposed property division (if any), including those areas across abutting roads.
3. Locations, widths, and names of existing or prior easements of record, public and/or private.
4. Location of existing sewers, water mains, storm drains and other underground facilities within or adjacent to the property.
5. Existing and proposed drainage patterns and any proposed retention ponds.
6. For parcels over twenty (20) acres in size, the site plan shall show the topography drawn as contours with the interval available on the U.S. Geological Survey map of the area where the property is located.
7. The location of significant natural features such as natural water courses, bodies of water, wetlands, and slopes over twelve (12) percent.
8. Indication of parcels of land intended to be dedicated or set aside for public use or for the use of property owners in the subdivision for dedicated open space easements, or easements for future utilities, if any.
9. Future divisions, if any.
10. Layout of the proposed private road, indicating right-of-way widths,

surface width, grades, connections to other private roads or public streets.

11. Proposed private road maintenance agreement and proposed private road easement agreement.

12. Proposed street name.

3.24.6 Road Commission & County Prosecutor Review: A copy of the private road site plan and all attachments shall be transmitted by the Zoning Administrator to the Benzie County Road Commission for review and comment. The Zoning Administrator shall send the proposed road maintenance agreement and road easement agreement to the County Prosecutor for review and comment. At least fourteen (14) days shall be provided for their review and comment. A reply shall be provided to the Zoning Administrator. If no response is received, it shall be conclusively presumed that the County Road Commission has no objection.

3.24.7 Standards for Approval: The following criteria represent minimum standards for approval of private roads. The approving body shall determine if unusual conditions exist that warrant higher standards or conditions of approval. Any unusual conditions shall be set forth in the record of the approving body along with the rationale for higher design standards or conditions of approval.

A. All private roads serving fifteen (15) or more dwellings shall have a minimum sixty-six (66) foot wide right-of-way and be built to Benzie County Road Commission specifications, as outlined in their publication "Standards and Specifications for Plat Development and Street Construction". Private roads and single access drives that serve one (1) through fourteen (14) single family dwellings shall conform with the requirements in Table 3-1.

**Table 3-1
SINGLE ACCESS DRIVE & PRIVATE ROAD STANDARDS**

# of Lots Served	Roadway Width or Easement Width	With of Improved Road Surface	Surface Type	Bump Out or Turnaround	Ditch/Utilities Minimum Side Slope	Max Grade
1	20 ft.	10 ft.	Dirt/gravel	18 ft. x 60 ft. at 400 ft. intervals	Min. 2 ft. below shoulder with side slope of 1:3 or 33%	10% or approval of Fire Chief
2-4	33 ft.	18 ft. with 2 ft shoulders on each side	6" gravel/clay mix over 6" granular material	Cul-de-sac min. 120 ft. radius with 12 ft. one-way traveled surface, OR Hammer-Head T, 198 ft. by 66 ft. ROW with 18 ft. of road surface back-in/turn around	Min. 2 ft. below shoulder with side slope of 1:3 or 33%	10% or approval of Fire Chief
5-15	66 ft.	20 ft. with 3 ft shoulders on each side	6" gravel/clay mix over 6" granular material	Cul-de-sac min. 120 ft. radius with 12 ft. one-way traveled surface, OR Hammer-Head T, 198 ft. by 66 ft. ROW with 20 ft. of road surface back-in/turn around	Min. 2 ft. below shoulder with side slope of 1:3 or 33%	10% or approval of Fire Chief
>15	66 ft.	Shall meet	requirements	of County Road	Commission	

B. Building setbacks shall be measured from the outside edge or boundary of the private road right-of-way easement. This will help provide snow storage from plowing and minimum space for storm water runoff.

C. Private roads shall be planned and so constructed in relation to land contours and obstructions as to provide safe, adequate, ingress and egress by private driveway for each parcel. Clearing and grubbing is required for a clear line of sight and passage throughout the corridor, with a minimum of fifteen (15) feet wide and fifteen (15) feet of clear height throughout the corridor. This will accommodate fire fighting equipment, other emergency vehicles, snow plows, school buses, sanitation vehicles and similar service vehicles. See also Section 3.3.

D. Road layout shall fit the general pattern established by adjacent roads and streets. All intersections shall be at ninety (90) degree angles.

E. All road sub-bases shall be designed, constructed and maintained to withstand usage by utility, service and emergency vehicles. The ground for a road shall be prepared as follows:

1. Fill slopes must not be constructed on natural slopes steeper than one (1) unit vertical in two (2) units horizontal (50% slope). The ground surface must be prepared to receive fill by removing woody vegetation such as shrubs, topsoil and other unsuitable materials and scarifying to provide a bond with the new fill. Where slopes are steeper than one (1) unit vertical in five (5) units horizontal (20% slope) and the height is greater than five (5) feet, stability must be achieved by benching at the toe into sound bedrock or other competent material.
2. Composition of fill material must follow these requirements:
 - a. Detrimental amounts of organic material will not be permitted in fills
 - b. Rock sizes greater than twelve (12) inches in maximum dimension must be placed two (2) feet or more below grade, measured vertically.
 - c. Rocks must be placed so as to assure filling of all voids with well-graded soil
 - d. The upper two (2) feet of fill must be compacted for stability in preparation for placement of surfacing material.

F. 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 streets or another private road.

G. Rights-of-way shall connect the private road system of the proposed development to any road or right-of-way of existing abutting developments or subdivisions where an existing road or right-of-way terminates at the boundaries of the proposed development. This requirement may be waived by the Planning Commission for private roads serving more than four (4) lots, or the Site Plan Review Committee for private roads serving four (4) or fewer lots. The waiver may be granted if findings in the record of the approving body show that natural barriers, pre-existing man-made barriers, or other factors result in a practical difficulty which is greater than the public safety and traffic efficiency benefits to be gained by the connection.

H. A private road legal description shall grant easements for installation and maintenance of public utilities.

I. The layout of roads shall provide a continuous circuit of travel. This requirement may be waived by the Planning Commission for private roads serving more than four (4) lots, or the Site Plan Review Committee for private roads serving four (4) or fewer lots. The waiver may be granted upon making finding in the record of the approving body that the lands to be developed are limited in area by purpose or by natural barrier. Granting of the waiver allows the road to terminate in an approved cul-de-sac that meets the design requirements in the Benzie County Road Commission specifications, as outlined in their publication "Standards and Specifications for Plat Development and Street Construction" as modified by this Ordinance, provided a right-of-way is established extending from the end of the cul-de-sac to the development boundary.

Road right-of-ways or easements created for this purpose shall be non-exclusive and shall prohibit the construction or placement of buildings or structures within the right-of-way. Where a natural barrier exists or a future tie-in with an existing road in an adjoining development or subdivision is not feasible, this right-of-way requirement may be also waived.

J. All private roads shall be named by the applicant and the name approved by the Benzie County Addressing Designee in the Equalization Department in accordance with established standards, and directives and street signs shall be erected at the cost of the applicant, in the same manner and method, and in accordance with the requirements of the Road Commission.

K. The road maintenance agreement signed by applicant/owner(s) to be recorded with the County Register of Deeds shall provide for:

1. A method of initiating and financing of such road in order to keep the road up to properly engineered specifications and free of snow or debris.
2. A workable method of apportioning the costs of maintenance and improvements to current and future properties served by the private road.
3. A notice that if repairs and maintenance are not made, the Township may bring the road up to established County Road Commission standards for public roads and assess owners of parcels on the private road for the improvements, plus an administrative fee in an amount not to exceed twenty-five (25) percent of total costs.
4. A notice that no public funds of the Township are to be used to build, repair, or maintain the private road.

L. Road easement agreement signed by the applicant/owner(s) to be recorded with the County Register of Deeds providing for:

1. Easements to the public for purposes of emergency and other public vehicles for whatever public services are necessary.
2. A provision that the owners of any and all of the property using the road shall refrain from prohibiting, restricting, limiting or in any manner interfering with normal ingress and egress and use by any of the other owners. Normal ingress, egress and use shall include use by family, guests, invitees, vendors, tradesman, delivery persons, and others bound to or returning from any of the properties having a need to use the road.

M. Spacing of Private Roads: No more than one (1) private road may be established for each parcel of land existing at the time of the effective date of this amendment to the ordinance, and it shall have at least the roadway width or easement depicted on Table 3-1, depending on the number of dwelling units serviced. Private roads, or driveways serving an individual parcel, which are created after the effective date of this amendment to the ordinance, must observe at least six hundred (600) feet of separation between the center lines of driveways, private roads and any intersecting public roads as measured along the centerline of the public street to which the driveway or private road connects.

N. Private roads which create four (4) or more lots; or that are located in the RP or Residential Districts may reduce the required minimum lot frontage to one-hundred (100) feet for the lots fronting on the private road.

O. Nothing in this section shall be interpreted to allow residential development that requires platting under the Land Division Act, as amended to occur without first obtaining approval as a platted subdivision.

P. Failure to maintain the private road in compliance with the standards for horizontal and vertical clearance, ditching, road and shoulder grading, and the other dimensional requirements of Figure 3-3 shall constitute a violation of this ordinance.

Q. The plan requirements of the County Road Commission publication "Standards and Specifications for Plat Development and Street Constructions" shall be followed in addition to the site plan requirements of Part IV of Article 14, beginning with Section 14.20 of this Ordinance for all private roads serving more than fifteen (15) lots. Plans shall be prepared and endorsed by a Michigan Registered Civil Engineer. As built plans are required and shall contain the engineer's certification that all specifications have been complied with during construction and that the plans are a true representation of the actual construction.

3.24.8 Application Review and Approval or Rejection:

A. The private road shall be reviewed as part of the review of the development proposal served by the proposed road. Said review may be conducted as part of a site plan review process, or at the applicant's discretion, separately if no other development approvals from the Township are needed.

B. If the private road plans are approved by the Site Plan Review Committee, construction authorization will be issued by the Zoning Administrator. One copy of the approved plan shall be returned to the applicant. If the application is rejected, the reasons for the rejection and any requirements for approval shall be given in writing to the applicant.

3.24.9 Issuance of Permit for Structures Served by Private Roads:

A. No building permit or Certificate of Zoning Compliance shall be issued for a structure or use provided access by a private road until such private road is approved pursuant to the requirements of Section 3.24.8.

B. No private road shall be constructed until the Zoning Administrator has issued a Private Road Construction Permit and a soil erosion and sedimentation control permit has been issued by the Soil Erosion and Sedimentation Control officer, when applicable.

3.24.10 Failure to Perform: Failure by the applicant to begin construction of the private road according to approved plans on file with the Zoning Administrator within one (1)

year from the date of approval shall void the approval and a new site plan shall be required by the Township subject to any changes made herein or subject to any changes made by the County Road Commission, Planning Commission or Township Board of Trustees in its standards and specifications for road construction and development.

3.24.11 Notice of Easements: All purchasers of property where a private road provides access to the premises shall, prior to closing of the sale, receive from the seller a notice of easement, in recordable form, substantially conforming to the following:

“This parcel of land has private road access across a permanent easement which is a matter of record and a part of the deed.

This notice is to make Purchaser aware that this parcel of land has egress and ingress over this easement only.”

Section 3.25

Reserved for future use.

Section 3.26

Reserved for future use.

Section 3.27

Reserved for future use.

Section 3.28 GOVERNMENT OWNED LANDS

A. All government owned lands are exempt from this zoning ordinance except as provided below.

1. All government owned lands zoned in the Public Lands District are primarily used for recreation, forest and wildlife management and use shall be guided by management plans for the property in question.
2. All permitted uses within the boundaries of the Sleeping Bear Dunes National Lakeshore are subject to provisions outlined in individual agreements entered into by the owner of any real property within this district and the National Park Service, as authorized by Public Law 91-479.

3. All other government owned lands are permitted uses by right in the district in which they are located and shall be used in a manner deemed appropriate by the governmental entity owning the land. In addition:
 - a. A management plan for the property is strongly encouraged. If a building is proposed, a site plan is required.
 - b. Public use of such lands shall seek to conform with a “good neighbor” policy and incorporate where feasible, and not contrary to other broader public interests or laws, those site designs and impact mitigating measures otherwise required of private development under this Ordinance. This is especially meant to apply to road access, parking, signage, landscaping, buffering, berming, and fencing issues. Upon request, the Township Planning Commission will review any proposed site plan for a public building or use submitted to it and will comment on the degree to which the proposal conforms with site plan requirements and mitigating requirements of this Ordinance that would otherwise apply to similar private development. The governmental entity owning the land shall have the final decision as to whether or not to incorporate comments from the Township Planning Commission into its site design and/or use characteristics.

B. Any publicly owned parcel transferred to a non-government entity shall immediately be subject to the zoning regulations of the district. In the event the parcel is adjacent to two or more separate zoning districts, the parcel's designation will be subject to a ruling by the Planning Commission which shall be final, unless the land is reclassified by a rezoning approved by the Township Board of Trustees.

**ARTICLE IV
ZONING DISTRICTS AND ZONING MAP**

Sec. 4.1 Districts Established

For the purpose of this Ordinance, Benzonia and Platte Townships are hereby divided into the following Zoning Districts:

- R-1 Lakeshore Residential
- R-2 Single Family Residential
- R-3 Rural Residential
- R-4 Multi-Family Residential
- R-5 Recreational Residential
- RP-2.5 Rural Preservation 2.5 Acres
- RP-5 Rural Preservation 5 Acres
- RP-10 Rural Preservation 10 Acres
- RP-20 Rural Preservation 20 Acres
- C-1 Commercial General
- C/R Commercial Resort
- LI Light Industrial
- G Government Controlled Lands (See Sec. 3.28)

Sec. 4.2 Zoning Districts Map

The boundaries of the districts are hereby defined and established as shown on the maps entitled "Zoning District Maps of Benzonia and Platte Townships, Michigan" which accompany this Ordinance and which maps, with all explanatory matter thereon is hereby made a part of this Ordinance.

Sec. 4.3 Interpretation Of District Boundaries

Where uncertainty exists with respect to the boundaries of any of the districts indicated on the zoning map, boundaries indicated as approximately following streets, highways, lot lines, township boundary lines, section lines, or shorelines of lakes or streams shall be construed to be following said lines or boundaries.

Where the application of the aforesaid rule leaves a reasonable doubt as to the boundaries between two (2) districts, the regulations of the more restrictive district shall govern the entire parcel in question, unless otherwise determined by the Board of Appeals.

ARTICLE V
LAKESHORE RESIDENTIAL DISTRICT (R-1)
{Also see Article XXIV – Crystal Lake Watershed District}

It is the intent and purpose of the R-1 District to regulate land uses in the immediate vicinity of the shores of lakes. Generally the area available for development along the lake shores is limited by the natural characteristics of the land, i.e.: bluffs, swamps, etc. This district recognizes the high scenic and economic values of lake shore properties, establishing land uses and development standards which are intended to allow the reasonable use of the lake shore. The district recognizes that smaller lot sizes frequently already exist. It also recognizes that undersized lots in the district have uses, especially along the lake edge, which give them value even if not suited to the construction of a residential use. Such uses may include beach access, parking, storage of beach equipment, etc.

Sec. 5.1 Permitted Principal Uses

- A. Single Family Dwelling

Sec. 5.2 Permitted Accessory Uses

- A. Private Garage
- B. Green House
- C. Tool Shed
- D. Solar Collector
- E. Compatible Non-Commercial Recreational Facility
- F. Agricultural Uses Limited To Personal Gardens

Sec. 5.3 Permitted Conditional Uses

- A. Mobile Homes (Sec. 15.5)
- B. Model Homes (Sec. 15.4)
- C. Home Occupations (Sec. 15.2)
- D. Livestock And Pets (Sec. 15.6)
- E. Swimming Pools (Sec. 15.3)
- F. Antennas & Satellite Dishes (Sec. 15.8)

Sec. 5.4 Permitted Special Land Uses

- A. Institutional Structures (Sec. 16.12)
 - 1. Religious Institutions
 - 2. Educational And Social Institutions
 - 3. Public Buildings
- B. Other
 - 1. Bed & Breakfast (Sec. 16.3)
 - 2. WECS (Sec. 16.26)
 - 3. PRD (Sec. 16.19)

Sec. 5.5 Lot And Building Requirements

All buildings and structures in this District shall be located on a building lot or parcel of land having a width of not less than one hundred (100) feet at the building line and contain not less than twelve thousand (12,000) square feet of area unbroken by a public road or right-of-way, however this shall not prevent the use of a building lot or parcel of land of lesser size that was a lot of record prior to the adoption of this Ordinance (See Sec. 3.2).

Any structure or part thereof shall have a minimum front yard setback of twenty-five (25) feet from the front property line or fifty-eight (58) feet from the centerline of the traveled surface of the roadway or twenty-five (25) feet from the edge of the traveled portion of a private road or access, except for State or Federal highways, in which case the minimum setback shall be fifty (50) feet from the Highway right-of-way, whether it be for a front, side or rear yard.

Minimum rear yard setback shall be fifteen (15) feet from the rear property line, or twenty-five (25) feet when the property abuts a lake or stream, or thirty-five (35) feet when the property abuts Crystal Lake. Minimum side yard setback shall be ten (10) feet.

No building or structure in this district shall be erected or altered or used so as to occupy more than thirty (30) percent of the lot area, and maximum allowable height is twenty-eight (28) feet.

**ARTICLE VI
SINGLE FAMILY RESIDENTIAL DISTRICT (R-2)**

It is the intent of the R-2 District to establish standards for the development of low-medium density residential uses within the Townships, or within areas of the Townships where anticipated public services, such as public water and sewer facilities, may be provided in the future. This district also includes existing one-family developments within the Township which have similar lot area and character, as well as areas within which such development appears likely and desirable.

Sec. 6.1 Permitted Principal Uses

- A. Single Family Dwelling

Sec. 6.2 Permitted Accessory Uses

- A. Private Garage
- B. Green House
- C. Tool Shed
- D. Solar Collector
- E. Compatible Non-Commercial Recreational Facility
- F. Agriculture-Limited to Gardening

Sec. 6.3 Permitted Conditional Uses

- A. Mobile Homes (Sec. 15.5)
- B. Model Homes (Sec. 15.4)
- C. Home Occupations (Sec. 15.2)
- D. Livestock and Pets (Sec. 15.6)
- E. Swimming Pools (Sec. 15.3)
- F. Antennas & Satellite Dishes (Sec. 15.8)

Sec. 6.4 Permitted Special Land Uses

- A. Institutional Structures (Sec. 16.12)
 - 1. Religious Institutions
 - 2. Educational And Social Institutions
 - 3. Public Buildings
- B. Other
 - 1. Bed & Breakfast (Sec. 16.3)
 - 2. Boarding Houses (Sec. 16.4)
 - 3. WECS (Sec. 16.26)
 - 4. PRD (Sec. 16.19)

Sec. 6.5 Lot And Building Requirements

All buildings and structures in this district shall be located on a

building lot or parcel of land having a width of not less than one hundred (100) feet at the building line and contain not less than fifteen thousand (15,000) square feet of area unbroken by a public road or right-of-way, however this shall not prevent the use of a building lot or parcel of land of lesser size that was a lot of record prior to the adoption of this Ordinance (See Sec. 3.2).

Any dwelling or other structure or part thereof shall have a minimum front yard setback of twenty-five (25) feet from the front property line, or fifty-eight (58) feet from the centerline of the traveled surface of the roadway, or twenty five (25) feet from the edge of the traveled portion of a private road, access or trailway, except for State or Federal highways, in which case the minimum setback shall be fifty (50) feet from the Highway right-of-way, whether it be for a front, side or rear yard.

Minimum rear yard setback shall be twenty-five (25) feet from the rear property line or the high water mark when the property abuts a lake or stream. Minimum side yard setback shall be ten (10) feet from the side property lines.

Maximum structure height is twenty-eight (28) feet and maximum lot coverage is thirty (30) percent.

**ARTICLE VII
RURAL RESIDENTIAL DISTRICT (R-3)**

This R-3 District is established to accommodate the development of residential properties of a semi-rural character within the following general areas of the Townships: (1) Much of this district parallels the shores of lakes but is inland of the Lake Shore Residential District. Typically, the land rises from the lake plane to the higher ridges above and will likely never be provided with public services including water and sewer. (2) This district also includes existing one-family developments within the Townships which have similar lot area and character, as well as areas within which such development appears likely and desirable.

Sec. 7.1 Permitted Principal Uses

- A. Single Family Dwelling

Sec. 7.2 Permitted Accessory Uses

- A. Private Garage
- B. Green House
- C. Tool Shed
- D. Solar Collector
- E. Compatible Non-Commercial Recreational Facility
- F. Agriculture-Crops

Sec. 7.3 Permitted Conditional Uses

- A. Mobile Homes (Sec. 15.5)
- B. Model Homes (Sec. 15.4)
- C. Home Occupations (Sec. 15.2)
- D. Non-Commercial Storage (Sec. 15.7)
- E. Livestock And Pets (Sec. 15.6)
- F. Swimming Pools (Sec. 15.3)
- G. Antennas & Satellite Dishes (Sec. 15.8)

Sec. 7.4 Permitted Special Land Uses

- A. Institutional Structures (Sec. 16.12)
 - 1. Religious Institutions
 - 2. Educational And Social Institutions
 - 3. Public Buildings
 - 4. Human Care Institutions
 - 5. Animal Care Institutions
- B. Other
 - 1. Bed & Breakfast (Sec. 16.3)
 - 2. Boarding Houses (Sec. 16.4)
 - 3. PRD (Sec. 16.19)

4. WECS (Sec. 16.26)

Sec. 7.5 Lot And Building Requirements

All buildings and structures in this district shall be located on a building lot or parcel of land having a width of not less than one hundred twenty-five (125) feet at the building line and contain not less than one acre (43,560 square feet) of area unbroken by a public road or right-of-way, however this shall not prevent the use of a building lot or parcel of land of lesser size that was a lot of record prior to the adoption of this Ordinance (See Sec. 3.2).

Any dwelling or other structure or part thereof shall have a minimum front yard setback of forty (40) feet from the front property line, or seventy-three (73) feet from the centerline of the traveled surface of the roadway, or forty (40) feet from the edge of the traveled portion of a private road or access, except for State or Federal highways, in which case the minimum setback shall be fifty (50) feet from the Highway right-of-way, whether it be for a front, side or rear yard.

Minimum rear yard setback shall be forty (40) feet from the rear property line or the ordinary high water mark when the property abuts a lake or stream. Minimum side yard setback shall be fifteen (15) feet from the side property lines.

Maximum structure height is twenty-eight (28) feet and maximum lot coverage is twenty (20) percent.

**ARTICLE VIII
MULTI-FAMILY RESIDENTIAL DISTRICT - (R-4)**

The multi-family dwelling district is intended to permit single family, two family, and multi-family dwelling units in an area developed and reserved for medium to high density residential purposes providing suitable areas of protected residential character and the physical and social amenities of a stable, healthy living environment, open space, recreational area, compatibility with other residential land uses, and to prevent the use or encroachment of land uses and structures which would tend to adversely affect the residential character of the district.

Sec. 8.1 Permitted Principal Use

- A. Single family dwelling;
- B. Two family dwelling;
- C. Multi-family dwelling;
- D. Rooming houses;

Sec. 8.2 Permitted Accessory Uses

- A. Those permitted in the R-1, R-2, and R-3 Districts;
- B. The serving of meals from a common dining room or kitchen;
- C. Private garage or community garage for the storage of non-commercial vehicles;
- D. Maintenance and management buildings incidental to the multi-family units;
- E. Social clubs and community recreation facilities, including restaurants.

Sec. 8.3 Permitted Conditional Uses

- A. Mobile Homes (Sec. 15.5)
- B. Model Homes (Sec. 15.4)
- C. Home Occupation (Sec. 15.2)
- D. Livestock And Pets (Sec. 15.6)
- E. Non-Commercial Storage Buildings (Sec. 15.7)
- F. Swimming Pools (Sec. 15.3)
- G. Antennas & Satellite Dishes (Sec. 15.8)

Sec. 8.4 Permitted Special Land Uses

- A. Institutional Structures (Sec. 16.12)
 - 1. Educational And Social Institutions
 - 2. Human Care Institutions
 - 3. Animal Care Institutions
- B. Bed And Breakfasts (Sec. 16.3)
- C. Boarding Houses (Sec. 16.4)
- D. PRD (Sec. 16.19)
- E. WECS (Sec. 16.26)

Sec. 8.5 Lot And Building Requirements

All buildings and structures in this district shall be located on a building lot or parcel of land containing no less than twenty thousand (20,000) square feet and having a width of not less than one hundred (100) feet at the building line and contain not less than ten thousand (10,000) square feet of area per dwelling unit unbroken by any public road, street, or thoroughfare.

Any structure, or addition thereto, including roof overhangs, shall have a minimum front set-back of forty (40) feet from the front property line or seventy-three (73) feet from the center of the traveled portion of the roadway, except that any minimum setback from a State or Federal highway is fifty (50) feet from the Highway right-of-way.

Minimum rear yard setback shall be twenty-five (25) feet; minimum side setback shall be fifteen (15) feet; maximum structure height is twenty-eight (28) feet; and maximum lot coverage is fifty (50) percent.

**ARTICLE IX
RECREATIONAL/RESIDENTIAL DISTRICT (R-5)**

The Recreational/Residential District recognizes the need for organized large scale outdoor recreational activities and their compatibility with residential uses, which, when combined with environmental concerns, such as soils, slopes, etc., which dictate only minimum density, lays the groundwork for clustered residential development in concert with said recreational uses.

Sec. 9.1 Permitted Principal Uses

- A. Single Family Dwellings
- B. Two Family Dwellings

Sec. 9.2 Permitted Accessory Uses

- A. Private Garage
- B. Green House
- C. Tool Shed
- D. Solar Collector
- E. Agriculture – Crops

Sec. 9.3 Permitted Conditional Uses

- A. Mobile Homes (Sec. 15.5)
- B. Model Homes (Sec. 15.4)
- C. Home Occupations (Sec. 15.2)
- D. Non-Commercial Storage (Sec. 15.7)
- E. Livestock and Pets (Sec. 15.6)
- F. Swimming Pools, Private (Sec. 15.3)
- G. Antennas and Satellite Dishes (Sec. 15.8)

Sec. 9.4 Permitted Special Land Uses

- A. Institutional Structures (Sec. 16.12)
 - 1. Religious Institutions
 - 2. Educational and Social Institutions
 - 3. Human Care Institutions
 - 4. Animal Care Institutions
- B. Bed and Breakfast (Sec. 16.3)
- C. Golf Courses (Sec. 16.9)
- D. PRD (Sec. 16.19)
- E. WECS (Sec. 16.26)
- F. Boarding Houses (Sec. 16.4)

Sec. 9.5 Lot and Building Requirements

All buildings and structures in this district shall be located on a building lot or parcel of land having a width of not less than one

hundred (100) feet at the building line and contain not less than one-half acre (21,780 square feet) of area unbroken by a public road or right-of-way, however this shall not prevent the use of a building lot or parcel of land of lesser size that was a lot of record prior to adoption of this Ordinance (See Sec. 3.2).

Any dwelling or other structure or part thereof shall have a minimum front yard setback of forty (40) feet from the front property line, or seventy-three (73) feet from the centerline of the traveled surface of the roadway, except for State or Federal highways, in which case the minimum setback shall be fifty (50) feet from the Highway right-of-way, whether it be for a front, side, or rear yard.

Minimum rear yard setback shall be fifteen (15) feet from the rear property line or twenty-five (25) feet from the high water mark when the property abuts a lake or stream. Minimum side yard setback shall be ten (10) feet from the side property lines.

Maximum structure height is twenty-eight (28) feet and maximum lot coverage is thirty (30) percent.

ARTICLE X
RURAL PRESERVATION DISTRICTS

10.1 PURPOSE

The Rural Preservation (RP) Districts are intended to recognize the unique rural character of Benzonía and Platte Townships and to preserve, enhance and stabilize existing areas which are presently being used predominately for farming, forestry and other natural resource and open space uses, are recognized as important to establish large acreage holdings and such holdings are deemed desirable and appropriate by current owners. It is further recognized that there are lands within the district which are not suited to agriculture, forestry, other natural resource or other open space uses, therefore other limited uses are allowed as more intense development as a Special Land Use (SLU) or Planned Unit Development (PUD) provisions. Such uses are therefore allowed and approved under guidelines provided for in this Ordinance.

10.2 RURAL PRESERVATION DISTRICT (RP 2.5)

Sec. 10.2.1 Permitted Principal Uses

- A. Single Family Dwelling
- B. Local Government
- C. Botanical & Zoological Gardens
- D. Commercial Agricultural-Crops and Orchards
- E. Commercial Forestry

Sec. 10.1.2 Permitted Accessory Uses

- A. Private Garage
- B. Green House
- C. Tool Shed
- D. Solar Collector
- E. Compatible Non-Commercial Recreational Facility
- F. Noncommercial Agriculture – Crops

Sec. 10.2.3 Permitted Conditional Uses

- A. Mobile Homes (Sec. 15.5)
- B. Model Homes (Sec. 15.4)
- C. Home Occupations (Sec. 15.2)
- D. Non-Commercial Storage (Sec. 15.7)
- E. Livestock and Pets (Sec. 15.6)
- F. Swimming Pools (Sec. 15.3)
- G. Antennas & Satellite Dishes (Sec. 15.8)

Sec. 10.2.4 Permitted Special Land Uses

- A. Institutional Structures (Sec.16.12)
 - 1. Religious Institutions
 - 2. Educational and Social Institutions
 - 3. Human Care Institutions
 - 4. Animal Care Institutions
- B. Bed And Breakfast (Sec.16.3)
- C. Golf Courses (Sec.16.9)
- D. Light Manufacturing, Warehousing and Commercial Storage (Sec. 16.25)
- E. Contractors and Building Material Dealers (Sec. 16.6)
- F. PRD (Sec. 16.19)
- G. WECS (Sec. 16.26)
- H. Campgrounds and Trailer Parks (Sec. 16.24)
- I. Boarding Houses (Sec. 16.4)
- J. Hotels, Motels, and Tourist Courts (Sec. 16.10)
- K. Marinas (Sec. 16.15)
- L. Mobile Home Parks and Subdivisions (Sec. 16.18)
- M. Airports (Sec. 16.23)

Sec. 10.2.5 Lot and Building Requirements

All buildings and structures in this District shall be located on a building lot or parcel of land with a minimum width of one hundred fifty (150) feet at the building line for the RP-2.5 District; The RP-2.5 District requires a minimum area of two and one half (2.5) acres. However, this shall not prevent the use of a building lot or parcel of land of lesser size that was a lot of record prior to the adoption of this Ordinance (See Sec.3.2).

Any dwelling or other structure or part thereof shall have a minimum front yard setback of forty (40) feet from the front property line, or seventy-three (73) feet from the centerline of the traveled surface of the roadway except for State or Federal highways, in which case the minimum setback shall be fifty (50) feet from the Highway right-of-way, whether it be for a front, side or rear yard.

Minimum rear yard setback shall be fifty (50) feet from the rear property line or the high water mark when the property abuts a lake or stream; minimum side yard setback shall be twenty (25) feet from the side property lines.

Maximum structure height (except farm buildings) is twenty-eight (28) feet.

10.3 RURAL PRESERVATION DISTRICT (RP) 5.0

Sec. 10.3.1 Permitted Principal Uses

- A. Single Family Dwelling
- B. Local Government
- C. Botanical & Zoological Gardens
- D. Commercial Agricultural
- E. Commercial Forestry

Sec. 10.3.2 Permitted Accessory Uses

- A. Private Garage
- B. Green House
- C. Tool Shed
- D. Solar Collector
- E. Compatible Non-Commercial Recreational Facility
- F. Non-Commercial Agriculture – Crops

Sec. 10.3.3 Permitted Conditional Uses

- A. Mobile Homes (Sec. 15.5)
- B. Model Homes (Sec. 15.4)
- C. Home Occupations (Sec. 15.2)
- D. Non-Commercial Storage (Sec. 15.7)
- E. Livestock and Pets (Sec. 15.6)
- F. Swimming Pools (Sec. 15.3)
- G. Antennas & Satellite Dishes (Sec. 15.8)

Sec. 10.3.4 Permitted Special Land Uses

- A. Institutional Structures (Sec.16.12)
 - 1. Religious Institutions
 - 2. Educational and Social Institutions
 - 3. Human Care Institutions
 - 4. Animal Care Institutions
- B. Bed And Breakfast (Sec.16.3)
- C. Golf Courses (Sec.16.9)
- D. Commercial Storage (Sec. 16.25)
- E.
- F. PRD (Sec. 16.19)
- G. WECS (Sec. 16.26)
- H. Campgrounds, RV, and Trailer Parks (Sec. 16.24)
- I. Boarding Houses (Sec. 16.4)
- J. Hotels, Motels, and Tourist Courts (Sec. 16.10)
- K. Sand or Gravel Pits, Quarries (Sec. 16.21)
- L. Gun and Skeet Clubs, Shooting Ranges (RP-5, 10 & 20

- Only) (Sec. 16.27)
- M. Airports (Sec. 16.23)

Sec. 10.3.5 Lot and Building Requirements

All buildings and structures in this District shall be located on a building lot or parcel of land with a minimum width of; three hundred (300) feet in width for the RP-5. The RP-5 District requires a minimum area of five acres; however, this shall not prevent the use of a building lot or parcel of land of lesser size that was a lot of record prior to the adoption of this Ordinance (See Sec.3.2).

Any dwelling or other structure or part thereof shall have a minimum front yard setback of forty (40) feet from the front property line, or seventy-three (73) feet from the centerline of the traveled surface of the roadway except for State or Federal highways, in which case the minimum setback shall be fifty (50) feet from the Highway right-of-way, whether it be for a front, side or rear yard.

Minimum rear yard setback shall be fifty (50) feet from the rear property line or the high water mark when the property abuts a lake or stream; minimum side yard setback shall be twenty (25) feet from the side property lines.

Maximum structure height (except farm buildings) is twenty-eight (28) feet.

10.4 RURAL PRESERVATION DISTRICT (RP) 10.0

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Sec. 10.4.1 Permitted Principal Uses

- A. Single Family Dwelling
- B. Local Government
- C. Botanical & Zoological Gardens
- D. Commercial Agricultural
- E. Commercial Forestry

Sec. 10.4.2 Permitted Accessory Uses

- A. Private Garage
- B. Green House
- C. Tool Shed
- D. Solar Collector
- E. Compatible Non-Commercial Recreational Facility
- F. Non Commercial Agriculture – Crops

Sec. 10.4.3 Permitted Conditional Uses

- A. Mobile Homes (Sec. 15.5)
- B. Model Homes (Sec. 15.4)
- C. Home Occupations (Sec. 15.2)
- D. Non-Commercial Storage (Sec. 15.7)
- E. Livestock and Pets (Sec. 15.6)
- F. Swimming Pools (Sec. 15.3)
- G. Antennas & Satellite Dishes (Sec. 15.8)

Sec. 10.4.4 Permitted Special Land Uses

- A. Institutional Structures (Sec.16.12)
 - 1. Social Institutions
 - 2. Animal Care Institutions
- B. Bed And Breakfast (Sec.16.3)
- C. Golf Courses (Sec.16.9)
- D. PRD (Sec. 16.19)
- E. WECS (Sec. 16.26)
- F. Campgrounds and Trailer Parks (Sec. 16.24)
- G. Sand or Gravel Pits, Quarries (RP-5, 10 & 20 Only) (Sec. 16.21)
- H. Gun and Skeet Clubs, Shooting Ranges (RP-5, 10 & 20 Only) (Sec. 16.27)
- I. Hunt Clubs (RP-10 and 20 Only) (Sec. 16.28)
- J. Airports (Sec. 16.23)

Sec. 10.4.5 Lot and Building Requirements

All buildings and structures in this District shall be located on a building lot or parcel of land with a minimum width of three hundred (300) feet for the RP-10 District. The RP-10 District requires a minimum area of ten acres. However, this shall not prevent the use of a building lot or parcel of land of lesser size that was a lot of record prior to the adoption of this Ordinance (See Sec.3.2).

Any dwelling or other structure or part thereof shall have a minimum front yard setback of forty (40) feet from the front property line, or seventy-three (73) feet from the centerline of the traveled surface of the roadway except for State or Federal highways, in which case the minimum setback shall be fifty (50) feet from the Highway right-of-way, whether it be for a front, side or rear yard.

Minimum rear yard setback shall be fifty (50) feet from the rear property line or the high water mark when the property abuts a lake or stream;

minimum side yard setback shall be twenty (25) feet from the side property lines.

Maximum structure height (except farm buildings) is twenty-eight (28) feet.

10.5 RURAL PRESERVATION DISTRICT (RP) 20.0

Sec. 10.5.1 Permitted Principal Uses

- A. Single Family Dwelling
- B. Local Government
- C. Botanical & Zoological Gardens
- D. Commercial Agricultural
- E. Commercial Forestry

Sec. 10.5.2 Permitted Accessory Uses

- A. Private Garage
- B. Green House
- C. Tool Shed
- D. Solar Collector
- E. Compatible Non-Commercial Recreational Facility
- F. Noncommercial Agriculture – Crops

Sec. 10.5.3 Permitted Conditional Uses

- A. Mobile Homes (Sec. 15.5)
- B. Model Homes (Sec. 15.4)
- C. Home Occupations (Sec. 15.2)
- D. Non-Commercial Storage (Sec. 15.7)
- E. Livestock and Pets (Sec. 15.6)
- F. Swimming Pools (Sec. 15.3)
- G. Antennas & Satellite Dishes (Sec. 15.8)

Sec. 10.5.4 Permitted Special Land Uses

- A. Bed And Breakfast (Sec.16.3)
- B. Golf Courses (Sec.16.9)
- C. WECS (Sec. 16.26)
- D. Campgrounds and Trailer Parks (Sec. 16.24)
- F. Sand or Gravel Pits, Quarries (Sec. 16.21)
- G. Gun and Skeet Clubs, Shooting Ranges (Sec. 16.27)
- H. Hunt Clubs (RP-10 and 20 Only) (Sec. 16.28)
- I. Airports (Sec. 16.23)

Sec. 10.5.5 Lot and Building Requirements

All buildings and structures in this District shall be located on a building lot or parcel of land with a minimum width of six hundred sixty (660) Feet in width for the RP-20 District. The RP-20 District requires a minimum area of twenty acres. However, this shall not prevent the use of a building lot or parcel of land of lesser size that was a lot of record prior to the adoption of this Ordinance (See Sec.3.2).

Any dwelling or other structure or part thereof shall have a minimum front yard setback of forty (40) feet from the front property line, or seventy-three (73) feet from the centerline of the traveled surface of the roadway except for State or Federal highways, in which case the minimum setback shall be fifty (50) feet from the Highway right-of-way, whether it be for a front, side or rear yard.

Minimum rear yard setback shall be fifty (50) feet from the rear property line or the high water mark when the property abuts a lake or stream; minimum side yard setback shall be twenty (25) feet from the side property lines.

Maximum structure height (except farm buildings) is twenty-eight (28) feet.

**ARTICLE XI
COMMERCIAL DISTRICT (C-1)**

The Commercial (C-1) District is designed to accommodate retail business and service activities which serve the particular needs of the area resident as well as the highway traveler. Typically these uses are allowed along the major highways in the Townships. The protective standards for site development applied to this district are intended to minimize the undesirable effects of commercial strip developments along highways.

Sec. 11.1 Permitted Principal Uses

- A. Administrative, Professional And Business Offices
- B. Human Care Facilities
- C. Educational And Social Institutions
- D. Eating And Drinking Places
- E. Religious Institutions
- F. Public Buildings
- G. Barber Shops, Beauty Shops And Other Personal Services Facilities
- H. Retail And Wholesale Sales Facilities
- I. Agriculture And Forestry
- J. Animal Care Institutions
- K. Hotels, Motels, Tourist Courts, and Resorts
- L. "Health spas, Gymnasiums, and other personal fitness services"

Sec. 11.2 Permitted Accessory Uses

Accessory buildings, structures, or uses customarily incidental to the permitted principal use.

Sec. 11.3 Permitted Conditional Uses

- A. Livestock and Pets (Sec.15.6)
- B. Swimming Pools (Sec. 15.3)
- C. Antennas & Satellite Dishes (Sec. 15.8)
- D. Model Homes (Sec. 15.4)

Sec. 11.4 Permitted Special Land Uses

- A. Recreational Facilities (Sec. 16.5)
- B. Marinas and Canoe Liveries (Sec. 16.15)
- C. New And Used Auto, MC, RV, And Boat Dealers (Sec. 16.17)
- D. Gasoline Service Stations (Sec. 16.8)
- E. Light Manufacturing, Warehousing And Commercial Storage (Sec.16.25)
- F. Contractors And Building Materials Dealers (Sec. 16.6)
- G. WECS (Sec. 16.26)

- H. Shopping Centers (Sec. 16.20)
- I. Campgrounds And Trailer Parks (Sec. 16.24)
- J. Golf Courses (Sec. 16.9)
- K. Mobile Home Parks And Subdivisions (Sec. 16.18)
- L. Single Family Dwelling (Sec. 16.14)
- M. Amusement Arcades (Sec. 16.16)
- N. Automotive Service Installations (Sec. 16.7)
- O. Sexually Oriented Businesses (Article XXV)

Sec. 11.5 Lot And Building Requirements

All buildings and structures in this district shall be located on a building lot or parcel of land having a width of not less than one hundred fifty (150) feet and contain an area of not less than one acre (43,560 square feet) unbroken by a public road or right-of-way. However, this shall not prevent the use of a building lot or parcel of land for Residential use that was a lot of record prior to the adoption of this Ordinance. (See Sec. 3.2)

Any structure, or part thereof, shall have a minimum front yard setback of forty (40) feet from the front property line or seventy-three (73) feet from the centerline of the traveled surface of the roadway, except, on any State or Federal Highway, where any setback shall be a minimum of fifty (50) feet.

Minimum rear yard setback shall be fifty (50) feet; minimum side yard setback is twenty-five (25) feet;

Maximum building height is twenty-eight (28) feet; and, maximum lot coverage is thirty (30) percent.

Sec. 11.6 Yard Storage

Wherever a business finds it desirable or necessary to store any goods, supplies, merchandise, returnable containers or solid waste containers outside the confines of a building, said items shall be screened from sight of the general public and adjoining neighbors.

**ARTICLE XII
COMMERCIAL RESORT DISTRICT (C/R)**

The Commercial Resort (C/R) District is intended to accommodate residential and resort developments, which are designed to take advantage of the natural qualities and scenery of Benzonia and Platte Townships. It is intended that such uses include appropriate commercial facilities such as restaurants when located and constructed in a manner which is in keeping with the regulations of the Environmental Control Acts and other related laws, ordinances, and regulations.

Sec. 12.1 Permitted Principal Uses (See Article XVI for Guidelines)

- A. Single Family Dwelling
- B. Local Government
- C. Hotel, Motels, Tourist Courts, and Resorts
- D. Agriculture - Crops
- E. Eating And Drinking Places
- F. Multi-family dwellings

Sec. 12.2 Permitted Accessory Uses

- A. Accessory buildings, structures or uses customarily incidental to the permitted principal use.

Sec. 12.3 Permitted Conditional Uses

- A. Mobile Home (Sec. 15.5)
- B. Model Home (Sec. 15.4)
- C. Non-Commercial Storage Building (Sec. 15.7)
- D. Swimming Pools (Sec. 15.3)
- E. Livestock And Pets (Sec. 15.6)
- F. Antennas & Satellite Dishes (Sec. 15.8)
- G. Home Occupations (Sec. 15.2)

Sec. 12.4 Permitted Special Land Uses

- A. Institutional Structures (Sec. 16.12)
 - 1. Educational And Social Institutions
 - 2. Public Buildings
 - 3. Religious Institutions
 - 4. Human Care Institutions
 - 5. Animal Care Institutions
- B. Other
 - 1. Bed And Breakfast (Sec. 16.3)
 - 2. WECS (Sec. 16.26)
 - 3. Boarding Houses (Sec. 16.4)
 - 4. Golf Courses (Sec. 16.9)
 - 5. Shopping Centers (Sec. 16.20)
 - 6. Campgrounds and Trailer Parks (Sec. 16.24)

7. Recreational Facilities (Sec. 16.5)
8. P.R.D. (Sec. 16.19)

Sec. 12.5 Lots And Building Requirements

All buildings and structures in this district shall be located on a building lot or parcel of land having a width of not less than one hundred fifty (150) feet and contain an area of not less than one (1) acre (43,560 square feet) of area unbroken by a public road or right-of-way. However, this shall not prevent the use of a building lot or parcel of land of lesser size that was a lot of record prior to the adoption of this Ordinance.

Any dwelling or other structure or part thereof shall have a minimum front yard setback of forty (40) feet from the front property line, or seventy-three (73) feet from the centerline of the traveled surface of the roadway, except on State or Federal highways, in which case the setback shall be fifty (50) feet.

Minimum setback shall be fifty (50) feet from the rear property line, or up to two hundred (200) feet from the property line or the high water mark when the property abuts the Betsie River in accordance with PA 231 of 1970. Minimum side yard setback shall be twenty-five (25) feet from the side property lines.

Maximum structure height is twenty-eight (28) feet and maximum lot coverage is thirty (30) percent.

**ARTICLE XIII
LIGHT INDUSTRIAL DISTRICT (LI)**

The Light Industrial (LI) District is intended to accommodate those industrial uses, storage, and related activities that generate a minimum of noise, glare, odors, dust, vibration, air and water pollution, fire and safety hazards, or any other potentially harmful or nuisance characteristics. It is designed to accommodate wholesale, warehouse and industrial activities, whose operational and physical characteristics do not detrimentally affect any of the surrounding districts. The LI District is established to permit the manufacturing, compounding, processing, packaging, assembly and/or treatment of finished or semifinished products from previously prepared material. It is also intended to permit limited retail enterprises if they are directly related to the distribution of products manufactured or warehoused which are not suitable for wholesale distribution.

Sec. 13.1 Permitted Principal Uses

- A. Agricultural Services
- B. Local Government
- C. Light Manufacturing, Warehousing And Commercial Storage
- D. Agriculture - Crops
- E. Forestry
- F. Wholesale And Retail Sales
- G. Eating And Drinking Places

Sec. 13.2 Permitted Accessory Uses

- A. Accessory buildings, structures or uses customarily incidental to the permitted principal use.

Sec. 13.3 Permitted Conditional Uses

- A. Swimming Pools (Sec. 15.3)
- B. Livestock And Pets (Sec. 15.6)
- C. Non-Commercial Storage Building (Sec. 15.7)
- D. Antennas & Satellite Dishes (Sec. 15.8)
- E. Residential, Single Family Dwellings (Sec. 15.9)

Sec. 13.4 Permitted Special Land Uses

- A. Institutional Structures (Sec. 16.12)
 - 1. Educational And Social Institutions
 - 2. Public Buildings
 - 3. Human Care Institutions
 - 4. Animal Care Institutions
 - 5. Religious Institutions
- B. Other
 - 1. Auto, Truck And Equipment Dealers (Sec. 16.6)
 - 2. Contractors And Construction, Offices And Yards

- (Sec. 16.17)
3. WECS (Sec. 16.26)
 4. Gasoline Service Stations (Sec. 16.8)
 5. Golf Courses (Sec. 16.9)
 6. Marinas (Sec. 16.15)
 7. Junk Yards (Sec. 16.13)
 8. Sanitary Landfills And Transfer Stations (Sec. 16.11)
 9. Sand Or Gravel Pits, Quarries (Sec. 16.21)
 10. Sewage Treatment And Disposal (Sec. 16.22)
 11. Automotive Service Installations (Sec. 16.7)

Sec. 13.5 Lots And Building Requirements

All buildings and structures in this district shall be located on a building lot or parcel of land having a width of not less than three hundred thirty (330) feet and contain an area of not less than two and one-half acres of area unbroken by a public road or right-of-way.

However, this shall not prevent the use of a building lot or parcel of land of lesser size that was a lot of record prior to the adoption of this Ordinance (See Sec. 3.2). Any dwelling or other structure or part thereof shall have a minimum front yard setback of fifty (50) feet from the front property line, or eighty-three (83) feet from the centerline of the traveled surface of the roadway, except for State of Federal highways, in which case the minimum setback shall be fifty (50) feet from the highway right-of-way.

Minimum rear yard setback shall be fifty (50) feet from the rear property line or the high water mark when the property abuts a lake or stream; minimum side yard setback shall be twenty-five (25) feet from the side property lines.

Maximum structure height is twenty-eight (28) feet and maximum lot coverage is forty (40) percent.

ARTICLE XIV ADMINISTRATION

Sec. 14.1 Purpose and Intent

This Article sets forth the provisions and the requirements for submittal, review and approval of applications under this Ordinance and for enforcement of Ordinance violations, including the violation of permits and their conditions. These provisions are intended to clearly describe administrative duties and responsibilities, permit procedures and conditions and enforcement provisions to improve citizen and property owner understanding and to ensure efficiency in the administration of the Ordinance. These provisions are presented in five parts:

Part I -- Administrative Duties and Responsibilities

Part II -- Permit Application, Review and Approval Procedures

Part III -- Notice and Hearing Procedures

Part IV -- Site Plan Review Procedures

Part VI – Other Review Procedures

PART I – ADMINISTRATIVE DUTIES AND RESPONSIBILITIES

Sec. 14.2 Responsibility for Administration

14.2.1 Parties Responsible for Administration: The provisions of this Ordinance shall be administered by the Township Zoning Administrator, the West Benzie Joint Planning Commission, and the Township Boards of Trustees in accordance with the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, and the delegation of responsibility assigned by this Ordinance.

14.2.2 Responsibility of Township Boards of Trustees: The Township Boards of Trustees shall have the primary responsibility for supervision of the administration and enforcement of the Ordinance. In order to carry out this responsibility the Township Board of Trustees may adopt and file rules and guidelines to assist the Zoning Administrator and West Benzie Joint Planning Commission in administering and enforcing this Ordinance. Until such rules or guidelines are adopted, any existing rules, guidelines, the Zoning Ordinance, and the Michigan Zoning Enabling Act will constitute the rule.

14.2.3 Office of Zoning Administrator: The Township Boards of Trustees shall maintain an office of the Zoning Administrator and employ a Zoning Administrator to act as its officer to administer and enforce this Ordinance. The terms of employment and rate of compensation shall be established by the Township Board of Trustees. The Zoning Administrator shall be empowered to issue violation notices, appearance tickets and citations and may seek the issuance of warrants for the arrest of alleged violators through the office of the County Prosecutor or the Township Attorney and may bring any enforcement or civil action for violation and enforcement of this Ordinance or any permit, approval, or condition of any permit or approval, through the office of County Prosecutor or the Township Attorney or other legal representative specifically retained for such purpose.

Sec. 14.3 West Benzie Joint Planning Commission

A West Benzie Joint Planning Commission shall be appointed and shall carry out its authorized activity as provided for in sections 301{MCL 125.3301 THROUGH 125.3308} of the Michigan Zoning Enabling act (MZEA)

Sec 14.4 Zoning Administrator

It shall be the responsibility of the Zoning Administrator and his or her employees to be thoroughly versed in the provisions of this Ordinance and to enforce the provisions of this Ordinance and in so doing shall perform the following duties:

14.4.1 Issue Permits: All applications for zoning permits shall be submitted to the Zoning Administrator who shall issue Zoning Permits, Temporary Zoning Permits, Special Land Use Permits, PUD Permits, Condominium Project Permits and Certificates of Zoning Compliance when all applicable provisions of this Ordinance have been complied with. The Zoning Administrator shall attend Planning Commission, Zoning Board of Appeals and such other meetings related to administration of this Ordinance as necessary or when requested. The issuance of permits includes the authority to impose any condition authorized by this Ordinance.

14.4.2 File Applications: The Zoning Administrator shall maintain files of all applications for zoning approval and for all Certificates of Zoning Compliance and shall keep records of all permit approvals and denials. Such files and records shall be open to public inspection. Copies shall be furnished upon request at a cost established by the Township Boards of Trustees.

14.4.3 Inspections: The Zoning Administrator shall make as many inspections of buildings or premises as necessary in order to properly carry out the enforcement of this Ordinance or any permit, approval, or condition of a permit or approval, or order under this Ordinance. The violation of any permit or approval or any condition of a permit or approval is a violation of this Ordinance.

14.4.4 Record of Complaints: The Zoning Administrator shall keep a record of every complaint of a violation of any of the provisions of this Ordinance. Such records shall be public records.

14.4.5 Report to Boards of Trustees: On behalf of the Planning Commission, the Zoning Administrator shall report to the Boards of Trustees periodically; and once a year, shall summarize for the period since the last previous report, the number of requests for zoning approval or enforcement, including the number of requests approved, approved with conditions, and denied, by type of request, including, Zoning Permits, Special Land Use Permits, PUD Permits, Condominium Project Permits, Certificates of Zoning Compliance, all minor design modifications, administrative waivers, all complaints of violations, all interpretations made, appeals and variances granted by the Zoning Board of Appeals, all rezoning requests and text changes processed, and State action taken on all amendments. The Zoning Administrator shall include any recommendations regarding zoning changes which would improve the content and enforcement of the Zoning Ordinance.

14.4.6 Prepare Record of Decisions: The Zoning Administrator shall establish notebooks or other records for listing each decision, waiver, interpretation, or enforcement action made under this Ordinance. This record shall be organized for easy reference by date and decision to help ensure consistency of future decisions.

14.4.7 Prepare Forms, Manuals and Guidelines: The Zoning Administrator shall periodically prepare or update forms, procedure manuals and guidelines for the smooth administration of the Zoning Ordinance. All such forms, manuals and guidelines shall be reviewed and approved by the Planning Commission. A form, procedure or guideline may be implemented by the Zoning Administrator for not more than sixty (60) days after being established without West Benzie Joint Planning Commission approval.

14.4.8 Enforce the Zoning Ordinance: The Zoning Administrator shall be the principal Ordinance enforcement officer. He/she shall ensure conformance with issued permits, investigate alleged Ordinance violations, and undertake such other enforcement activities as may be delegated by the Township Boards or West Benzie Joint Planning Commission. Other individuals may be hired for this purpose, or the task may be delegated to others who work under the supervision of the Zoning Administrator. Once a case is shifted to the County Prosecutor or other legal representative retained for such purpose, the Zoning Administrator and Prosecutor or other legal representative shall share enforcement responsibility.

14.4.9 Administrative Waivers:

A. Authority and Limit of Waiver: The Zoning Administrator is authorized to grant administrative waivers to the provisions of this Ordinance for a use permitted by right in a manner and an amount not to exceed a ten (10) percent variation from any site development standards, parking and loading requirements, sign requirements, lot width-to-depth ratios and the specific dimensional, area, and similar provisions and requirements contained in this Ordinance. Up to a ten (10) percent variation in front, side or rear yards may be granted on any nonconforming lot of record. This authority does not extend to waiver or consideration of different land uses other than those expressly permitted within a zoning district nor to a Special Land Use, PUD, Condominium Project or other use subject to Site Plan Review.

B. Criteria: Upon receipt of a written request for an administrative waiver, the Zoning Administrator shall prepare a report of the situation and all factual data concerning the site in terms of: (1) what the situation would be if developed pursuant to the standards stated in this Ordinance, (2) what the situation would be if the administrative waiver were granted, (3) what impacts, if any, on the public and neighboring property owners would result if the administrative waiver were granted, and (4) the conclusion on the waiver request and the rationale for that conclusion. No administrative waiver shall be granted if doing so would create a nuisance or result in significantly more noise, odor, dust, bright or flashing lights, or similar negative impact on the public or abutting property. Decisions rendered by the Zoning Administrator shall be in the form of a letter which specifically states a determination on each of the items listed above. An appeal on any administrative waiver may be made by any affected person to the Zoning Board of Appeals within ten (10) days following the decision. No decision by a Zoning Administrator on an administrative waiver shall be effective until after this ten (10) day period has passed. In the event of an appeal, the effect

of the decision is stayed. All abutting property owners shall receive notice of any administrative waiver request and when a decision on the waiver is expected to be made, prior to a determination by the Zoning Administrator. Abutting property owners may file a written statement on the administrative waiver request with the Zoning Administrator, but the decision of the Zoning Administrator shall be based on the standards contained in this Section.

C. Appeals: An appeal of administrative waiver decision may be made to the Zoning Board of Appeals.

14.4.10 Modifications of Approved Permits or Site Plans

A. The Zoning Administrator may authorize insignificant deviations from an approved site plan or from Zoning Permits, Special Land Use Permits, Planned Unit Development Permits and Condominium Project Permits. A deviation is insignificant if it has no discernible impact on the site, neighboring properties, the general public, or those intended to occupy or use the proposed development. All requests for modifications of an approved site plan or permit issued under the provisions of this Ordinance shall be in writing on a form provided by the Zoning Administrator. The Zoning Administrator shall keep a record of any authorized deviation.

B. Minor site design modifications or changes in permits (including approved site plans) are permissible with the approval of the permit-issuing authority. Such permission may be obtained without a formal application, public hearing, or payment of any additional fee. For purposes of this section, minor modifications are those which will have no foreseeable effect or discernible impact to natural features on the property, beyond the property boundary such as minor changes in the siting of buildings or structures, the alignment of utilities, and the alignment of walkways, interior roadways and parking areas. Minor changes for good cause may be authorized provided no such changes shall increase the size or height of structures, increase the number or type of dwelling units or square feet of nonresidential uses, add another land use, reduce the efficiency or number of public facilities serving the development, reduce usable or other required open space, or encroach on or impair natural resources and features. Minor modifications or changes shall not violate a requirement of this Ordinance, or involve a modification or change that otherwise would require a variance from the ZBA. The Zoning Administrator shall keep a record of all minor design modifications or changes granted and report each modification as part of the annual report under Section 14.5.6.

C. Any modification, change, or deviation not qualifying as a minor amendment is considered to be a major modification, change, deviation or amendment and must be approved by the permit issuing authority following the same procedure required for the original permit or approval.

D. All other requests for changes in approved plans will be processed as new applications. If such requests are required to be acted upon by the West Benzie Joint Planning Commission or Zoning Board of Appeals, new conditions may be imposed, but the applicant retains the right to reject such additional conditions by withdrawing his request for an amendment and may then proceed in accordance with the previously issued permit.

E. An applicant requesting approval of a request for an insignificant deviation or a minor design modification or change shall submit a written request to the Zoning Administrator identifying the requested changes and stating the reasons for making the request. Action on all changes shall be given in writing, and may be appealed to the Zoning Board of Appeals.

14.4.11 Relief from Personal Responsibility: The Zoning Administrator, officer or employee charged with the enforcement of this Ordinance, while lawfully acting for the Township, shall not thereby render himself or herself liable personally, and he or she is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any lawful act required or permitted in the discharge of his or her official duties. Any suit instituted against the Zoning Administrator or West Benzie Joint Planning Commission, or any officer or employee acting on behalf of the office of the Zoning Administrator, because of a lawful act performed by the employee in the lawful discharge of his or her duties and under the provisions of the Ordinance shall be defended by the County Prosecutor, or other legal representative of the Township, until the final termination of the proceedings. In no case shall the Zoning Administrator or any of his or her subordinates be liable for costs in any action, suit or proceeding that may be instituted in pursuance of the provisions of the Ordinance; and any officer of the Department of Zoning and Planning, acting in good faith and without malice, shall be free from liability for lawful acts performed under any of its provisions or by reason of any act or omission in the lawful performance of his or her official duties in connection herewith.

14.5 *Reserved for Future Use*

PART II – PERMIT APPLICATION, REVIEW AND APPROVAL PROCEDURES

Sec. 14.6 General Application and Review Procedures.

The general provisions of this Part II of Article XIV shall apply to all applications for development approval and procedures under this Ordinance, unless otherwise stated. Additional procedures specific to review of site plans are found in Part IV of this Article. Procedures specific to Special Land Use applications are found in Article XVI, and procedures specific to Planned Unit Developments are found in Article XVII.

14.6.1 Authority to File Applications: Applications shall be submitted to the Zoning Administrator by the owner, or any other person having a recognized interest in the land for which the development is proposed, or their authorized agent.

A. Applicant is Not Owner: If the applicant is not the owner of the land, or is a contract purchaser of the land, a letter signed by the owner consenting to the submission of the application shall be submitted.

B. Applicant is Not Sole Owner: If the applicant is not the sole owner of the land, a letter signed by the other owners or an association representing the owners consenting to or joining in the application shall be submitted.

14.6.2 Application Submission Schedule: The schedule for the submission of applications shall be established by the Zoning Administrator and made available to the public.

14.6.3 Application Contents: Applications required under this Ordinance shall be submitted on a form approved by the Planning Commission except as noted in Sec. 14.5.9 and made available to the public.

14.6.4 Simultaneous Processing of Applications: Whenever two or more forms of review and approval are required under this Ordinance (e.g., a Special Land Use Permit and a Variance), the applications for those development approvals may, at the option of the Zoning Administrator, be processed simultaneously, so long as all applicable requirements are satisfied for both applications.

14.6.5 Fees:

A. **Determination of Fees**: The Township may charge reasonable fees sufficient to cover the costs of administration of this Ordinance. The Township Board of Trustees may from time to time adopt by resolution a fee schedule to accompany all applications submitted under this Ordinance. Fees shall be based on actual direct costs of inspection and supervision or consultation with qualified professionals (where reasonably necessary), resulting from the enforcement of this Ordinance, including the enforcement of conditions of a permit or approval, and may include the cost of filing approvals with other entities, such as the County Register of Deeds. Such fees may also include but are not limited to all costs associated with conducting a public hearing or inspection, including publishing the newspaper notice and any map, sending required notices to property owners and renters, photocopying, staff time, Planning Commission, Township Board of Trustees and/or Zoning Board of Appeals meeting time, mileage and any costs associated with reviews by qualified professional planners, engineers, scientists, and/or other qualified professionals. The fee schedule and any amendments shall be available at the Township Clerk's office following adoption by the Township Board of Trustees as part of the Township's fee schedule.

B. **Fees to be Paid**: No application shall be processed until the established fee has been paid and a receipt obtained from the Office of the Zoning Administrator; except that the Township Board of Trustees in the resolution establishing zoning fees, may exempt Township projects or the projects of other governmental agencies from all or part of the fees. The Office of Zoning Administrator shall keep accurate records of all fees, which records are public records open for public inspection.

C. **Additional Costs and Fees for Professional Reviews**:

1. If the Planning Commission, Zoning Board of Appeals, or Zoning Administrator determines that the basic zoning fees will not cover the actual costs of application review, or if the Planning Commission, Zoning Board of Appeals, or Zoning Administrator determines that review of the application and/or participation in the review or appeal by a qualified professional engineer, planner, attorney or other qualified professional is necessary, then the applicant shall deposit with the Township Treasurer such additional fees in an amount determined by the Zoning Administrator to equal the estimated amount of additional costs. The additional estimated amount of zoning fees shall be held in escrow in the applicant's name and shall be used solely to pay for

additional costs. If the amount held in escrow becomes less than ten (10) percent of the initial escrow deposit or less than ten (10) percent of the latest additional escrow deposit and review of the application or decision on the appeal is not completed, then the Zoning Administrator may require the applicant to deposit additional fees into escrow in an amount determined by the Planning Commission or Zoning Board of Appeals to be equal to the estimated costs to complete the review or decide the appeal. Failure of the applicant to make any escrow deposit required under this Ordinance shall be deemed to make the application incomplete or the appeal procedurally deficient or defective thereby justifying the denial of the application or the dismissal of the appeal. Any unexpended funds held in escrow shall be returned to the applicant following the final action on the application or the final decision on the appeal. Any actual costs incurred by the Township in excess of the amount held in escrow shall be billed to the applicant and shall be paid by the applicant prior to the issuance of any permit or the release of a final decision on an appeal. Failure of the applicant to make timely payment of any balance due will entitle the Township to place a lien on the subject property.

2. Professional review shall result in a report to the Township indicating the extent of conformance or nonconformance with this Ordinance and identifying any problems which may create a threat to public health, safety or the general welfare. Mitigation measures or alterations to a proposed design may be identified where they would serve to lessen or eliminate identified impacts. The applicant shall receive a copy of any professional review hired by the Township and a copy of the statement of expenses for the professional services rendered.

D. Refund of Fees: Application fees are not refundable except where the Zoning Administrator determines that an application was accepted in error, or the fee paid exceeded the amount due, in which case the amount of the overpayment shall be refunded to the applicant, subject to a ten (10) percent administrative fee.

14.6.6 Pre-Application Conference:

A. General Overview: Except for PUDs (see Article XVII, Section 17.1.14), a pre-application conference is optional prior to submission of any application for development approval under this Ordinance. The purpose of a pre-application conference is to familiarize the applicant and the Township staff with the applicable provisions of this Ordinance required to permit the proposed development, and to inform the applicant about the preparation of the application.

B. Initiation of Pre-Application Conference: Any potential applicant may request a pre-application conference from the Zoning Administrator. Along with the request for the pre-application conference, the applicant may provide to the Zoning Administrator a description of the proposed development, the type of development approval sought, the location of the proposed project, and any other appropriate supporting documents such a concept plan, maps, drawings, models, and any other information the Zoning Administrator deems necessary for the pre-application conference.

C. Meeting: The Zoning Administrator shall schedule a pre-application conference after receipt of a request for a pre-application conference and any appropriate submission

materials. At the pre-application conference the applicant, the Zoning Administrator, and any other Township staff and regional, state, federal or adjacent local government representatives the Zoning Administrator deems appropriate to attend the pre-application conference, shall discuss the proposed development, and based upon the information provided by the applicant, identify in general what Ordinance provisions generally apply to the proposed development.

14.6.7 Reserved for Future Use

14.6.8 Determination of Sufficiency:

A. **Application Must be Complete:** All applications for a Zoning Permit, Temporary Zoning Permit, Certificate of Zoning Compliance, Special Land Use Permit, Planned Unit Development Permit, Condominium Project Permits, plat approval, variance, appeal or other authorization requested under this Ordinance must be complete before the permit issuing authority or approving body or official is required to consider the application.

B. **Determination of Sufficiency:** Within fourteen (14) calendar days following receipt of the application, the Zoning Administrator shall determine if the application is complete, meets all relevant threshold requirements and includes data in sufficient detail to evaluate the application to determine whether it complies with the requirements of this Ordinance. An application not reviewed for sufficiency within fourteen (14) calendar days, shall be considered complete and shall be processed as such.

C. **Determined Insufficient:** If the Zoning Administrator determines the application is not sufficient, written notice shall be provided to the applicant specifying the application's deficiencies. If the applicant fails to correct the deficiencies within sixty (60) days, the application shall be considered withdrawn. When the application is determined sufficient, it shall be reviewed pursuant to the procedures and standards of this Article.

14.6.9 Preparation of Staff Report: After an application is determined sufficient, and as appropriate, the Zoning Administrator shall refer the application to the appropriate Township staff, and direct the applicant to contact any other review agencies for comment. The Zoning Administrator shall review the application and where a site plan, Special Land Use, Condominium Project, PUD, variance or Ordinance interpretation is involved, prepare a Staff Report. Where a Staff Report is required, it shall be made available to the public five (5) calendar days before the first scheduled public hearing on the application. The Staff Report shall report whether the application complies with all appropriate standards of this Ordinance. Conditions for approval may also be recommended to eliminate any areas of noncompliance or mitigate any adverse effects of the development proposal. A Staff Report shall also be prepared on requests for rezoning or a text change; this report shall be prepared by the Township Planner.

14.6.10 Scheduling of Public Hearing: When an application for development approval is subject to a public hearing (see Section 14.16.1, Table 14-1, Timing of Notice, for when a public hearing is required), the Zoning Administrator shall ensure that the public hearing(s) on the application is scheduled for a regularly scheduled meeting or a meeting specially called for that purpose by the decision-making or advisory body reviewing the application. The public hearing(s) shall be scheduled so there is sufficient time for a Staff Report to be prepared and for the public notification requirements of Section 14.16 to be satisfied.

14.6.11 Decision on Permits: The bodies and officials responsible for review of permit applications under this Ordinance shall approve all applications that conform as submitted with the requirements of this Ordinance; shall approve with conditions all applications that would conform if certain conditions, authorized by this Ordinance were met; and shall deny all applications that do not conform with this Ordinance and would not likely conform even if mitigating conditions were imposed as a condition of approval.

14.6.12 Expiration of Permits:

A. Zoning, Special Land Use, Planned Unit Development or Condominium Project Permits shall expire automatically, if, within one (1) year after the issuance of such permits, significant actual construction has not commenced or use has not commenced where no actual construction is required. Significant means more than one-third of the estimated expense of the development.

B. The permit-issuing authority may extend a permit for a period of up to six (6) months from the date when a permit would otherwise expire if it concludes that:

1. The permit recipient has proceeded with due diligence and in good faith, and
2. Conditions have not changed so substantially as to warrant a new application. One successive extension may be granted for a period of up to six (6) months upon the same findings. All extensions may be granted without resort to the formal application and review processes. Fees required for an extension shall be according to the Township fee schedule.

C. Multi-phase PUDs shall conform with the requirements of Section 17.1.12.

Sec. 14.7 Zoning Permits

The following provisions shall apply in the issuance of any Zoning Permit in addition to any other requirements for a particular use contained in this Ordinance:

14.7.1 Commencement: No clearing, grading, excavation or filling of land for a building or structure shall be commenced; no erection, addition to, alteration of, or moving of any building or structure shall be undertaken, nor shall any land be changed to a use of a different use type, use category, or use class under this Ordinance, nor to any different use group under the State Construction Code, PA 230 of 1972, except in accordance with and pursuant to one of the following permits or approvals:

1. A Zoning Permit or a Certificate of Zoning Compliance has been secured from the Zoning Administrator.
2. A major or minor Special Land Use Permit has been approved in compliance with the provisions of Article XVI of this Ordinance.
3. A PUD Permit has been approved in compliance with the provisions of Article XVII of this Ordinance.
4. A Condominium Project Permit has been approved in compliance with the provisions of Article XVIII of this Ordinance.

5. A platted Subdivision has been approved in compliance with the provisions of Article XVIII of this Ordinance.

6. Except upon a written order of the Zoning Board of Appeals, no Zoning Permit shall be issued for any building, structure or use of land that would be in violation of any of the provisions of this Ordinance.

14.7.2 Application for Zoning Permit:

A. All applications for a Zoning Permit shall require an accurate scale map showing the following, unless waived by the Zoning Administrator:

1. The location, shape, area, dimensions, and legal descriptions of the parcel, location of easements and centerline of road.
2. The location, dimensions, height and bulk of the existing and/or proposed structures to be erected, altered, or moved on the parcel,
3. All existing and proposed uses of buildings, structures and land.
4. The proposed number of sleeping rooms, dwelling units, occupants, employees, customers, and other users.
5. The yard, open space, driveway or access by easement, and parking space dimensions.
6. The proposed plan and specific off-street parking and unloading spaces, if applicable.
7. Any wetlands or flood plains, critical sand dunes or high risk erosion areas, lakes, streams or other water resources which may be on the property.
8. Any change to the ground contour of the parcel involved.
9. Any other information deemed necessary by the Zoning Administrator to properly administer this Ordinance.
10. Any permits that will be required for the development or use from federal, state or local agencies.

B. A copy of the deed or proof of equitable title shall be required with any application for a Zoning Permit for any new principal or accessory structure on any non-platted parcel in order to assure compliance with dimensional requirements of this Ordinance, to protect easements from encroachment, and to assure conformance with the Land Division Act, Public Act 288 of 1967, as amended. The Zoning Administrator may examine electronic copies of recorded deeds to meet this requirement.

C. Land uses requiring site plan review per Section 14.23 shall submit a site plan in place of the information required above, and all development of the site shall be in accordance with an approved site plan.

14.7.3 Affidavit of Compliance: Each application form for a Special Land Use Permit, Condominium Project, Planned Unit Development Permit, or other development requiring a site plan for which a Zoning Permit is required, shall contain a signed and notarized affidavit stating that the applicant understands, and agrees to comply with the following laws when applicable to the lot, tract or parcel in question. The applicant shall further affirm that said lot, tract or parcel is not currently in violation of the following laws.

- A. The Land Division Act, Public Act 288 of 1967, as amended, being MCL 560.101 et seq., or the Condominium Act, Public Act 591 of 1978 as amended, being MCL 559.101 et seq.
- B. The Benzie-Leelanau District Health Department Sanitary Code.
- C. The Flood Plain regulations of the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, Part 31, as amended.
- D. Michigan Public Health Code, Public Act 368 of 1978, as amended, being MCL 333.12751, et seq.
- E. Farmland and Open Space Preservation provisions of the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, Part 361, as amended, being MCL 399.201, et seq.
- F. Wetlands Protection provisions of the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, Part 303, Section 324.30301 et. seq., as amended.
- G. Inland Lakes and Streams provisions of the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, Part 301, Section 324.30141, et. seq., as amended.
- H. "Miss Dig Law", Act 53, as amended.
- I. Airport Zoning Act, Public Act 23 of 1950, as amended, being MCL 259.431, et seq.
- J. State Construction Code Act, Public Act 230 of 1972, as amended, being MCL 125.1501, et seq.
- K. The Benzie County Drain Commissioner Standard Construction Specifications for open and closed drains, 1956 PA 40, as amended.
- L. The Benzie County Subdivision Control Procedures pursuant to Public Act 288 of 1967, as amended, being MCL 560.101 et seq.
- M. The Benzie County Soil Erosion and Stormwater Control Ordinance, and any applicable regulations of the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, Part 91, Section 324.9141 et. seq., as amended.
- N. Michigan Department of Environmental Quality rules for Land Divisions, as amended.
- O. The High Risk Erosion provisions of the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, Part 323, as amended, being MCL 324.32305, et seq.

- P. The Critical Sand Dune regulations of the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, Part 353, as amended, being MCL 324.35321, et seq.
- Q. Any County Road Commission or Michigan Department of Transportation driveway or access management regulations under Public Act 200 of 1969, as amended, being MCL 247.321.
- R. All county, township or village Ordinances that are applicable to the proposed building, structure or land use, most notably those associated with a public water or public sewer tap-in.
- S. All other State, Federal or local laws, rules, or regulations applicable to the proposed building, structure or use of the property.

14.7.4 Withholding Permit:

A. Section 14.7.3 notwithstanding, the Zoning Administrator may withhold any Zoning Permit, Temporary Zoning Permit, Special Land Use Permit, Condominium Project Permit, PUD Permit, or Certificate of Zoning Compliance pending verification that an applicant has received required township, county, state or federal permits including but not limited to sanitary sewer and water tap-in permits, septic and water well permits, soil erosion and sedimentation control permits, wetlands permits, flood plain, culvert, or driveway permits. Likewise, wherever this Ordinance authorizes permit approval by the Planning Commission, Township Board of Trustees or the Zoning Board of Appeals, Township Board of Trustees or Zoning Board of Appeals shall condition final approval of the requested development activity upon the receipt of any of the above mentioned township, county, state or federal approvals and/or direct the Zoning Administrator not to issue the requested permit until said permits or approvals from other jurisdictions or agencies have been obtained.

B. The Zoning Administrator may refuse to issue a Zoning Permit to a person who is responsible for an unresolved violation of this Ordinance at the requested location, or another location within the jurisdiction of this Ordinance, until such time as the violation is satisfactorily corrected.

14.7.5 Previous Approvals: Nothing in the Ordinance shall require changes in the plans, construction, or designated use of a building for which a lawful permit has been here-to-fore issued or otherwise lawfully authorized, and the construction of which shall have been actively pursued within ninety (90) days after the effective date of this Ordinance; and the entire building shall be completed as authorized within two (2) years after the date of approval of the application.

14.7.6 Inspections: The Zoning Administrator shall inspect sites on which new permanent buildings will be erected prior to issuance of a Zoning Permit and at such other time as is necessary to ensure conformance with this Ordinance.

Sec. 14.8 Temporary Zoning Permits

The Zoning Administrator is authorized to issue a Land Use Permit for the following temporary uses upon a finding that a temporary use meets the criteria set forth below.

1. Carnival, circus, or fair for a period not to exceed fourteen (14) days.
2. Open lot-sale of Christmas trees, for a period not to exceed thirty (30) days.
3. Real estate sales offices in Model Homes for a maximum period of one (1) year. (See Section 15.4)
4. Contractor's office and contractor's equipment sheds, in any district, for a period of one (1) year, provided that such structures be placed on the property to which it is appurtenant.
5. Temporary dwelling units, for a maximum period of two (2) years, only for the purpose of constructing a building which conforms to the requirement of this Ordinance provided that the foundation and complete framing of the conforming building is completed within one year and the entire conforming building is completed within (2) years.

Temporary Zoning Permits for temporary buildings, structures and uses shall conform with the following requirements:

14.8.1 Application: Temporary Zoning Permits for those uses specifically authorized may be approved, modified, conditioned, or denied by the Zoning Administrator based on the standards established in Section 14.9.3 and subject to such conditions as are reasonably necessary to minimize adverse impacts on abutting property, and protect the public health, safety and general welfare. The Zoning Administrator may refer the application for a Temporary Zoning Permit to the Planning Commission for a decision. The Planning Commission shall apply the procedures and standards in this Section, the same as the Zoning Administrator.

14.8.2 Permits: A written temporary Zoning Permit shall be issued for all temporary buildings, structures and uses that comply with this Ordinance and shall contain the following information:

- A. The applicant's name.
- B. The location and effective dates of the temporary building, structure or use.
- C. Conditions specified by which the permit was issued, such as:
 1. Use and placement of signs.
 2. Provision for security and safety measures.
 3. Control of nuisance factors.
 4. Elements of a performance guarantee.
 5. Signature of the Zoning Administrator on the permit.

14.8.3 Conditions of Approval: A permit for a proposed temporary use shall be issued by the Zoning Administrator only if each of the following criteria is met:

- A. The proposed use is clearly of a temporary nature.
- B. The temporary use shall not endanger the public health, safety or welfare of the Township, or adjacent residents.
- C. Structures of temporary uses shall be provided, if required, with safe, sanitary and effective systems for water supply and disposal of wastes, approved by the Health Department.
- D. The proposed temporary use shall meet all lot, yard setback and other requirements of this Ordinance,
- E. The proposed temporary use is not a major Special Land Use of the respective zoning district.
- F. The nature and intensity of the temporary use and the size and placement of any temporary building or structure shall be planned so that the temporary use, building or structure will be compatible with existing development on abutting property.
- G. Except for a garage sale, the temporary use shall not be located within an accessory building or structure.
- H. The parcel shall be of sufficient size to adequately accommodate the temporary use, building or structure.
- I. The location of the temporary use or structure shall be such that adverse effects on surrounding properties will be minimal, particular regarding the traffic generated by the temporary use or structure.
- J. Off-street parking areas are of adequate size for the particular temporary use, building or structure, are safely located and the entrance and exit drives are laid out so as to prevent traffic hazards and nuisances.
- K. Signs shall conform to the provisions of this Ordinance (see Article XIX).
- L. Any lighting or noise shall be directed and controlled so as to not create a nuisance to neighboring property owners.
- M. All the criteria specific to a particular temporary use as provided in Section ____ are met.
- N. The Zoning Administrator may impose conditions with the issuance of the permit which are designed to insure compliance with the requirements of this Ordinance and other applicable federal, state, or local laws, regulations, ordinances or codes.

14.8.4 Renewable Temporary Zoning Permits: Temporary Zoning Permits which are renewable may be renewed in the same manner as issuance of the original permit,

except the application for renewal shall be filed at least fifteen (15) days prior to the expiration date of the current permit, and applications for renewal or extension of a permit for less than fifteen (15) days may be applied for no later than three (3) days prior to the expiration date of the current permit. Fees may be assessed in accordance with the Township Fee Schedule.

14.8.5 Performance Guarantee for a Temporary Use: The Zoning Administrator may require a performance guarantee in the form of cash, check or savings certificate or irrevocable bank letter of credit be deposited with the Township Treasurer in an amount equal to the estimated cost of removing any temporary structure for which a Temporary Zoning Permit is authorized under this Section for use in the event it is not removed by an applicant at the end of an authorized period. The applicant shall similarly sign an affidavit holding the Township harmless against any claim for damages if the Township were to subsequently use the performance guarantee to remove the temporary structure after its authorized period had expired. The performance guarantee shall be returned when all the terms and conditions of the temporary Zoning Permit have been met (See Sec. 14.13) and the temporary use or structure has been removed.

14.8.6 Permit Revocation: A temporary Zoning Permit may be revoked at any time for any of the following reasons:

- A. Nonconformance with the requirements of this Section and/or a permit issued thereunder;
- B. Evidence that the Temporary Zoning Permit was obtained by misrepresentation or fraud;
- C. That one (1) or more of the conditions of the Temporary Zoning Permit have not been met; and
- D. That the temporary use is in violation of any statute, Ordinance, law, or regulation.

14.8.7 Cessation of Temporary Use Upon Revocation: Upon expiration or revocation of a temporary Zoning Permit for a temporary use, building or structure, the temporary use shall cease and all temporary structures, dwellings or buildings shall be removed from the parcel of land. Any use or structure established under a temporary use permit shall not give rise to any vested rights of use or property except for a limited lawful use during the term of and in accordance with the temporary permit.

14.8.8 Appeal: An appeal of a decision by the Zoning Administrator relative to approval or denial of a temporary Zoning Permit for a temporary use or renewal thereof may be taken to the Zoning Board of Appeals.

Sec. 14.9 Certificate of Zoning Compliance

No land shall be occupied or used and no building shall be used or changed in use for which a Special Land Use Permit, PUD Permit, Condominium Project Permit, or other use for which major site plan approval was granted, until a Certificate of Zoning

Compliance shall have been issued by the Zoning Administrator stating that the building and its intended use complies with the provisions of this Ordinance.

14.9.1 Notification for Inspection Prior to Occupancy: The holder of every Special Land Use Permit, PUD Permit, Condominium Project Permit, or other use for which major site plan approval was granted, shall notify the Zoning Administrator within 24 hours after completion of the work authorized by such permit for a final inspection and issuance of a Certificate of Zoning Compliance.

14.9.2 Certificates for Existing Buildings: Certificates of Zoning Compliance may be issued upon request for existing buildings, structures, or parts thereof, or existing uses of land if, after inspection, such uses of land are in conformity with the provisions of this Ordinance. Where the certificate is issued for building, or use not in conformity with this Ordinance, the certificate shall specify the degree of nonconformity including but not limited to use type, use intensity, structures, and dimensions.

14.9.3 Certificates for New or Changed Uses:

A. Application for Certificates of Zoning Compliance shall be in writing to the Zoning Administrator on a forms furnished for that purpose, and such certificates shall be issued within five (5) days after receipt of such application if it is found that the building or structure, or part thereof, or the use of land is in accordance with the provisions of this Ordinance or any permit or permit condition issued or approved under this Ordinance.

B. If such certificate is refused for cause, the applicant therefore shall be mailed a notice of such refusal and cause thereof, within the aforesaid five (5) day period.

C. Except upon a written order of the Zoning Board of Appeals, a Certificate of Zoning Compliance shall not be issued for any building, structure or use of land that would be in violation of any of the provisions of this Ordinance.

Sec. 14.10 Zoning Approval Runs With the Land and Status of Prior Uses

The approval to engage in any land use activity or to construct a building or structure that has received a Zoning Permit, Certificate of Zoning Compliance, Special Land Use Permit, PUD Permit, Condominium Project Permit or other permit issued under the authority of this Ordinance, or any variance granted by the Zoning Board of Appeals, runs with the land, and not with the owner, just like a nonconforming use right. Thus, any person who builds or uses land based on a valid permit or approval granted under the terms of this Ordinance, and later dies, should rest assured that the rights, limitations and conditions granted in that permit automatically transfer to the new owner(s) of the land, provided there were no unresolved violations applicable to the land that were unresolved by the previous owner prior to his/her death. By the same token, any person may sell property, to another person, who will enjoy the same rights, privileges and restrictions as the seller, provided that the seller, prior to the sale, used the property in conformance with a lawful permit and the land use was not in violation of the Ordinance prior to the sale.

Sec. 14.11 Conditional Approvals and Recording Conditions with Register of Deeds

A. Site plans for Special Land Uses, Planned Unit Developments, Condominium Projects, variances or other discretionary decisions may be approved with reasonable conditions.

B. The conditions may include conditions necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet the following requirements:

1. Be designed to protect natural resources, the health, safety, and welfare, as well as the social and economic well-being of those who will use the land use or activity under consideration, residents, and landowners adjacent to the proposed land use or activity, and the community as a whole.
2. Be related to the valid exercise of the police power, and to the proposed use or activity.
3. Be necessary to meet the intent and purpose of the zoning requirements; be related to the standards established in this Ordinance for the land use or activity under consideration; and be necessary to insure compliance with those standards.
4. Be in compliance with the conditions of any permits and approvals issued for the project by other jurisdictions or agencies.

14.11.1 Recording Conditions with the Register of Deeds. At the direction of the body or official making the final decision to approve or approve with conditions a planned unit development, Special Land Use, variance or other discretionary approval authorized by this Ordinance, or as otherwise may be specified by this Ordinance, or at the discretion of the Zoning Administrator, an approval or approval with conditions may be recorded with the County Register of Deeds. The following requirements shall be met with each recording:

A. The applicant shall record an affidavit which has received the approval of the Township Attorney with the County Register of Deeds containing the full legal description of the project site, containing the approved site plan, the specific terms of any permit, any documents that pertain to permanent preservation of open space, the date of final Township approval, and declaring that all improvements will be carried out in accordance with the approved site plan or variance unless an amendment thereto is adopted by the Township. In addition, all deed restrictions and easements associated with the property shall be duly filed with the Register of Deeds of the Township in which the property is located and copies of all recorded documents shall be presented to the Zoning Administrator. These documents shall be binding upon the landowners, their successors and assigns, and shall constitute the development regulations for the land. The applicant shall submit proof to the Zoning Administrator that these

documents have been recorded with the County Register of Deeds within ninety (90) calendar days of project approval or the approval shall be rendered invalid. Once the proper documents have been recorded with the County Register of Deeds, the applicant may proceed, consistent with the approved Site Plan and Permit, to develop the land.

B. A copy of any agreement between joint users of parking areas shall be filed with the application for a Zoning Permit and recorded with the Register of Deeds. The agreement shall include a guarantee for continued use of the parking facility by each party. A copy of all recorded documents shall be presented to the Zoning Administrator.

C. All documents to be recorded with the County Register of Deeds at the initiative of the Township, shall be first reviewed and approved as to form and content by the County Prosecuting Attorney or other legal representative of the Township retained for that purpose.

Sec. 14.12 Performance Guarantees and Performance Bonding For Compliance

In authorizing any Zoning Permit, Temporary Zoning Permit, Special Land Use Permit, Planned Unit Development Permit, Condominium Project, platted Subdivision, site plan approval or variance, the body or official which approves the respective request, as designated by this Ordinance, may require that a performance guarantee (See Sec. 14.9.5) or bond be furnished: (1) to insure compliance with the requirements, specifications and conditions imposed with the grant of such approval, permit or variance; and (2) to provide sufficient resources for the Township to complete required improvements or conditions in the event the permit holder does not; or (3) to insure the discontinuance of a temporary use by a stipulated time.

14.12.1 Improvements Covered: Improvements that shall be covered by the performance guarantee or bond include, but are not necessarily limited to: streets and other roadways, utilities, fencing, screening, landscaping, common open space improvements, lighting, drainage and sidewalks. The term "improvements" should not be construed to mean the project itself, but rather those features associated with the project which are deemed necessary to protect the health, safety and welfare of the Township's resources and future users or inhabitants of the proposed project. The term "improvements" does not include improvements for which a performance guarantee has been deposited pursuant to the Land Division Act, Public Act 288 of 1967, as amended. The performance guarantee shall meet the following requirements:

A. Form: The performance guarantee shall be in the form of cash, certified check, irrevocable bank letter of credit, surety bond, or similar instrument acceptable to the Township Treasurer, which names the property owner as the obligor and the Township as the obligee.

B. Time when Required: The performance guarantee or bond shall be submitted at the time of issuance of the permit authorizing the activity of the project. If appropriate, based on the type of performance guarantee submitted, the Township shall deposit

the funds in an interest bearing account in a financial institution with which the Township regularly conducts business.

C. Amount and Type: The amount and type of the performance guarantee shall be determined by the body or official making the decision to approve the request, or if they have not done so, by the Zoning Administrator. The amount of the performance guarantee or bond should be sufficient to cover the estimated cost of the improvements or conditions. The performance guarantee shall be reasonable, appropriate, and commensurate with the scope of the project. Additional guidelines for establishing the amount of a performance guarantee or bond may be prescribed by resolution of the Township Board of Trustees.

14.12.2 Return of Performance Guarantee or Bond: The Zoning Administrator, upon the written request of the obligor, and pursuant to the procedure in the next subsection, shall rebate portions of the performance guarantee upon determination that the improvements for which the rebate has been requested have been satisfactorily completed. The portion of the performance guarantee to be rebated shall be in proportion to the work completed on the applicable improvement or condition and may be written as an element of the conditions surrounding the approval of the project.

14.12.3 Withholding and Partial Withholding of Performance Bond: As required improvements are completed, or when all of the required improvements have been completed, the obligor shall send written notice to the Zoning Administrator of completion of said improvements. Thereupon, the Zoning Administrator shall inspect all of the improvements and shall transmit recommendation to the Planning Commission or Township Board of Trustees indicating either approval, partial approval, or rejection of the improvements or conditions with a statement of the reasons for any rejections. If partial approval is indicated, the cost of the improvement or condition rejected shall be set forth.

A. The Planning Commission shall either approve, partially approve or reject the improvements or conditions with the recommendation of the Zoning Administrator's written statement and shall notify the obligor in writing of the action of the Planning commission within thirty (30) days after receipt of the notice from the obligor of the completion of the improvements. Where partial approval is granted, the obligor shall be released from liability pursuant to relevant portions of the performance guarantee or bond, except for that portion adequately sufficient to secure provision of the improvements not yet approved.

B. Should installation of improvements begin and fail to meet full completion based on the approved Site Plan, or if the project area is reduced in size and improvements are only partially completed or conditions only partially met, the Township may complete the necessary improvements or conditions itself or by contract to an independent developer, and assess all costs of completing the improvements or conditions against the performance guarantee or bond. Any unused balance remaining would be returned to the applicant, any excess expense would be recorded as a lien on the property.

14.12.4 Record of Performance Guarantees: A record of authorized performance guarantees shall be maintained by the Zoning Administrator.

Sec. 14.13 *Reserved for Future Use*

Sec. 14.14 *Reserved for Future Use*

PART III – NOTICE AND HEARING PROCEDURES

Sec. 14.15 Public Notice

All applications for development approval requiring public hearings shall comply with the notice provisions of the Michigan Zoning Enabling Act (MZEA). If there are any conflicts between the notice requirements of this ordinance and the MZEA, the provisions of the MZEA shall control, except that the provisions of this ordinance may require greater notice than that required by the MZEA.

14.15.1 Content, Timing and Other Notice Requirements.

A. Content: All notices for public hearings, whether done by publication or mail (written notice) shall:

1. Identify application: Identify the application and the name, address, and telephone number of the applicant or the applicant's agent.
2. Date, time and place of public hearing: Indicate the date, time and place of the public hearing(s).
3. Location: Describe the land involved by street address or by legal description and nearest cross street, and area (size).
4. Describe nature and scope of application: Describe the nature, scope and purpose of the application or proposal.
5. Notify public where they may be heard: Include a statement stating that the public may appear at the public hearing in person or by counsel, be heard and submit evidence and written comments with respect to the application.
6. Written comments: Include a statement describing when and where written comments will be received prior to the public hearing.

B. Published Notice: When the provisions of this Ordinance require that notice be published, the Zoning Administrator shall be responsible for preparing the content of the notice and publishing the notice in a newspaper of general circulation that has been selected by the Township. The content and form of the published notice shall be consistent with the requirements of the MZEA.

C. Written (Mailed) Notice

1. General: When the provisions of this Ordinance require that written or mailed notice be provided, the Zoning Administrator shall be responsible for preparing

and mailing the written notice. Notice shall be mailed to all persons required to notice under the MZEA.

2. Notice by mail/affidavit: Notice shall be deemed mailed by its deposit in the United States mail, first class, properly addressed, postage paid. The Zoning Administrator shall prepare a list of property owners and registrants to whom notice was mailed.

D. Timing of Notice: The timing of the notice shall be as provided in the MZEA.

14.15.2 Registration to Receive Notice by Mail:

A. General: Any neighborhood organization, public utility company, railroad or any other person may register with the Township Clerk to receive written notice of all applications for development approval pursuant to Section 14.16.1.C., Written (Mailed) Notice, or written notice of all applications for development approval within the zoning district in which they are located. The Township Clerk shall provide copies of these requests to the Office of the Zoning Administrator which shall be responsible for providing this notification. Fees may be assessed in accordance with Public Act 267 of 1967, as amended.

B. Requirements for Eligibility: To be eligible for registration, the requesting party must provide the Township Clerk information in the form required by the Township Clerk to ensure notification can be made. All persons that have been registered must re-register bi-annually to remain registered and continue to receive notification pursuant to this Section.

14.15.3 Deferral of Review of Application:

A. Submission of Request: An applicant may request that a decision-making or advisory bodies' consideration of an application at public hearing be deferred by submitting a written request for deferral to the Zoning Administrator.

B. Zoning Administrator Review: The Zoning Administrator shall consider deferral requests of less than thirty (30) days, and shall grant such requests for good cause. The date of the public hearing at which the application will be heard shall be set at the time the deferral is granted by the Zoning Administrator.

C. Decision-Making or Advisory Body Review: The decision-making or advisory body reviewing the application shall consider deferral requests of more than thirty (30) days, and shall grant such requests for good cause. The date of the public hearing at which the application will be heard shall be set at the time the deferral is granted by the decision-making body or advisory board.

D. Applicant to Pay Costs of Deferral: The applicant shall pay all the direct costs of additional notice, staff time and per diem expenses associated with a deferral of review of an application.

14.15.4 Withdrawal of Application:

A. Submission of Application: Any request for withdrawal of an application shall be submitted in writing to the Zoning Administrator.

B. Prior to Notice of Public Hearing: The Zoning Administrator shall approve a request for withdrawal of an application if it has been submitted prior to the time of notice of a public hearing.

C. The Planning commission may allow an applicant to withdraw an application at the request of the applicant.

14.15.5 Notification of Decision: Notification of a decision on an application for development approval shall be provided by the Zoning Administrator to the applicant by mail within fourteen (14) days after the decision. A copy of the decision shall also be made available to the public at the offices of the Zoning Administrator, during normal business hours.

14.15.6 Reconsideration of Applications:

A. General: Whenever any application for development approval is disapproved, a similar application for all or a part of the same land shall not be considered for a period of one (1) year after the date of disapproval unless a Waiver of Time Limit is approved by the decision-making body pursuant to the requirements of Section 14.16.6.B, Waiver of Time Limit. Only one request for Waiver of Time Limit may be submitted by the applicant during the one-year period.

B. Waiver of Time Limit: The Waiver of Time Limit shall be approved only upon a finding by two-thirds of the membership of the decision-making body that:

1. Substantial Change in Circumstances: There is a substantial change in circumstances relevant to the issues or facts considered during review of the application that might reasonably affect the decision-making body's application of the relevant review standards to the development proposed in the application;
- or
2. New or additional information: New or additional information is available that was not available at the time of the review that might reasonably affect the decision-making body's application of the relevant review standards to the development proposed; or
3. New application materially different: A new application is proposed to be submitted that is materially different from the prior application; or
4. Material mistake of fact: The final decision on the application was based on a material mistake or omission of fact that if known, would likely have resulted in a different determination.

14.15.7 Examination and Copying of Application/Other Documents: At any time upon reasonable request and during normal business hours, any person may examine an application, the Staff Report and materials submitted in support of or in opposition to an application in the office of the Zoning Administrator, subject to recognized exceptions under the Freedom of Information Act or other state or federal law. Copies of such materials shall be made available at a reasonable cost.

Sec 14.16 Public Hearings

All public hearings including but not limited to amendments to the text and Zone District Map (rezoning); Planned Unit Development Permits; Condominium Project Permits, Special Land

Use Permits; and Variances, held pursuant to this Ordinance shall comply with the following procedures.

A. Conduct of Public Hearing

1. Burden of Proof or Persuasion: The burden of demonstrating that an application complies with applicable review and approval standards of this Ordinance is on the applicant, not the Township.
2. Rights of All Persons: Any person may appear at a public hearing and submit evidence, either individually or as a representative of a person or an organization. Each person who appears at a public hearing shall be identified, state an address, and if appearing on behalf of a person or organization, state the name and mailing address of the person or organization being represented.
3. Exclusion of Testimony: The Planning commission, the Zoning Board of Appeals, or the Township Board of Trustees may place reasonable and equitable limitations on the presentation of evidence and arguments including, as they believe necessary in a particular instance, excluding testimony or evidence that it finds to be irrelevant, immaterial or unduly repetitious.
4. Offers of Testimony: In the event any testimony or evidence is excluded as irrelevant, immaterial or unduly repetitious, the person offering such testimony or evidence shall have an opportunity at that meeting to offer such testimony or evidence for the record. Such offer shall be made at the public hearing.
5. Continuance of Public Hearing
 - a. General: The body conducting the public hearing may, on its own motion or at the request of any person, continue the public hearing to a fixed date, time and place and may keep the public presentation portion of the public hearing open to take additional testimony up to the point a final decision is made. An applicant shall have the right to request and be granted one continuance; however, all subsequent continuances shall be granted at the discretion of the body conducting the public hearing only upon good cause shown.
 - b. Notice: A public hearing for which proper notice was given may be continued to a later date without again complying with the notice requirements of this Section, provided that the continuance is set for a date within thirty (30) days, and the date, time and place of the continued hearing is announced at the time of the continuance and there is continued compliance with the Open Meetings Act (Public Act 267 of 1976, as amended).

B. General Procedures and Findings at Public Hearing

1. Time: The body conducting the hearing shall act in accord with any time limits established in this Ordinance. Action shall be taken as promptly as possible in consideration of the interests of the applicant, the citizens of the Township and the Township, and shall include a statement of a recommendation or decision of approval or disapproval (whichever is appropriate).
2. Form of Decisions: The form of all decisions shall include at least the following elements:
 - a. Summary of information: A summary of the information presented before the decision-making body.

- b. Summary of evidence in record: A summary of all documentary evidence submitted into the record.
- c. Statement of findings: A statement of findings or other factors considered, whichever is appropriate, and a statement of the basis upon which such facts were applied with respect to the relevant review standards, if required by state law.
- d. Recommendation or decision: A statement of a recommendation or decision of approval, approval with conditions or disapproval (whichever is appropriate).

14.17 Reserved for Future Use

14.18 Reserved for Future Use

PART IV – SITE PLAN REVIEW

Sec. 14.19 Site Plan Review – Purpose and Intent

It is the purpose of this Part IV of Article XIV to require site plan review for certain buildings, structures and uses that can be reasonably expected to have a significant impact on natural resources, traffic patterns, and the character of development in an area, or the capacity of public infrastructure and services.

The requirements contained in this Part IV are intended to reduce the hazards to life and property due to fire, flooding, soil erosion, poor surface water drainage, inadequate private sewage disposal systems, pollution, dust, fumes, noise vibrations, noxious odors and other hazards; and to promote and facilitate the adequate provision of a system of roads, streets and parking, sewage disposal, drainage, public education, recreation and other public requirements, and to promote the harmonious relationship of land uses through proper design.

Sec. 14.20 Jurisdiction

Either a major or a minor site plan is required to be submitted for review as specified in this Article for all of the following land uses:

- 1. All residential developments requiring a Zoning Permit other than individual single-family homes, duplexes, and accessory buildings associated with them, other than those located in a watershed overlay district.
- 2. All nonresidential developments requiring a Zoning Permit;
- 3. Any use by right with conditions specified as requiring site plan review;
- 4. All platted subdivisions and Condominium Projects involving more than two dwelling units,
- 5. All special land uses;
- 6. All PUDs;
- 7. All expansions or enlargements to nonconforming uses or nonconforming structures that results in a need for ten (10) or more additional parking spaces, per the standards of this Ordinance, and

8. Any other land use requests referred to the Planning commission by the Zoning Administrator.

14.20.1 The Planning commission shall approve, deny or approve with conditions site plans for Special Land Uses (see Article XVI), PUDs (see Article XVII) and Condominium Projects (see Article XVIII) as part of the review and approval process for those uses; except that site plans for Hardship PUDs and platted subdivisions shall be acted upon by the Township Board of Trustees. Where site plans are reviewed by the Zoning Administrator, the Zoning Administrator shall take action to approve, approve with conditions, or deny the site plan, except where the final decision is made by the Planning commission or Township Board of Trustees.

14.20.2 Major and Minor Site Plans:

A. All site plans associated with a platted subdivision, a Condominium Project, an application for a Special Land Use Permit, or a PUD Permit, and all other site plans for new land uses or expansions or changes of use of existing land uses requiring more than ten (10) new parking spaces or a principal structure of more than five-thousand (5,000) square feet, or more than two (2) acres in affected area for nonresidential land uses, shall be classified as major site plans.

B. All other site plans are classified as minor site plans unless the Zoning Administrator determines that the proposed project may have a significant impact on natural resources, traffic patterns or future development in the vicinity, in which case the site plan shall be processed as a major site plan.

14.20.3 Minor Site Plans:

A. The Zoning Administrator shall review and approve the following site plans without their submission to the Planning commission; except that where the applicant, the Planning commission, or the Zoning Administrator so requests; then the site plan shall be reviewed by the Planning commission before final action by the Zoning Administrator:

1. Accessory uses incidental to a conforming existing use where said use does not require any variance and where said site plan conforms with all the requirements of this Ordinance.
2. Expansion and/or addition to an existing conforming use where said site plan conforms with all the requirements of this Ordinance.
3. Accessory storage buildings in all Zoning Districts.
4. Increases in off-street parking areas, parking buildings and/or structures, increases in loading/unloading spaces, and landscape improvements as required by this Ordinance.
5. For those Special Land Uses so specifically identified in this Ordinance.
6. Amendments to approved site plans.
7. Final site plans.
8. Any other site plan review not delegated for review by the Planning commission.

B. The Zoning Administrator shall apply all applicable standards and procedures of this Ordinance in approving, conditionally approving or denying minor site plans.

14.20.4 Relationship to Variances: If it is evident that in order for a site plan to be approved, one or more variances must be obtained, the Zoning Administrator shall so inform the applicant

and explain the procedural steps and implications of initiating a variance request. The applicant shall make the decision as to when or whether to proceed with a variance request.

Sec. 14.21 Site Plan Review Procedures

14.21.1 Application: The owner or his/her designated agent shall file an application requesting site plan review with the Zoning Administrator on a special form designated for the purpose. The owner and/or applicant shall include his/her full name, address, telephone number, fax number, e-mail address and his/her signature on the application. All site plans shall comply with the terms of the Soil Erosion and Sedimentation Control Act MCL 324.9101 et seq, and “as built” plans or construction drawings shall be filed with the Planning commission immediately after construction is completed that demonstrates compliance with this Act.

A. Complete Application: An application that does not fully comply with the submittal requirements of this Ordinance in the opinion of the Zoning Administrator, shall be returned to the applicant. The Zoning Administrator shall make a determination of whether an application is complete within fourteen (14) calendar days of submittal of the application.

B. An application for a major site plan determined to be complete by the Zoning Administrator shall be scheduled for review by the Planning commission.

C. An application for a minor site plan determined to be complete by the Zoning Administrator shall be processed in a timely fashion by the Zoning Administrator as provided in this Article.

14.21.2 Site Plan: Each application for Site Plan Review shall contain the required quantity plan view line drawings as set forth in Table 14-1, and shall include all of the following information unless specific waivers are granted by the Zoning Administrator for the number of copies in Table 14-1 or those items specified in Table 14-2. Waivers of specific required information may be granted upon a written finding that no good public purpose will be achieved by requiring conformance with the standards sought by the applicant to be waived; that public health, safety and general welfare will not be unnecessarily compromised by a waiver; and that the purpose and intent of the site plan review requirements specifically and the Ordinance generally will still be achieved. All waivers shall be recorded in a log maintained by the Zoning Administrator listing the applicant, application number, the standard requested to be waived, and the decision of the Zoning Administrator.

**Table 14-1
Required Copies of Site Plans**

Type of Project	# of Copies (unless fewer are required by the Zoning Administrator)	
Conservation PUD with less than 15 lots or dwelling units	12	
Major Site Plan	22	
Minor Site Plan	12	

Table 14-2
Site Plan Submittal Requirements and Elements that May be Waived
by the Zoning Administrator

Requirements for Site Plan Completeness	Portion of Site Plan Eligible for Waiver by Zoning Administrator
	Major Site Plans Minor Site Plans Conservation PUDs
A. A scale drawing at no smaller than 1" =50' (1" = 20' for land under five (5) acres) with the scale proportional to the size of the project showing maximum detail on one (1) or more sheets of paper measuring not more than twenty-four (24) by thirty-six (36) inches may be submitted.	none scale may be changed
B. Property dimensions, total acreage of the site, legal description of the property, plat name, lot numbers, property lines including angles, dimensions, and reference to a section corner, quarter corner, or point on a recorded plat, as well as existing or proposed deed restrictions or previous zoning approval limiting the property and in the case of a condominium development, the proposed master deed.	none
C. All existing natural features including vegetation, streams, lakes, ponds, etc. on site and within five-hundred (500) feet. The location of stands of trees and individual trees, apart from the stands of trees having a caliper of twelve (12) inches or greater, four feet above existing grade, with an indication as to which will be retained and which will be removed or altered by earth changes. Also, all other significant vegetation to be retained and the location of all proposed landscaping, buffer strips, greenbelts, berms, fences or walls shall be shown.	none all none
D. Existing and proposed public rights-of-way and/or private easements.	none none none
E. Water courses and water bodies including surface drainage ways.	none none none
F. Location, width and name of abutting streets and proposed streets, drives, sidewalks, and easements serving the development, and the location of all roads and driveways within 200 feet of the parcel.	none none none
G. Location, shape and ground footprint of proposed buildings and intended uses thereof, as well as building dimensions, floor area, finished floor elevation, building height and lot coverage.	none finished floor elevation
H. Location, dimensions and design of off-street parking areas, including type of surface materials, maneuvering lanes, service lanes, off-street loading spaces and other service areas within the development.	none all

I. Location of water supply and the location and design of waste water systems and solid waste disposal facilities (including trash receptacles and dumpsters). All utility lines must be indicated along with the location and specifications of any proposed above or below ground storage facilities for any chemicals, salts, flammable materials, or hazardous materials, as well as any containment structures or clear zones required by government authorities.	None
J. Proposed grades of any site retention and detention facilities, and site drainage pattern at a minimum of two (2) foot intervals. Show benchmark location and location of site retained water with calculations. Written documentation prepared by a registered civil engineer indicating that the peak rate of stormwater runoff after development will not exceed the peak rate of stormwater runoff occurring before development (for a storm with a twenty-five (25) year frequency and twenty-four (24) hour duration.	none site drainage pattern at a minimum of two (2) foot intervals
K. Proposed location of proposed uses of common open spaces and recreational facilities, including all pedestrian or bicycle trails, if applicable.	none
L. Proposed location of accessory buildings and use, including free-standing signs and on-site lighting.	free-standing signs
M. A location map at a smaller scale indicated the relationship of the site to the surround land use.	all
N. North arrow, scale, descriptive legend, name and address of applicant, name and address of the licensed professional surveyor, engineer, landscape architect or architect involved in development of the site plan, the professional seal of the preparer, and date prepared or last amended. The property owners and applicants' names, addresses and phone numbers shall also be indicated.	none name and address of surveyor, engineer, landscape architect or professional planner involved in development of the site plan, the professional seal of the preparer, only if no professional was involved in the development of the site plan
O. Distance of proposed structures from rear, side, and front lot lines.	none
P. The zoning of the site and of all adjacent property and the location of any building or structure with a base area larger than ten (10) square feet on adjacent property within two-hundred (200) feet of the parcel boundary.	none the location of any building or structure with a base area larger than ten (10) square feet on adjacent property within two-hundred (200) feet of the parcel boundary
Q. The location of all proposed outside storage and the manner in which it is to be screened and accessed.	none
R. Dimensions and number of proposed lots or condominium units.	none
S. Any variances to be requested.	none
T. All areas within the 100-year flood plain, regulated wetlands, sand dunes, or high-risk erosion areas on to the site.	none
U. A completed Environmental Permits Checklist.	none

V. For projects requiring an Impact Assessment pursuant to Section 14.5.3, a completed Impact Assessment Work Sheet on a special form designed for the purpose and as adopted or periodically updated by the Planning commission shall accompany the Site Plan.	none
W. For projects requiring a Traffic Impact Assessment pursuant to Section _____, a completed Traffic Impact Assessment shall accompany the Site Plan.	none
X. Any other information required by the Zoning Administrator to establish compliance with the Ordinance.	All
Y. All site plans shall comply with the terms of the Soil Erosion and Sedimentation Control Act MCL 324.9109 et seq, and "as-built-plans" or construction drawings shall be filed with the Planning commission immediately after construction is completed that demonstrates compliance with this Act.	All
Z. Stormwater drainage d plans addressing a 100 year storm design base including: flows onto the site from adjacent sites and roads, storm water impact on the site (soils, impervious surfages, potential impervious surface, retention ponds, detention ponds, and related temporary as well as permanent management facilities as appropriate), and the storm water outfall, or flow control into adjacent drainage courses, ditches and the like. On sites having limited area as is existing built-up community areas with small lots, the Planning commission may permit controlled exception to the 100 year storm base for good and sufficient reasons.	All

14.21.3 Impact Assessment Submittal Requirements: With each application for a major site plan, and for all PUD, subdivision plat and Condominium Project applications, a written impact assessment shall be submitted which includes the following information:

- A. A written description of the environmental characteristics of the site prior to development, i.e., topography, soils, vegetative cover, drainage, streams, creeks or ponds.
- B. Existing and proposed future types of uses and other man-made facilities.
- C. The number of people to be housed, employed, visitors or patrons and vehicular and pedestrian traffic. A traffic impact assessment may be required.
- D. Phasing of the project including ultimate development proposals.
- E. Natural features which will be retained, removed and/or modified including vegetation, drainage, hillsides, streams, wetlands, woodlands, wildlife and water. The description of the areas to be changed shall include their effect on the site and adjacent properties. An aerial photo may be used to delineate the areas of change.
- F. The method to be used to serve the development with water and sanitary sewer facilities.
- G. The method to be used to control drainage on the site and from the site.

H. If public sewers are not available to the site the applicant shall submit a current approval from the District Health Department or the Department of Environmental Quality indicating approval of plans for sewage treatment.

I. The method to be used to control any increase in effluent discharge to the air or any increase in noise level emanating from the site. Consideration of any nuisance that would be created within the site or external to the site whether by reason of dust, noise, fumes, vibration, smoke or lights.

J. An indication of how the proposed use conforms with existing and potential development patterns and any adverse effects.

K. Description of measures to control soil erosion, sedimentation and stormwater runoff during grading and construction operations and until a permanent ground cover is established.

L. Type, direction and intensity of outside lighting.

M. General description of deed restrictions, if any.

N. Name(s) and address(es) of person(s) responsible for preparation of the impact statement.

O. The "environmental provisions" of Article XXII shall be addressed when applicable.

14.21.4 Three-Dimensional Depiction of Buildings on a Site: The Planning commission may require the applicant to do one of the following as a condition to final approval of a site plan:

A. Develop a scale model of the proposed project including the area within one hundred (100) feet of the site;

B. Develop a drawing using three-dimensional software that depicts a solid form of the proposed buildings within one hundred (100) feet of the site;

C. Place property corner stakes and building corner stakes prior to an on-site review of the proposed project;

D. Erect a temporary frame structure or poles on the corners of proposed buildings that shows the proposed height of buildings when buildings are proposed in excess of twenty-eight feet, mean height.

14.21.5 Site Plan Review Fee: A fee shall be charged to the applicant for site plan review based on a schedule developed by the Township Board of Trustees.

Sec. 14.22 Standards for Site Plan Review

14.22.1 General Site Plan Review Standards: In reviewing a major or a minor Site Plan, the reviewing authority shall consider the following standards, as applicable. Additional standards provided in this ordinance for Conditional Uses, Special Land Uses, Condominium Projects and PUDs also apply and shall be reviewed as part of the site plan review process. The Zoning Administrator shall prepare a checklist of the following standards to ensure each is reviewed and compliance is determined prior to approval.

- A. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.
- B. Ingress and egress to the property and proposed structures thereon shall provide motor vehicle and pedestrian safety and convenience, efficient traffic flow and control, and easy access in cases of fire, catastrophe or emergency.
- C. Every structure or dwelling unit shall have access to a public or approved private street, walkway, or other areas dedicated to common use.
- D. Appropriate measures shall be taken to ensure that dewatering on a site will not adversely affect neighboring properties or the County storm drainage system.
- E. Provisions shall be made for the construction of storm sewer facilities including grading, gutters, piping and treatment of turf to handle storm water, prevent erosion and the formation of dust. Surface water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicle or pedestrian traffic or create puddles in paved areas.
- F. That as many natural features of the landscape shall be retained as possible where they furnish a barrier or buffer between the project and adjoining properties used for dissimilar purposes and, where they assist in preserving the general appearance of the neighborhood or help control erosion or the discharge of storm waters.
- G. That any adverse effects of the proposed development and activities emanating therefrom upon adjoining residents or owners shall be minimized by appropriate screening, fencing, or landscaping.
- H. That existing stands of trees and large individual trees be preserved to the extent feasible.
- I. Off-street parking and loading areas where required, shall be satisfactory in size, shape and design and not present noise, glare, odor or other nuisance effects on adjoining properties and properties in the proposed development above a level enjoyed by existing similar uses in the area, or in that zone.
- J. The type, dimensions and character of open spaces, landscaping, screening and buffering shall enhance the design, character, use and value of the property and abutting lands and waters. Any exterior lighting shall be designed to prevent unnecessary illumination of the night sky and shall be shielded from adjacent properties.
- K. Signs, if any, and their proposed size, shape, height and lighting relative to glare, traffic safety, and economic effect, shall be aesthetically pleasing, compatible and in harmony with signs, structures and uses of adjoining properties.
- L. Garbage storage and disposal and recycling bins shall be designed to ensure no vermin or rodent infestation and easy access to facilities which are screened from view from the street or abutting properties when not in use.

- M. The applicant shall demonstrate that reasonable precautions will be made to prevent hazardous substances from entering the soil or water with special attention to the following:
1. Sites at which hazardous substances are stored, used or generated shall be designed to prevent spills and discharges to the air, surface of the ground, groundwater, lakes, streams, rivers, or wetlands.
 2. Secondary containment for above ground areas where hazardous substances are stored or used shall be provided. Secondary containment shall be sufficient to store the substances for the maximum anticipated period of time necessary for the recovery of any released substances.
 3. General purpose floor drains shall only be allowed if they are approved by the responsible agency for connection to a public sewer system, an on-site closed holding tank (not a septic system), or regulated through a State of Michigan groundwater discharge permit.
 4. State and federal rules for record keeping, emergency response, transport and disposal of hazardous substances shall be met. No discharges to groundwater, including direct and indirect discharges, shall be allowed without required permits and approvals.
 5. Underground storage tank installation, operation, maintenance, closure, and removal shall be in accordance with the requirements of the State Police Fire Marshal Division and the Michigan Department of Environmental Quality.
 6. Bulk storage facilities for pesticides and fertilizers shall be in compliance with requirements of the Michigan Department of Agriculture.

N. Stormwater drainage plans addressing a 100 year storm design base including: flows onto the site from adjacent sites and roads, storm water impact on the site (soils, impervious surfaces, potential impervious surfaces, retention ponds, detention ponds, and related temporary as well as permanent management facilities as appropriate), and the storm water outfall, or flow control into adjacent drainage courses, ditches and the like. On sites having limited area as in existing built-up community areas with small lots, the Planning commission may permit controlled exceptions to the 100 year storm base for good and sufficient reasons.

All storm water drainage plans shall approved and sealed by a Michigan Registered Professional Civil Engineer. The Planning commission may waive this requirement, defer the requirement, or request a fully engineered storm drainage plan. After completion of construction, an "as-built" drawing and plan of the development, sealed by a Registered Professional Civil Engineer, shall be filed with the Planning commission showing erosion control plans, the standards of this Ordinance, and any conditions of permit approval.

14.22.2 Other Regulations: Before granting approval of any application, the appropriate reviewing authority shall be reasonably sure that the proposed development fully complies with all the following, as are relevant and may condition approval of the site plan on conformance with any of the following:

- A. All applicable State laws administered by the Michigan Department of Transportation, Department of Environmental Quality, Department of Natural Resources, and/or Department of Agriculture;
- B. Township and local Ordinances;

- C. The adopted published rules, standards or policies of the West Benzie Joint Planning Commission;
- D. The published rules, standards or policies of the Benzie County Drain Commissioner;
- E. The published rules, standards or policies of the Benzie County Board of County Road Commissioners;
- F. The published rules, standards or policies of the Benzie-Leelanau District Health Department;
- G. The fire safety and emergency vehicle access requirements of the Michigan Building Code and/or any local Fire Code having jurisdiction;
- H. The published rules, standards or policies of the Benzonia or Platte Township Boards of Trustees.
- I. Any approval shall include the filing of copies of any permits required under any local, state or federal law, the compliance of which shall be made a condition of the approval of a site plan.

Sec. 14.23 Site Plan Approval

A site plan shall be approved if it contains the information required by the Zoning Ordinance and is in compliance with the standards required in the Zoning Ordinance, and with other applicable Ordinances, and state and federal statutes.

- A. An approval of a site plan for a Special Land Use, Condominium Project or Planned Unit Development does not constitute the final approval of a Special Land Use Permit, Condominium Project Permit or PUD Permit. Standards for review and approval of a Special Land Use Permit are described in Article XVI. Standards for review and approval of a Condominium Project are in Article XVIII. Standards for review and approval of a PUD are in Article XVII.
- B. Site plans may be approved with reasonable conditions.

Sec. 14.24 Appeal to Zoning Board of Appeals

Any applicant for Site Plan Review that feels aggrieved by the decision of the Zoning Administrator or the Planning commission may appeal the decision to the Zoning Board of Appeals within twenty-one (21) calendar days of receipt of the decision. The Zoning Board of Appeals shall review the decision of the Zoning Administrator or Planning commission to ensure that it is consistent with the standards contained in this Ordinance and rules established by agencies responsible for site plan review. The Zoning Board of Appeals shall give written justification for their decision. The Zoning Board of Appeals may not grant a variance to any element of a site plan unless an application for a variance has been filed therefor.

Sec. 14.25 Amendment to Site Plan

No changes shall be made to an approved site plan prior to, during or after construction except upon mutual agreement between the applicant and the Township and by application to the Zoning Administrator pursuant to the requirements of this Article.

Sec. 14.26 Conformity to Approved Site Plan

Property which is the subject of site plan approval must be developed in strict compliance with the approved site plan and any amendments thereto, which have received the approval of the Planning commission. If construction and development does not conform with such approved plan, the permit holder or land owner shall be notified of a violation of this Ordinance and if the circumstances warrant, issued a stop work or cease operations order per the requirements of this Ordinance.

Sec. 14.27 As Built Site Plans

Once a project for which a site plan was approved is completed, two (2) sets of "as built" site plans showing the exact building footprints, driveways, parking areas, landscaping, utilities, sidewalks, bike paths and trails shall be signed by the licensed professional who prepared them and delivered to the Zoning Administrator within one (1) month of completion of the project (for each phase of a project if multi-phased). The Zoning Administrator may waive this requirement, except where major utilities, new streets and/or large buildings are involved.

14.28 Reserved for Future Use

14.29 Reserved for Future Use

**PART V – COMPLAINTS, PERMIT SUSPENSION, REVOCATION
AND VIOLATION PROCEDURES**

Sec. 14.30 Complaints, Permit Suspension, Revocation and Violation Procedures

14.30.1 Complaints Regarding Violations: Whenever the Zoning Administrator becomes aware of or receives a complaint alleging a violation of this Ordinance, the Zoning Administrator shall investigate the complaint, take whatever action is warranted and inform the complainant what actions have been or will be taken. Any and all building or land use activities considered possible violations of the provisions of this Ordinance observed or communicated to the County Sheriff's Department or to any Township officials shall be reported to the Zoning Administrator.

14.30.2 Persons Liable: The owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this Ordinance may be held responsible for the violation and suffer the penalties and be subject to the remedies herein provided.

14.30.3 Procedure for Violations: If the Zoning Administrator becomes aware of or receives a complaint of an alleged violation, the process shall be as follows:

- A. A complaint form shall be assigned a number.
- B. A preliminary visit shall be made at the site to identify the alleged violation.
- C. If a violation is identified, the landowner and/or contractor shall be informed, in writing, of the nature of the violation, informed of the action necessary to correct the violation and the date when the compliance is to be completed. The owner or contractor shall also be informed of their right to appeal the decision of the Zoning Administrator. This action may be taken in person or by certified mail.
- D. Where the violation is one of unlawful construction, reconstruction, or removal, a "Stop Work" notice form shall be attached to the site or delivered to the contractor or owner. The owner or owner's agent shall also be informed of their right to appeal the decision of the Zoning Administrator.
- E. The site of the alleged violation shall be re-inspected on the date when the owner or contractor was informed compliance was to be completed.
- F. If compliance has not been completed, and an appeal of the decision of the Zoning Administrator has not been filed, the County Prosecutor shall be informed, to determine further action.
- G. Notwithstanding the foregoing, in cases when delay would seriously threaten the effective enforcement of this Ordinance, if the violation continues, the violation is one of unlawful construction, reconstruction, alteration, removal or usage, or poses a danger to the public health, safety or welfare, the Zoning Administrator may seek enforcement without prior written notice by requesting the County Prosecutor to invoke any one of the remedies authorized in this Ordinance.

14.30.4 Suspension of a Permit: Any permit issued shall become invalid if the authorized work is not initiated within one (1) year of receipt of a permit, or is suspended or abandoned for a period of six (6) months after the time of commencing the work unless the development proposed shall have passed its first building inspection.

14.30.5 Permit Revocation

- A. A Zoning, Special Land Use, Planned Unit Development or Condominium Project Permit may be revoked by the permit-issuing authority in case of any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based, or in case of failure or neglect to develop or maintain the property in accordance with the plans submitted, the requirements of this chapter, or any additional requirement lawfully imposed by the permit-issuing authority or Zoning Board of Appeals. Upon permit revocation, all further construction activities and usage shall cease upon the site, other than for the purpose of correcting the violation. The Zoning Administrator may issue a stop work order to halt all construction activities and usage pending a decision on revocation of said permit.

- B. Before a Minor Special Land Use or Zoning Permit may be revoked, the owner, contractor or alleged violator shall be notified in writing of the reason for such revocation and their right to appeal the decision of the Zoning Administrator to the Zoning Board of Appeals.
- C. Before a Major Special Land Use Permit, Planned Unit Development or Condominium Project Permit may be revoked, the permit recipient shall be given a ten (10) day advance notice of intent to revoke, along with the alleged reasons for the revocation and the right to obtain an informal hearing on the allegations. If the permit is revoked, the Zoning Administrator shall provide the permittee a written statement of the decision and the reasons therefore.
- D. No person may continue to make use of land or buildings in the manner authorized by any Zoning, Special Land Use, Planned Unit Development or Condominium Project Permit after such permit has been revoked in accordance with this section.

14.30.6 Penalties and Remedies

- A. Any person, firm, corporation or other legal entity of any kind, or anyone acting on behalf of said person, firm, corporation or legal entity, who violates any provision of this Ordinance shall, upon a determination of responsibility therefore, be subject to a civil fine, costs and sanctions as provided for in the Benzonia and Platte Township Municipal Civil Infractions Ordinance and Chapter 87 of Act No. 236 of the Public Acts of 1961 and Act 3 of the Public Acts of 1895, as amended. Each day that a violation of this Ordinance is continued or permitted to exist without compliance shall constitute a separate offense punishable upon conviction in the manner prescribed in this Section.
- B. The Zoning Administrator for Benzonia and/or Platte Township, together with deputized officers of the Benzonia County Sheriff’s Department are hereby designated as Authorized Local officials for the issuance of municipal civil infraction citations and/or municipal civil infraction violation notices.

****AMENDED BY BENZONIA TOWNSHIP BOARD AND PLATTE TWP. BOARD EFFECTIVE ON MAY 14, 2014.**

PART VI – OTHER REVIEW PROCEDURES

Sec. 14.31 Other Review Procedures

Unless there is another procedure provided by this ordinance for review and approval of the following land uses, the procedures in this Part VI of this Article shall apply.

14.31.1 Permit Procedure

An application for a SLU, PUD or Condominium Project Permit for any land or structure use permitted under this Article shall be submitted to the Zoning Administrator and shall be accompanied by the payment of a non-refundable fee as established by the Township Board to cover the cost of processing the application.

- A. Data required: Every application shall be accompanied by the following information and data:

1. The application form filled out in full by the applicant, including a statement of supporting evidence showing compliance with the requirements of Section 14.20.
2. Site plan in accord with this Article.
3. A written impact assessment.
- 4 Preliminary plans and outline specifications of the proposed development.

B. Major and Minor Projects:

1. All developments involving a structure greater than five thousand (5,000) square feet, whether being newly constructed or changing the use of, or the development of an area larger than two (2) acres and all PUDs and Condominium Project's, are considered Major projects which require, action by the Planning commission. All other projects are, either Minor Projects or minor amendments to existing site plans, subject to review and approval by the Zoning Administrator.
2. Upon receipt of an application, the Zoning Administrator shall publish in a newspaper having a general circulation in the Township, as required by the Michigan Zoning Enabling Act.

14.31.2 Special Land Use Permit: Requirements.

Before approving a Special Land Use Permit application the Zoning Administrator or Planning commission shall apply the following standards, and shall find adequate evidence that each use on the proposed location will:

- A. Be compatible with adjacent land use, the natural environment and the capacities of public services and facilities affected by the land use.
- B. 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, and residents and landowners immediately adjacent to the proposed land use or activity.
- C. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
- D. Meet the intent and purpose of this Zoning Ordinance.
- E. Be requested by an applicant who may legally apply for the site plan review and has submitted all required information.
- F. Be a development, exclusive of Planned Unit Developments, which conforms to all regulations of the zoning district in which it is located.
- G. Meet the requirements for fire protection, water supply and sewage disposal or treatment.

- H. Meet the standards of other governmental agencies, where applicable, and that the approval of these agencies has been obtained or is assured.
- I. Designed such that natural resources will be preserved to a maximum feasible extent and that areas to be left undisturbed during construction shall be so indicated on the site plan and at the site per se.
- J. Respect floodways and flood plains on or in the vicinity of the subject property.
- K. Be constructed where soil conditions are suitable for excavation and site preparation.
- L. Not cause soil erosion, sedimentation or ground water pollution problems.
- M. Be designed to handle anticipated storm water runoff and will not cause runoff onto neighboring property or overloading of water courses in the area.
- N. Not destroy the character of the property or the surrounding area, and will not adversely affect the adjacent or neighboring properties.
- O. Not disrupt air drainage systems necessary for agricultural uses.
- P. Be designed such that phases of development are in a logical sequence, so that any one phase will not depend upon a subsequent phase for adequate access, public utility services, drainage or erosion control.
- Q. Be designed such that the, plan provides for the proper expansion of existing infrastructure and will not create excessive additional requirements at public cost for public facilities and services.
- R. Provide for landscaping, fences or walls, if required in pursuance of the objectives of this Ordinance.
- S. Provide that parking layout will not adversely affect the flow of traffic within the site, or to and from the adjacent streets.
- T. Provide that vehicular and pedestrian traffic within, the site, and in relation to streets and sidewalks serving the site, shall be safe and convenient.
- U. Provide that outdoor storage of garbage and refuse is contained, screened from view and located so as not to be a nuisance to the subject property or neighboring properties.
- V. Not be hazardous or disturbing to existing or future uses in the same general vicinity and will be a substantial improvement to the property.
- W. Not involve uses, activities, processes, materials, and equipment or conditions of operation that will be detrimental to any persons, property, or the general welfare by fumes, glare, odors, noise, dust, smoke, vibration, light encroachment, or waste.

14.31.3 Written Decision.

Any decision made by the West Benzie Joint Planning Commission, Zoning Administrator, or Zoning Board of Appeals regarding an appeal or variance or issuance or revocation of a Special Land Use, Planned Unit Development, or Condominium Subdivision permit shall be reduced to writing and served upon the applicant or appellant.

**ARTICLE XV
CONDITIONAL USES**

Sec. 15.1 Intent And Purpose

Some uses require certain specific exceptions or conditions. Such Conditional Use Permits are considered Minor Special Land Use Permits, administered by the Zoning Administrator, in conformity with MCL 125.216b, Sec.16b.

Sec. 15.2 Home Occupations

Home Occupations: May be carried on in residential structures under the following conditions:

Customary home occupations such as hairdressing, millinery, dressmaking, bookkeeping and accounting, real estate, and insurance sales when carried on by the occupant, six hundred (600) square feet of area is devoted to such use, and that no outdoor activities are carried on in connection with such use.

Professional office for occupancy by not more than one (1) physician, dentist, attorney, architect, engineer or similar recognized professional practitioner with not more than one (1) full-time equivalent employee.

Such occupations or uses are intended to provide reasonable flexibility, but a permit shall not be granted if the essential character of a lot or structure within a Residential District, in terms of use or appearance, will be changed significantly, however a non-illuminated sign, not more than six (6) square feet in area, and in keeping with the neighborhood, is permitted.

Sec. 15.3 Swimming Pools

Private Swimming Pools shall be permitted as an accessory use, subject to the following restrictions:

- A. Private pools shall meet required yard setbacks.
- B. There shall be a distance of not less than six (6) feet between the outside pool wall and any building located on the same lot.
- C. For the protection of the general public, swimming pools shall be completely enclosed by a fence not less than four (4) feet in height capable of excluding children and small animals, and containing gates of a self-closing or latching type gates shall be capable of being securely locked when the pool is not in use.

Sec. 15.4 Model Homes

Model homes, provided the home and landscaping is completed as if it were to be occupied; is located so as not to create any unsafe conditions, noise, light, traffic or other nuisance to neighboring residential uses; is used for the purpose of selling homes within the immediate subdivision or subdivisions; is open only during normal real estate sales hours; and the duration of use does not exceed one (1) year, unless approved by the Board of Appeals. One (1) sign shall be allowed, meeting the specifications as set forth in Article XIX. There shall be no banners, flags, lighting or other devices used to attract attention or set the model apart from other residential structures in the development. No cooking or sleeping shall be permitted in the Model Home.

Sec. 15.5 Mobile Homes

A. Statement of Intent: It is the purpose of this Section to establish reasonable requirements for mobile homes located outside of licensed mobile home parks to assure that the mobile home, when located upon the particular site, would compare favorably to other housing in such things as aesthetics, insulation, adequacy of plumbing, size of living space, protection from wind storm damage, quality of manufacture, a solid foundation under the same, obscurity of the wheels and chassis and a community standard size lot.

A mobile home must also comply with the minimum dimensional requirements established in Section 3.13 and 3.14.

1. Zones in which mobile homes are permitted:
Mobile homes shall be permitted subject to the provisions and requirements hereafter set forth.
2. Qualifying Conditions:
 - a. Each mobile home shall bear a label required by Section 3232.362(c) (2) of the Federal Mobile Home Procedural and Enforcement Regulations.
 - b. Each mobile home shall be installed pursuant to the manufacturer's setup instruction and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission.

- c. Within ten (10) days following installation, all towing mechanisms shall be removed from each mobile home or concealed or disguised from view. No mobile home shall have any exposed undercarriage or chassis.
- d. Each mobile home shall have footings and a perimeter wall of conventional building materials which shall prevent the entrance of rodents, control heat loss and contribute to aesthetic compatibility with surrounding structures.
- e. All construction and all plumbing, electrical apparatus and insulation, within and connected to each 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, as from time to time amended. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.
- f. Exterior Finish; Light Reflection: Any materials that are generally acceptable for housing built on the site may be used for exterior finish if applied in such a manner as to be similar in appearance; provided, however, that reflection from such exterior shall not be greater than from siding coated with clean, white, gloss, exterior enamel.
- g. Each mobile home shall be aesthetically compatible in design and appearance with other residences, particularly with regard to foundation treatment, siding and roofing materials and perimeter walls. Compatible materials such as siding, screen walls, etc. may be added.

Sec. 15.6 Livestock and Pets

The following shall apply to the keeping of animals and livestock:

- A. Animal husbandry practices involving small animals such as rabbits, poultry, goats and sheep shall not occur on a lot or parcel of less than one (1) acre. The raising or keeping of livestock such as cattle, horses and hogs, shall not occur on a parcel of land less than two and one-half (2 1/2) acres in area.

- B. The carrying out of such practices shall not generate any noise, odor, pollution or other environmental impact which will have an adverse effect on adjacent properties.
- C. No storage or unusual accumulation of manure or odor or dust-producing materials shall be permitted within one hundred (100) feet of any side or rear property line abutting a residential district or existing structure used for residential purposes.
- D. Non-domesticated, wild, or exotic species of animals, or crossbreeds or hybrids thereof, shall be allowed only with written approval of the County Animal Control Officer.

Sec. 15.7 Non-Commercial Storage

Non-commercial storage buildings, shall not be allowed in the R-1, R-2, or R-3 Districts without the foundation for a principal use structure first being in place.

Sec. 15.8 Antennas And Satellite Dishes

Satellite Dishes, wherever possible, shall be located in the rear yard or side yard, but shall conform to the setback requirements, be bonded to a grounding rod, and shall be designed to withstand a wind force of seventy-five (75) miles-per-hour.

Sec. 15.9 Residential, Single Family Dwelling

A single family dwelling may be constructed on a preexisting lot of record in the Light Industrial (L-1) District, providing all other applicable requirements of this Ordinance are complied with.

ARTICLE XVI
SPECIAL LAND USE PERMITS: SUPPLEMENTARY USE REGULATIONS

Sec. 16.1 Supplemental Regulations

This Article establishes the supplemental regulations for the issuance of Special Land Use Permits. Prior to the issuance of a Special Land Use Permit the issuing authority must find that in addition to the standards specified in Article IV, that the specific supplemental regulations are also met.

Sec. 16.2 Reserved for Expansion

Sec. 16.3 Bed And Breakfast Establishments

A. Statement of Intent: It is the intent of this subsection to establish reasonable standards for Bed and Breakfast Establishments to assure that:

1. The property is suitable for transient lodging facilities.
2. Both the use and character of the lot is compatible with others in the same district.
3. Adjacent and nearby private lands shall not be subject to increased trespass.
4. The impact of the establishment is no greater than that of a private home with house guests.

B. The following requirements for Bed and Breakfast Establishments together with any other applicable requirements of this Ordinance shall be complied with:

1. Off-street parking shall be provided in accordance with Article XX of this Ordinance.
2. One non-illuminated sign in accord with Section 19.8.
3. The residence shall be the principal dwelling unit on the property and shall be owner-occupied at all times.
4. The residence shall have at least two(2) exits to the outdoors.

5. The rooms utilized for sleeping shall be a part of the primary residential use and not specifically constructed for rental purposes.
6. The rental sleeping rooms shall have a minimum size of one hundred (100) square feet for each two (2) occupants with an additional thirty (30) square feet for each occupant to a maximum of four (4) occupants per room.
7. Proof of evaluation of the well and septic system by the health department shall be supplied by owner/occupant.
8. The Zoning Administrator or Planning Commission shall require that a floor plan drawn to an architectural scale of not less than one-eighth inch (1/8") = one (1) foot be on file with the fire department.
9. In the event that noise generation may be disturbing to neighbors, or that the location of the establishment is an area where trespass onto adjacent properties is likely to occur, then the Zoning Administrator or Planning Commission may require that fencing and/or planting buffer be constructed and maintained.
10. Rental of snowmobiles, ATV's, or similar vehicles, boats and other marine equipment, in conjunction with the operation of the establishment shall be prohibited.
11. A Special Land Use Permit shall not be granted if the essential character of a lot or structure within the district, in terms of use, traffic generation or appearance will be changed substantially by the occurrence of the Bed and Breakfast use.

Sec. 16.4 Boarding Houses

- A. All residences shall meet all state and local health and safety codes.
- B. No more than three (3) individuals shall be accommodated in any single residence.
- C. Such uses shall be carried out in an inconspicuous manner

so that the nature of activities related to the residence do not differ significantly from activities related to normal residential uses in the districts.

Sec. 16.5 Drive-In Theaters, Race Tracks, Golf Driving Ranges, Golf Courses, and Transient Amusement Enterprises

- A. All sites shall be located on a major thoroughfare and all ingress and egress to the site shall be from said thoroughfare.
- B. All points of entrance and exit for motor vehicles shall be located no closer than two hundred (200) feet from the intersection of any two (2) streets or highways.
- C. Acceleration and deceleration lanes should be provided, where possible, at points of ingress and egress to the site, and left turn lanes at entrances should be located on the major thoroughfare where possible.
- D. Whenever any use permitted herein abuts property within any residential district, a transition strip at least two hundred (200) feet in width shall be provided between all operations and structures, and the residential property. Plant materials, grass, and structural screens or fences of a type approved by the Planning Commission shall be placed within said transition strip.
- E. A minimum yard of one hundred (100) feet shall separate all uses and operations permitted herein, including fences, from any public street or highway used for access or exit purposes. This yard shall be landscaped in accordance with plans approved by the Planning Commission.
- F. Drive-in theaters and race tracks shall be enclosed for their full periphery with a solid screen fence of at least eight (8) feet in height.
- G. For drive-in theaters, vehicle standing space shall be provided between the ticket gates and the street or highway right-of-way line equal to at least thirty percent (30%) of the vehicular capacity of the theater.
- H. Drive-in theater screens shall not be permitted to face any public street and shall be out of view from any major thoroughfare or adjacent residential district.

Sec. 16.6 Contractors and Building Material Dealers

A. Outdoor display of individual pieces of equipment may be allowed in areas so designed in the site plan as approved provided the display area has been designed and constructed as part of the overall site improvements. Display areas shall be suitably landscaped. Such landscaping shall include shrubs and trees in sufficient quantity to mitigate any adverse impact of the outdoor display.

B. Servicing and repairs shall be conducted only within a totally enclosed building.

Sec. 16.7 Automotive Service Installations

A. Facilities to provide maintenance and minor repairs or replacement parts to automotive equipment, such as tires, mufflers, tune ups, electrical repairs, etc., but not including pumping of gasoline or diesel fuels nor major repairs to engines or drive trains.

B. All repairs or servicing shall be conducted only within a completely enclosed building.

C. Parking or storage of any vehicles shall be in accordance with an approved site plan.

D. Screening or fencing shall be as required by the Planning Commission.

Sec. 16.8 Gasoline Service Stations

A. Statement of Intent: Facilities to serve motor vehicles are of considerable importance within the Township, where the basic mode of transportation is the automobile. It is the intent of this Section to exercise a measure of control over service station buildings and their sites, and to establish a basic set of standards which will minimize traffic congestion and safety hazards including an emergency containment plan for spillage of petroleum products.

B. Uses Permitted: Gasoline Service Stations, as defined in Article II, provided all uses and services are conducted within a completely enclosed building.

C. Site Development Requirements: The following requirements for site development together with any other applicable requirements of this Ordinance shall be complied with:

1. Site Location: The proposed site shall have at least one (1) property line on a major thoroughfare.
2. Building Setback: The service station building or buildings shall be set back fifty (50) feet from all street right-of-way lines and shall not be located closer than twenty-five (25) feet to any property line in a residential district.
3. Access Drives: No more than two (2) driveway approaches shall be permitted directly from any major thoroughfare nor more than one (1) driveway approach from any other public street.
 - a. Driveway approach widths shall not exceed thirty- six (36) feet measured at the property line.
 - b. Driveways shall be located as far from street intersections as practical, but no less than fifty (50) feet.
 - c. No driveway or curb cut for a driveway shall be located within ten (10) feet of an adjoining property line.
 - d. Any two (2) driveways giving access to a single street shall be separated by an island with a minimum dimension of twenty (20) feet.
 - e. Lighting: Exterior lighting shall be so arranged that light is deflected away from adjacent properties.
 - f. Signs: As provided in Article XIX.
 - g. Off-Street Parking: As provided in Article XX.

Sec. 16.9 Golf Courses

Golf courses and Country Clubs: Other than golf driving ranges and miniature golf courses, subject to the following conditions:

- A. The site shall be directly accessible from a county, state, or federal highway.
- B. All principal or accessory buildings, including in-ground

swimming pools and parking areas, shall be at least one hundred (100) feet from any property line of abutting residentially-zoned lands.

C. Whenever a swimming pool is to be provided, said pool shall be constructed and operated in accord with Public Act 368 of the Public Acts of 1978, as amended.

Sec. 16.10 Hotels, Motels, Tourist Courts, and Resorts

A. It is the purpose of this section to establish reasonable requirements for transient lodging facilities, exclusive of bed and breakfast establishments. It is intended that these regulations will provide for such facilities in the Township that are appropriate in scale and location so as to not create undue traffic congestion, noise or other interference with the predominantly rural and residential character of the Township.

B. Qualifying Conditions:

1. Minimum Floor Area: Each guest unit shall contain not less than two hundred fifty (250) square feet of floor area.

2. Maximum Lot Coverage: All buildings, including accessory buildings, shall not occupy more than thirty (30) percent of the net area within property lines.

3. Minimum Yard Dimensions: All buildings shall meet all setback requirements.

4. Maximum Building Height: The maximum building height shall be two (2) stories, but not to exceed twenty-eight (28) feet.

5. Site Screening: The site may be enclosed by open structure wood or wire fences not to exceed six (6) feet in height and may be used in combination with shrubs and/or trees. Screening shall not impair site distance for vehicles but shall prevent headlight glare on adjacent property

6. Site Density: One (1) unit, including manager's quarters, shall be allowed for each five thousand (5,000) square feet of lot area.

7. Lighting: No lighting shall have a source of illumination or light lenses visible outside the property line of the parcel or lot, and shall in no way impair safe movement

of traffic on any street or highway.

8. Accessory Uses: Uses such as swimming pools and other outdoor recreational uses, meeting rooms, restaurants, taverns or bars, and a caretaker or proprietor's residence shall be permitted provided that these uses are located on the same site as the principle use to which they are accessory. Appropriate permits shall have been obtained from regulating agencies.

9. Well and Septic System: Proof of acceptability of the well and septic system by the Health Department shall be supplied by owner.

10. A floor plan drawn to a scale of not less than 1/8" = 1', shall be on file with the appropriate fire department.

Sec. 16.11 Sanitary Land Fills, Incinerators And Transfer Stations

- A. All installations shall be in conformity with PA 641 of 1978 - Solid Waste Management Act and the County Solid Waste Management Plan.

Sec. 16.12 Institutional Structures

Authorization: The Planning Commission may authorize the construction, maintenance and operation. Such institutional uses are limited to the following, viz:

- A. Religious Institutions: Churches or similar places of worship, convents, parsonages and parish houses, and other housing for clergy.
- B. Educational and Social Institutions: Public and private schools, auditoriums and other places of assembly, and centers for social activities.
- C. Public Buildings: Publicly owned and operated buildings and public utility buildings and structures.
- D. Human Care Institutions: Hospitals, sanitariums, nursing or convalescent homes, homes for the aged, and medical care offices.
- E. Animal Care Institutions: Veterinarian offices, laboratories and boarding facilities for large and small animals in accordance with Section 15.6.

Such institutions shall meet the following requirements:

1. Be designed to be compatible and appropriate in scale and character with existing or planned surrounding developments.
2. Have entrance and exit drives directly onto a county, state or federal highway.
3. Have lighting designed to be unobtrusive to neighboring properties.
4. Structures of other than residential scale shall observe a one hundred (100) foot setback from residential uses.

Sec. 16.13 Junk Yards

- A. All uses shall be established and maintained in accordance with all applicable State of Michigan statutes.
- B. The site shall be a minimum of ten (10) acres in size.
- C. A solid fence or wall at least eight (8) feet in height shall be provided around the entire periphery of the site.
- D. All activities, equipment, or material shall be confined within the fenced-in area and there shall be no stacking of material above the height of the fence, or wall.
- E. All fenced-in areas shall be set back at least one hundred (100) feet from the front street or highway right-of-way line. Such front yard setback shall be landscaped with plant materials as approved by the Planning Commission to minimize the appearance of the installation.
- F. No open burning shall be permitted.
- G. Whenever the installation abuts upon property within a residential district, a transition strip at least two hundred (200) feet in width shall be provided between the fenced-in area and the property within a residential district. Such strip shall contain plant materials, grass, and structural screens of a type approved by the Planning Commission to effectively minimize the appearance of the installation.

Sec. 16.14 Residential Uses In Commercial Districts

A. Statement of Intent: Modern commercial development is often of such a character that the inclusion of some limited residential units directly associated with the commercial use may be deemed as either desirable, or in some cases, necessary. Under these conditions, a Special Land Use Permit may be issued for the construction and occupancy of such units provided the standards, procedures and requirements set forth in the Section can be complied with.

B. A Special Land Use Permit for such may be issued providing:

1. Floor space used for residential purposes shall be subtracted from allowable commercial space.
2. Residential units shall have separate services including water, sewer, electric, etc. from commercial uses.
3. Units shall be designed for occupancy of owner or tenant, or their employees only.

Sec. 16.15 Marinas and Canoe Liveries

A. All sites shall be located on a major thoroughfare and all ingress and egress to the site shall be from said thoroughfare.

B. All points of entrance or exit for motor vehicles shall be located no closer than one hundred fifty (150) feet from the intersection of any two (2) streets or highways.

C. Whenever any use permitted herein abuts property within any Residential District, a transition strip at least one hundred (100) feet in width shall be provided between all operations and structures, and the residential property. Plant materials, grass and structural screens or fences of an approved type shall be placed within said transition strip.

D. A minimum yard of one hundred (100) feet shall separate all uses and operations permitted herein, from any public street or highway used for access or exit purposes. This yard shall be landscaped in accordance with approved plans.

Sec. 16.16 Amusement Arcades

Mechanical amusement arcades may be permitted subject to the following conditions:

- A. Adequate lighting inside and outside the premises shall be provided for the safety of patrons and the public.
- B. All off-street parking, loading and public street access requirements shall be provided as required by Article XX of this Ordinance.
- C. Bicycle racks shall be provided on-site within twenty-five (25) feet of any arcade.
- D. During periods when the school system is in normal session, excluding holidays and other vacations, no game arcade shall be open for business except between the hours of 10 a.m. and 10 p.m. on Sundays through Thursdays; and between the hours of 10 a.m. and 12 midnight Fridays and Saturdays.

Sec. 16.17 New and Used Auto, MC, RV, and Boat Dealers

- A. Outdoor display of individual pieces of equipment may be allowed in areas so designed in the site plan as approved provided the display area has been designed and constructed as part of the overall site improvements. Display areas shall be suitably landscaped. Such landscaping shall include shrubs and trees in sufficient quantity to mitigate any adverse impact of the outdoor display.
- B. Servicing and repairs shall be conducted only within a totally enclosed building.

Sec. 16.18 Mobile Home Parks And Mobile Home Subdivisions

- A. Statement of Intent: Mobile home park developments have special characteristics which require full consideration of their locational needs, their site layout and design, their demand upon community services and their relationship to and effect upon surrounding uses of land.
- B. All Mobile Home Parks and Subdivisions shall conform to Public Act 96 of 1987, as amended.

Sec. 16.19 Planned Residential Developments (PRD)

A. Statement of Intent: It is the purpose of this Section to encourage more imaginative and livable housing environments within the Township through a planned reduction, or averaging of the individual lot area requirements in any zoning district, providing the overall density requirements for each district remain the same. Such averaging or reduction of lot area requirements shall only be permitted when a land owner, or group of owners acting jointly, can plan and develop a tract of land as an entity and thereby qualify for regulation of that tract of land as one complex land use unit, rather than an aggregation of individual buildings located on separate, unrelated lots. Under these conditions, a Special Land Use permit may be issued for the construction and occupancy of a Planned Residential Development providing the standards, procedures, and requirements set forth in this Section can be complied with.

B. Objectives: The following objectives shall be considered in reviewing any application for a Special Land Use Permit for a Planned Residential Development:

1. To provide a more desirable living environment by preserving, where possible, the natural character of open fields, stands of trees, brooks, ponds, lakeshore, hills, and similar natural assets.
2. To encourage the provision of open space and the development of recreational facilities in a generally central location and within reasonable distance of all living units.
3. To encourage developers to use a more creative and imaginative approach in the development of residential areas.
4. To provide for more efficient and aesthetic use of open areas by allowing the developer to reduce development costs through the by-passing of natural obstacles in the residential site.
5. To encourage variety in the physical development pattern of the Township by providing a mixture of housing types.

C. Qualifying conditions: Any application for a Special Land Use Permit shall meet the following conditions to qualify for consideration as a Planned Residential Development:

1. The Planned Residential Development site shall not

be less than ten (10) acres in area, shall be under the control of the owner or group of owners, and shall be capable of being planned and developed as one integral unit.

2. The Planned Residential Development site shall be located in any zoning district except the R-1, R-2, C-1 and LI districts.

3. Community type water and sewer facilities shall be available or shall be provided as part of the site development unless expressly disallowed by the Health Department. Further, if community type water and sewer facilities cannot be developed, lot sizes shall not be reduced.

4. The proposed population density of the Planned Residential Development shall be no greater than if the tract were developed with the lot area requirements of the particular zone district in which it is located.

5. For each square foot of land gained through the reduction or averaging of lot sizes, equal amounts of land shall be dedicated or shall be set aside for the common use of home or lot owners within the Planned Residential Development.

D. Uses that may be permitted: The following uses of land and structures may be permitted within a Planned Residential Development:

1. All uses permitted by right, accessory uses, uses under special conditions, or by Special Land Use Permit subject to all the restrictions therefor.

2. Two-family dwellings.

3. Multiple dwellings, row houses, garden apartments, townhouses, or other similar housing types which can be defined as a single family dwelling with no side yards between dwelling units, provided that there shall be no more than eight (8) dwelling units in any contiguous group.

4. Recreation and open space, provided that only the following land uses may be set aside as commonland for open space or recreation use under the provisions of this Section:

a. Private recreation facilities exclusive of golf courses, such as swimming pools, or other recreational facilities which are limited to the use of the owners or occupants of the lots located within the Planned Residential Development.

b. Historic building sites, or historical sites, parks, cemeteries, parkway areas, ornamental parks, extensive areas with tree cover, low lands along streams, areas of rough terrain or that have natural features worthy of scenic preservation.

c. Field crops and fruit farming, truck gardening and tree nurseries.

d. Public or privately owned golf courses subject to provisions of Section 16.9.

5. Name plates and signs as provided in Article XIX.

6. Off-street parking shall be in a ratio of two parking spaces per dwelling unit, plus one (1) additional space for every two (2) units.

E. Lot size variation procedure: The lot area for Planned Residential Developments may be averaged or reduced from those sizes required by the applicable zoning district within which said development is located by compliance with the following procedures:

1. Site Acreage and Lot Computation: The gross acreage proposed for a Planned Residential Development shall be computed to determine the total land area available for development into lots:

a. That amount of lot area devoted to utilities and essential services shall be deducted from the total or gross lot area.

b. Fifteen (15) percent of the gross lot area shall be deducted for street right-of-way purposes.

c. Subtract all wetland areas as defined in Act 203 of 1979.

d. Deducting the provisions of subsections (a),

(b), and (c) above determines the net lot area, which, divided by the minimum lot size requirements of the Zoning District in which the PRD is to be located, determines the density or the number of building sites available for development in the PRD.

e. If the Planning Commission determines that additional density can be justified and will not be injurious to public health, safety and welfare, it may increase the net acreage available by a maximum of the percentage required for street right-of-way purposes.

2. Permissive Minimum Yard Requirement: Under the lot averaging or reduction procedures, each lot shall have at least the following minimum yards:

a. Front Yard: Twenty-five (25) feet for all dwellings provided that front yard requirements may be varied by the Planning Commission after consideration of common greens or other common open space if such space provides an average of twenty-five (25) feet of front yard area per dwelling unit.

b. Side Yard: Ten (10) feet on each side for all one and two-family dwellings; none for townhouses or row houses, provided that there shall be a minimum of fifteen (15) feet between ends of contiguous groups of dwelling units.

c. Rear Yard: Twenty-five (25) feet for all dwellings, provided that rear yard requirements may be varied by the Planning Commission after consideration of common open space lands or parks and waterfront areas which abut the rear yard area.

3. Maximum Permissive Building Height: Shall be no greater than twenty-eight (28) feet.

F. Open space requirements: For each square foot of land gained through the averaging or reduction of lot sizes under the provisions of this section, equal amounts of land shall be provided in open space. All required open space, tree cover, recreational area, scenic vista, or other authorized open land areas shall be either (1) set aside as common land for the sole benefit, use and

enjoyment of present and future lot or homeowners within the development, or (2) used as a golf course(s) operated either privately or publicly; provided, under all circumstances the use of the course(s) is available to all existing and future residents of the development on an equal basis with all other users. The Planning Commission shall utilize one of the following options most appropriate as part of its approval of a Special Land Use Permit for a Planned Residential Development:

1. That open space land shall be conveyed by proper legal procedures from the tract owner or owners to a homeowners association or other similar nonprofit organization so that fee simple title shall be vested in tract lot owners as tenants in common; provided that suitable arrangements have been made for the maintenance of said land and any buildings thereon;
2. That open space land shall be dedicated to the general public for park or recreational purposes provided that the Township Board accepts such dedication; or to a nature conservancy provided a conservancy accepts such dedication;
3. Land to be utilized for golf courses may be leased for development or owned by the golf course developer. If the golf course is abandoned at any future time, it shall become common open land owned by a homeowners association, unless the association approves and the Township Board elects to have the said lands become Township property for use as a public park. Restrictions shall recite that they are for the benefit of the owner or owners of all other tracts in the Planned Residential Development, and also to the benefit of the Township.

It is the intent of this Section that in cases where option (2) above is determined to be in the best interest of the community, the owners or developers of the Planned Residential Development shall not be compelled or required to improve the natural condition of said open space lands.

Sec. 16.20 Shopping Centers

- A. The owner or owners of a tract of land which comprises five (5) acres or more may submit to the Planning Commission a request for a site plan approval for a Planned Shopping Center.

Such request shall also be accompanied by the following evidence and supporting data, without which an application shall not be accepted by the Planning Commission:

1. A market analysis by a recognized, reputable market analyst setting forth conclusively economic justifications and needs for the establishment of a center of the type and size proposed by the applicant.
2. A traffic survey prepared by qualified experts indicating the effects of the proposed shopping center on adjacent streets and also indicating the anticipated points of origin, direction, and amount of traffic flow to and from the proposed center.
3. A list of proposed uses to be included in the proposed center, with the area of each to be devoted to retail space.
4. A statement of financial responsibility to assure construction of the Planned Shopping Center in accordance with the site plan and the requirements of this Section.

B. Site Development Requirements: All permitted activities shall be conducted entirely within wholly enclosed permanent building(s), except as noted in the following:

1. The parking of customers' and employee's automobiles.
2. The loading and unloading of commercial vehicles, which must take place directly into or out of a building.
3. Temporary exhibitions and special quasi-civic events, provided they are conducted in spaces designated for such possible purposes on the final plans submitted with the application for a building permit, and provided further that they may not be operated for a profit.
4. Recreational facilities, incidental to the center's principal operations, normally conducted out-of-doors, provided there may be no admission charge.
5. Gasoline service stations, provided that they conform to the site development requirements of Section 16.8.
6. Outdoor eating or other supplemental sales areas,

provided they are approved by the Planning Commission.

C. Parking Areas and Circulation: All automobile parking areas and interior circulation for motor vehicles shall be designed in accordance with the following requirements:

1. Any individual parking space in the center shall be accessible by clearly demarcated walks from the shopping area.
2. Automobile, pedestrian, and truck traffic shall be separated to the fullest possible extent.
3. Automobile circulation design shall provide for access to parking areas in such a way that there shall be no backing up of traffic into any external street under conditions of anticipated maximum center-destined traffic.
4. All areas accessible to vehicles or pedestrians shall be illuminated.

D. Access to the shopping center shall be provided by at least one (1) direct access from a major thoroughfare, and all access points to an external street or streets shall be fully capable of absorbing the maximum hourly traffic anticipated to be generated by the center.

E. Surface Improvements: All areas accessible to vehicles shall be paved and maintained so as to provide a permanent, durable, and dustless surface; and shall be so graded and provided with adequate drainage facilities that all collected surface water is properly handled.

F. Structure Location: No structure, with the exception of permitted signs, fences, walls and light standards, shall be located closer to any property line of the center than a distance equal to twice its height.

G. All signs within the center shall conform to the provisions of Article XIX.

H. Lighting: All outdoor lighting shall be accomplished in such a manner that no illumination sources are visible outside the shopping center property lines.

I. Transition Strips: All planned shopping center districts when

located in or adjacent to a residential district, or when adjacent to a school, hospital or other public institutions shall include as an integral part of the site development a strip of land two hundred feet or more in width on all sides of the site except on the side fronting on a major thoroughfare. No part of such land may be used for any shopping center functions, except that up to one hundred (100) feet of the strip width on the interior side may be used as part of the parking area. Except for the part that may be occupied by the parking space, the strip shall be occupied by plant materials or structural fences and walls, used separately or in combination.

Sec. 16.21 Sand Or Gravel Pits, Quarries

- A. All uses shall be established and maintained in accordance with all applicable State of Michigan Statutes.
- B. The applicant shall be required to file a cash bond, performance bond or irrevocable letter of credit of sufficient amount, or other guarantees, to assure reclamation of the site following excavation, as required by item (J) of this Section.
- C. The minimum allowable lot size shall be twenty (20) acres. No machinery shall be erected, maintained, or operated within two hundred (200) feet of any property line.
- D. All uses shall be enclosed by a fence or suitable plantings six (6) feet or more in height for the entire periphery of the property.
- E. All slopes and banks shall be graded and treated to prevent erosion or any other potential deterioration.
- F. No building shall be erected on the premises except as temporary shelter for machinery or field office.
- G. Routes shall be established for truck movement to and from the site in order to minimize the wear on public streets and to prevent hazards and damage to properties in the Township. That portion of access roads within the area of operation shall be constructed or treated to minimize dust.
- H. All installations shall be maintained in a neat, orderly condition so as to prevent injury to property, any individual, or the Township in general.
- I. Proper measures shall be taken to minimize the nuisance of noise and flying dust or rock. Such measures may include

limitations upon the practice of stock-piling excavated materials on the site.

J. When excavation and removal operations are completed, the excavated area shall be graded so that no gradients in disturbed earth shall be steeper than a slope of three (3) to one (1) in horizontal-vertical gradient. A layer of arable top soil shall be spread over the excavated area, in accordance with an approved contour plan furnished by the applicant. The area shall be seeded with a perennial grass, or other similar soil-holding material, and maintained by the applicant until the area is stabilized.

Sec. 16.22 Sewage Treatment And Disposal

A. All uses shall be established and maintained in accordance with all applicable State of Michigan statutes.

B. All operations shall be completely enclosed by a wire link fence not less than six (6) feet high.

C. All operations and structures shall be surrounded on all sides by a transition strip at least two hundred (200) feet in width within which grass, plant materials and structural screens shall be placed to minimize the appearance and odors of the installation.

D. All operations and structures shall conform to the performance requirements of Section 16.25.

Sec. 16.23 Airports

All airports shall be constructed or expanded in conformance with all F.A.A. regulations and PA 23 of 1950.

Sec. 16.24 Campgrounds And Trailer Parks

A. Intent and Purpose: To provide for travel trailer parks, campgrounds, etc., normally operated on a seasonal basis, for the accommodation of tents, travel trailers, self-propelled homes or vehicles designed primarily for temporary living or sleeping.

B. Site development requirements: Sites shall be a minimum of ten (10) acres, developments shall comply with the provisions of Act 368 of the Public Acts of 1978, as amended, and also with the following, viz:

1. Management headquarters, recreational facilities,

toilets, showers, laundry facilities and other uses and structures customarily incidental to the operation of a travel trailer park are permitted as accessory uses in the districts in which trailer parks are allowed, PROVIDED that:

- a. Such establishments and the parking area primarily related to their operations shall not occupy more than ten percent (10%) of the area of the park.
 - b. Such establishments shall be restricted in their use to occupants of the park.
 - c. Such establishments shall present no visible evidence of their commercial character which would attract customers other than occupants of the park.
2. No space shall be so located that any part intended for occupancy is within one hundred (100) feet of a residential district.
 3. In addition to meeting the above requirements, the travel trailer site plan shall be subject to the review and approval of the Health Department.
 4. Storage areas for unoccupied travel trailers, motor homes and similar units may be allowed as an accessory use.

Sec. 16.25 Light Manufacturing, Warehousing, Commercial Storage

- A. Enclosed buildings: Activities in this District shall be carried on in completely enclosed buildings. Storage may be permitted out-of-doors, provided that within three-hundred feet (300) of any residential use, all storage shall be in completely enclosed buildings. All outdoor storage shall be effectively screened by a solid, uniformly finished wall or fence with solid entrance and exit gates, such fence or wall shall be at least seven (7) feet in height. Such storage shall not be deemed to include the parking of licensed motor vehicles under one (1) ton rated capacity.
- B. Noise emanating from a use in this district shall not exceed the level of ordinary conversation at the boundaries of the lot. Noise may equal but shall not exceed average street traffic noise.
- C. Uses in this district shall conform to the following standards:

1. Emit no obnoxious, toxic or corrosive fumes or gases which are harmful to the public health, safety or general welfare; except for those produced by internal combustion engines under designed operating conditions.
2. Emit no smoke, odorous gases, or other odorous matter in such quantities as to be offensive at or beyond any boundary of the use of the parcel.
3. Discharge into the air no dust or other particulate matter created by any industrial operation or emanating from any products stored prior to or subsequent to processing.
4. Produce no heat or glare humanly perceptible at or beyond the lot boundaries.
5. Discharge no radioactive materials that exceed quantities established by the U.S. Bureau of Standards.
6. Does not include in the manufacturing process any production or storage of any material designed for use as an explosive, nor in the use of any such material in production.

D. Yards in this district shall conform to the following standards:

1. Except for landscape improvements and necessary drives and walks, the front yard shall remain clear, and shall not be used for parking, loading, or accessory structures. Side and rear yards, except for a strip along the lot boundary ten (10) feet in width, may be used for parking and loading but not for storage.
2. When the side or rear yard areas abut land within a residential district and when such yard areas are to be used for parking, loading, unloading, or servicing, then such side and rear yard areas shall be effectively screened by a solid, uniformly finished wall or fence. Such wall or fence shall be at least four (4) feet in height, but in no case shall the fence or wall be lower than the enclosed parking, loading, or servicing activity to be screened. The height and extent of such wall or fence shall be determined by the Zoning Administrator on the basis of proposed side or rear yard usage.

Sec. 16.26 RENEWABLE ENERGY DEVICES

16.26.1 Purpose and Intent

Wind energy is an abundant, renewable, and nonpolluting energy resource. When converted to electricity, it reduces our dependence on nonrenewable energy resources, reduces air and water pollution that result from conventional sources, and enhances our energy security. The purpose of this amendment is to foster the development of Benzonia and/or Platte Township's wind power resource while preserving our natural resources, rural character, and farmlands as compatible adjoining uses and protecting public health and safety.

16.26.2 General Requirements

A. ACCESS: All ground mounted electrical and control equipment or structures shall be labeled and secured to prevent unauthorized access. All anemometer and WECS towers shall be designed and installed so as to not provide step bolts or a ladder readily accessible to the public for a minimum height of 12 feet above the ground. Lattice-type or guyed towers shall be enclosed by security fencing not less than six (6) feet in height and shall also be equipped with an appropriate anti-climbing device; The Planning Commission or Zoning Administrator may waive such requirements as it deems necessary.

B. ACCESS ROADS: A private road or drive shall be constructed according to applicable Zoning Ordinance requirements as specified in Sec. 3.3 Fire Hazards and Emergency Vehicle Access, Sec. 3.20 Clear Vision Corners, AND 3.22 Access Management. Such regulations or standards provide for adequate access, egress, and protection of emergency service vehicles and personnel. Further regulations may restrict construction of private drives or roads in environmental areas such as those in identified wetlands or steep slopes such as in Article XXIV Crystal Lake Overlay District. These standards apply to all single-Tower community WECS designed primarily to supply the power grid, multi-tower Community WECS or Utility Grid WECS, and to other WECS in similar areas. Where these standards apply, these roads will conform to the above standards and other regulations or standards for private road construction specified in the Townships zoning ordinance.

C. ANEMOMETER REQUIREMENTS: The construction, installation, or modification of an anemometer tower shall require a building permit and shall conform to all applicable local, state and federal applicable safety, construction, environmental, electrical, communications, and FAA requirements. An anemometer shall be permitted for no more than fifteen (15) months in preparation for locating an On-site and single tower Community WECS that is not designed to supply the power grid; and for 3 years for Single-Tower Community WECS designed primarily to supply energy to the power grid, Multi-Tower Community or Utility Grid WECS.

These time limitations can be waived by either the Zoning Administrator or Planning Commission if the anemometer also serves as a SCADA for the on-going operation of the WECS.

D. APPEARANCE, COLOR, AND FINISH: The wind generator and tower shall remain painted or finished the color or finish that was originally applied by the manufacturer, unless an alternative is approved in the building permit. For Multi-Tower Community and Utility Grid WECS, all towers will be a uniform color and finish.

E. BLADE CLEARANCE: For towers 200 feet or greater in height, blade clearance shall conform to the manufacturer's standard. For towers of less than 200 feet in height or for any towers without a manufacturer's standard, blade clearance shall be no less than 15 feet from ground level and a safe distance from walkways and common areas.

F. BRAKING SYSTEM: All WECS shall be equipped with an automatic braking, governing or feathering system to prevent uncontrolled rotation, over-speeding, and excessive pressure on the tower structure, rotor blades and other wind energy components.

G. CONSTRUCTION CODES: TOWERS, & INTERCONNECTION STANDARDS: All WECS shall comply with all applicable state construction and electrical codes and local building permit requirements. All electrical components of the Wind Energy Facility shall conform to relevant and applicable local, state and national codes, and relevant and applicable international standards. All On-site WECS expected to engage in net-metering or some version of a feed-in tariff, Utility Grid WECS, and Community WECS will comply with Michigan Public Service Commission and Federal Energy Regulatory Commission standards. All Off-grid WECS are exempt from compliance with MPSC and FERC requirements.

H. All WECS shall comply with Federal Aviation Administration requirements, the Michigan Airport Zoning Act (Public Act 23 of 1950, MCL 259.431 et seq.), the Michigan Tall Structures Act (Public Act 259 of 1959, MCL 259.481 et seq.), and local jurisdiction airport overlay zone regulations, as amended or succeeded.

I. DISCONTINUATION AND DECOMMISSIONING: A WECS shall be considered a discontinued use after 1 year without energy production, unless a plan is developed and submitted to the Township Zoning Administrator or Planning Commission outlining the steps and schedule for returning the WECS to service. All WECS and accessory facilities shall be removed to a depth of three feet below ground level within 90 days of the discontinuation of use.

Each Single-Tower Community WECS designed primarily to supply energy to the power grid, Multi-Tower Community WECS or Utility Grid WECS shall have a decommissioning plan outlining the anticipated means and cost of removing the WECS at the end of its serviceable life or upon becoming a discontinued use. The cost estimates shall be made by a third-party qualified professional, such as a Professional Engineer, a contractor capable of decommissioning or a person with suitable expertise or experience with decommissioning.

The owner or operator of a single-tower Community WECS designed to primarily supply energy to the power grid, a multi-tower Community WECS or Utility Grid WECS shall post with the Planning Commission or Zoning Administrator as escrow agent sufficient funds in an amount equal to the gross decommissioning costs. Decommissioning funds may be in the form of a performance bond, surety bond, or other form of financial assurance as may be acceptable to the Planning Commission or Zoning Administrator. If the owner/operator indicates an intention to restart the system, the decommissioning process may be extended at the discretion of the Planning Commission or Zoning Administrator.

J. DISPOSAL OF HAZARDOUS MATERIALS: All spent lubricants, cooling fluids, and any other hazardous materials shall be properly and safely removed in a timely manner.

K. ENVIRONMENTAL AND PROTECTION: For WECS requiring a Special Land Use Permit, the site plan and other documents and drawings shall show mitigation measures to minimize potential impacts on the natural environment including, but not limited to those specified in Article XXII of the Township Zoning Ordinance, Regulation of Environmentally Sensitive Areas. Other such areas may include but are not limited to: major wildlife and avian migratory corridors, wilderness areas, national parks, and wildlife refuges.

L. GUY WIRES: For all guyed towers, visible and reflective objects, such as plastic sleeves, reflectors or tape, shall be placed on the guy wire anchor points and along the outer and innermost guy wires up to a height of 8 feet above the ground.

M. ENGINEERING SAFETY: The structural integrity of the WECS shall conform to the design standards of the International Electrotechnical Commission; specifically IEC 61400-1 "Wind Turbine Safety and Design," IEC 61400-2 "Small Wind Turbine Safety," IEC 61400-22 "Wind Turbine Certification," and IEC 61400-23 "Blade Structural Testing," as amended or succeeded.

N. LIGHTING: No portion of any WECS shall be lighted except to be

in compliance with Federal Aviation Administration requirements, the Michigan Airport Zoning Act (Public Act 23 of 1950, MCL 259.431 et seq.), the Michigan Tall Structures Act (Public Act 259 of 1959, MCL 259.481 et seq.), and local jurisdiction airport overlay zone regulations, as amended or succeeded. The minimum FAA lighting standards shall not be exceeded. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to surrounding views.

O. MAINTENANCE FACILITY: A WECS may include a maintenance facility for storing trucks, service equipment, spare parts, lubricants, and other supplies. The maintenance facility may be located on- or off-site. Turbine control and maintenance functions may be in one building.

P. MAXIMUM TOTAL WECS HEIGHT: Mounted WECS, On-site or single tower Community WECS not designed primarily to supply energy to the power grid 95 feet in height or less shall not require a zoning permit. On-site and single tower Community WECS not designed to supply energy to the power grid over 95 feet but under 200 feet in height shall be considered a Use-By-Right. Erection of towers 200 feet or greater in height and/or designed to supply energy to the power grid will require a Special Land Use (SLU) Permit. The decision to require either a minor or major SLU Permit shall be made at the discretion of the Zoning Administrator or Planning Commission.

Q. SOUND LEVELS (MAXIMUM): This section applies only to Mounted WECS, On-site WECS and single-tower Community WECS.

Where an adjacent parcel contains a residential use, school, hospital, or park, the sound produced by a WECS may not exceed the ambient sound level that exists at the property line or lease unit boundary. Where no adjacent parcel contains a residential use, school, hospital, or park, the maximum sound level may be the ambient sound level plus 5 dB(A) on a consistent basis at the property line or lease unit boundary

R. OTHER DESIGN REQUIREMENTS: No WECS shall be used for displaying any advertising except for identification of the turbine manufacturer.

S. POST-CONSTRUCTION PERMITS: Construction Codes, Towers, and Interconnection standards shall comply with all applicable state construction and electrical codes and local building permit requirements.

T. SETBACK FOR ON-SITE WECS AND SINGLE-TOWER COMMUNITY WECS:

1. From adjoining property lines: 1 times the radius of the fall

zone distance from the property line or lease unit boundary.

2. From Road Rights-of Way, or Other Rights-of-Way (e.g., railroads, utility wires, etc): 1 times the radius of the fall zone.

3. From environmentally sensitive areas (bird habitats, wetlands, etc.): 1 times the radius of the fall zone. The Planning Commission may adjust the setback upward or downward before approval of the WECS application following consideration of environmental analysis and proposed mitigation effects.

4. For On-Site WECS or single-tower Community WECS with a tower height 200 feet or over or single-tower Community WECS designed primarily to supply energy to the power grid, the setback will be determined on a case-by-case basis and require a Special Land Use Permit. The setback decision will be based on the considerations listed in Section U. below.

U. SETBACK FOR MULTI-TOWER COMMUNITY WECS AND UTILITY GRID WECS will be equal to three times the height of the turbine from the nearest occupied structure. This distance may be reduced at the discretion of the Zoning Administrator or Planning Commission if the owner/operator can demonstrate within the sound modeling and analysis report that sufficient sound mediation measures will be taken such that the sound level at the property line or lease unit boundary does not exceed 55 DB(A). At no time will a turbine be sited closer to the property line or lease unit boundary than 1 times the radius of the fall zone.

V. SETBACK FOR ANEMOMETER TOWER including guy wires, if applicable, shall be the greater distance of the following:

1. The setback from property lines of the respective zoning district;

2. The setback from the road right-of-way; and

3. A distance equal to the height of the tower from property lines or from the lease unit boundary, which ever is less.

W. SIGNAGE: Utility Grid and Multi-tower Community WECS shall have only one sign, not to exceed two (2) square feet in area posted at the base of the tower [and on a security fence if applicable. The sign shall contain a) Warning of high voltage, b) Manufacturer's and owner/operator's name, and c) Emergency contact numbers.

X. SIGNAL INTERFERENCE: Operation of a WECS shall not

interfere with communication systems such as, but not limited to, radio, telephone, television, satellite, or emergency communication systems.

Y. SOIL CONDITIONS: A proposal for any wind turbine generator or anemometer tower shall be accompanied by a report of the soils present on the site based on soil borings, and a description of the proposed foundation size, materials, and depth..

Z. SURVIVAL SPEED: Neither the turbine nor tower shall be erected unless the survival speed as certified by the manufacturer is more than 90 mph as stated by the manufacturer.

AA. UTILITIES: Power lines should be placed underground, when feasible, to prevent avian collisions and electrocutions. All aboveground lines, transformers, or conductors should comply with the Avian Power Line Interaction Committee published standards to prevent avian mortality.

AB. UTILITY NOTIFICATION: No WECS shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. If a WECS is connected to a public utility for net-metering or feed-in tariff purposes, the owner/operator will need an interconnection agreement with the local utility prior to operation. Off-grid systems shall be exempt from this requirement.

16.26.3 Permit Application and Site Plan Review Requirements

A. Table 1 specifies the zoning, minor SLUP and Major SLUP permit requirements for all WECS. Site Plan Review will not be initiated until all permits from applicable federal, state, and/or local regulatory bodies as specified in this ordinance have been obtained. This section applies only to those WECS and anemometers requiring either a minor or major special land use permit. In addition to this section, Article XIV and respective Sections 14.8 in regard to Zoning Permits and parts of Sections 14.2 applying to Minor and Major Special Land Use Permits (SLUP), the applicant shall show compliance with all other applicable standards in the West Benzie Joint Zoning Ordinance, i.e., Article III General Provisions (private driveways and roads), each respective Zoning District within which the project is located, and the general SLUP Application Standards in Article XIV. In addition to the requirements specified in those sections, site plans for WECS requiring special land use permits shall include:

1. Documentation that sound pressure level, construction code, tower, interconnection (if applicable), and safety requirements have

been reviewed and the submitted site plan is prepared to show compliance with these issues.

2. Proof of the applicant's public liability insurance for the project.

3. A copy of that portion of the applicant's lease(s) with the land owner(s) granting authority to install the Anemometer Tower and/or Utility Grid Wind Energy System; legal description of the property(ies), Lease Unit(s); and the site plan showing the boundaries of the leases as well as the boundaries of the Lease Unit Boundary.

4. Phases, or parts of construction, along with a construction schedule.

5. The project area boundaries including lease unit boundaries.

6. The location, grades, average cross section and dimensions of all temporary and permanent on-site and access roads from the nearest county or state maintained road.

7. Any new infrastructure above ground related to the project not specified in Section 14 of the Ordinance.

8. A copy of Manufacturers' Material Safety Data Sheet(s) which shall include the type and quantity of all materials used in the operation of all equipment including, but not limited to, all lubricants and coolants.

B. For Utility Grid Wind Energy Systems only:

1. A copy of a sound modeling and analysis report. The site plan also shall show locations of equipment identified as a source of sound, how that equipment is placed, and the sound levels based on the analysis, so that the wind energy system will not exceed the maximum permitted sound levels. The sound modeling and analysis shall conform to IEC 61400 and ISO 9613. After installation of the Utility Grid wind energy system, sound pressure level measurements shall be done by a third party, qualified professional according to the procedures in the most current version of ANSI S12.18. All sound pressure levels shall be measured with a sound meter that meets or exceeds the most current version of ANSI S1.4 specifications for a Type II sound meter. Documentation of the sound pressure level measurements

shall be provided to the local government within 60 days of the commercial operation of the project.

2. A copy of an Environmental Analysis by a third party qualified professional to identify and assess any potential impacts on the natural environment including, but not limited to wetlands and other fragile ecosystems, historical and cultural sites, and antiquities. The applicant shall take appropriate measures to minimize, eliminate or mitigate adverse impacts identified in the analysis, and shall show those measures on the site plan. The applicant shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts.

3. A copy of an Avian and Wildlife Impact Analysis by a third party qualified professional to identify and assess any potential impacts on wildlife and endangered species. The applicant shall take appropriate measures to minimize, eliminate or mitigate adverse impacts identified in the analysis, and shall show those measures on the site plan. The applicant shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts.

a. Sites requiring special scrutiny include wildlife refuges, other areas where birds and/or bats are highly concentrated, such as wooded ridge tops that attract birds and bats, sites that are frequented by federally and/or state listed endangered species of birds and bats, significant bird migration pathways, and areas that have landscape features known to attract large numbers of raptors. 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. Where appropriate, surveys for bats, raptors, and general avian use should be conducted. The analysis shall include the potential effects on species listed under the federal Endangered Species Act and Michigan's Endangered Species Protection Law.

b. The analysis shall indicate whether a post construction wildlife mortality study will be conducted and, if not, the reasons why such a study does not need to be conducted

4. A copy of a shadow flicker analysis at occupied structures to identify the locations of shadow flicker that may be caused by the project and the expected durations of the flicker at these locations from sun-rise to sun-set over the course of a year. The site plan shall identify problem areas where shadow flicker may affect the

occupants of the structures and show measures that shall be taken to eliminate or mitigate the problems.

5. A second site plan, which includes all the information found in Section XIV of this Ordinance, and shows the Discontinuation and Decommissioning plan for the site after completion of the project which includes the following supporting documentation:

- a. The anticipated life of the project.
- b. The estimated decommissioning costs net of salvage value in current dollars.
- c. The method of ensuring that funds will be available for decommissioning and restoration.
- d. The anticipated manner in which the project will be decommissioned and the site restored.

6. A copy of the Operations and Maintenance Plan.

7. A compliance summary showing how the project will comply with all of the requirements of the relevant federal, state, and/or local regulatory agency requirements.

8. A description of the traffic logistics associated with transportation and construction of the WECS components and equipment including:

- Construction transport routes
- Intersection reconstruction
- Restoration of roads, curbing, culverts, signage, land features, buildings or other infrastructure.
- Construction timetable
- Description of at least one alternative transport route and the rationale for the one chosen.

9. A description of the complaint resolution process developed by the applicant to resolve complaints from nearby residents concerning the construction or operation of the project. The process must include the option to use an independent mediator or arbitrator and shall include a time limit by which the applicant will act on a complaint. The process shall not preclude the local government from acting on a complaint. During construction and operation, the applicant shall maintain and make available to nearby residents a telephone number where a project representative can be reached during normal business hours.

10. The final determination of whether a third-party qualified professional has the necessary neutrality to provide a reliable analysis of the relevant professional area under consideration shall be at the discretion of the Zoning Administrator or the Planning Commission. Every attempt should be made to assure that the qualified professional be a resident of Michigan or an employee of a Michigan firm in order to promote and support the Michigan economy.
11. A copy of a microwave analysis of possible interference with aeronautic and/or communication signals.

Table 1

Permit Requirements

No permit required	Mounted WECS. Small on-site WECS with tower height 95 feet or less
Use by Right – Permit required	Small On Site WECS for residential use in all districts. Single tower, single user Community WECS not designed primarily to supply power to the energy grid with a tower over 95 but less than 200 feet in all districts. Anemometer towers under 200 feet in height in all districts.
	Small On-site WECS with tower height over 95 but less than 200 feet for commercial, industrial or agricultural use in districts that allow commercial, industrial, or agricultural land uses.
Minor Special Land Use Permit	Large On-site WECS with tower height 200 feet or over. Single tower, single user Community WECS not designed primarily to supply energy to the power grid with a tower 200 feet or higher. Anemometers 200 feet or greater in height.
Major Special Land Use Permit	Single-tower Community WECS designed primarily to supply energy to the power grid. Multi-tower Community WECS.
	Utility Grid WECS

Sec. 16.27 GUN AND SKEET CLUBS, SHOOTING RANGES

A. Definition: Any facility; whether public or private; whether operated for profit or not; which is designed for the use of firearms in a confined area; including pistols, rifles, and shotguns aimed at targets or clay pigeons.

B. Location and Minimum Size Requirements: By Special Land Use Permit in the Rural Preservation, RP 5, RP 10, and RP 20 Zoning Districts. Minimum lot size shall be twenty (20) acres with a minimum lot width of six hundred sixty (660) feet.

C. Buffering Requirements: Minimum front, rear, and side yard setbacks shall be one hundred fifty (150) feet or a combination earth berm/conifer plantation of no less than eight (8) feet to create a sight, sound, and safety barrier adequate for the location as determined by the Planning Commission to be reasonable, and shall meet requirements of site plan review as specified in Article XIV of this Ordinance.

D. Performance Standards:

1. The operation shall comply with all Federal, State, and Local Laws and Regulations, and accepted design and safety standards.

2. A site plan shall be required, including but not limited to shooting areas, access, parking, structures, sanitary and solid waste disposal means, fire and explosion control, back stop and side flare design, written comments from the Sheriff, Health Department, and applicable Fire Department.

3. Access shall be from a Federal, State, or County road or deeded, recorded easement.

4. Fencing with warning signs shall completely envelope the outside areas devoted to firearm discharge to assure that individuals and stray animals will not unknowingly enter the property.

5. Hours of operation shall be between 8 a.m. and dusk. Intensity of noise shall not exceed reasonable levels.

6. Alcoholic beverages shall not be consumed on any shooting range.

Sec. 16.28 HUNT CLUBS

A. Definition: Any facility; whether public or private; whether operated for profit or not; which is designed for the use of firearms for the organized/group hunting of fowl in a confined area.

B. Location and Minimum Size Requirements: By Special Land Use Permit in the Rural Preservation, RP 10 and RP 20 Zoning

Districts only. Minimum lot size shall be eighty (80) acres with a minimum lot width of one thousand three hundred twenty (1320) feet.

C. Buffering Requirements: Minimum front, rear, and side yard setbacks shall be five hundred (500) feet. The setback or buffer area shall contain evergreen trees either occurring naturally or planted at a minimum height of eight (8) feet in four (4) to eight (8) rows and spaced six (6) feet apart in a staggered pattern; or a combination earth berm/conifer plantation no less than eight (8) feet in height to create a sight, sound, and safety barrier adequate for the location, as determined by the Planning Commission to be reasonable, and shall meet requirements of the site plan review process as specified in Article XIV of this Ordinance.

D. Performance Standards:

1. The operation shall comply with all Federal, State, and Local Laws and Regulations, and accepted design and safety standards.

2. A site plan shall be required, including but not limited to shooting areas, access, parking, structures, sanitary and solid waste disposal means, fire and explosion control, back stop and side flare design, written comments from the Sheriff, Health Department, and applicable Fire Department.

3. Access shall be from a Federal, State, or County road or deeded, recorded easement.

4. Fencing with warning signs shall completely envelope the outside areas devoted to firearm discharge to assure that individuals and stray animals will not unknowingly enter the property.

5. Hours of operation shall be between 8 a.m. and dusk. Intensity of noise shall not exceed reasonable levels.

6. Alcoholic beverages shall not be consumed on any shooting range.

ARTICLE XVII PLANNED UNIT DEVELOPMENTS

Section 17.1 PLANNED UNIT DEVELOPMENTS

17.1.1 Authorization: Section 502 of the Michigan Zoning Enabling Act (MZEA), Public Act 110 of 2006, as amended, permits the establishment of planned unit developments (PUDs) which are designed to accomplish the objectives of a Zoning Ordinance through a land development project review process based on the application of site planning criteria to achieve integration of the proposed land development project with the characteristics of the project area. This statutory provision further permits the establishment of PUDs which permit flexibility in the regulation of land development; encourage innovation in land use and variety in design, layout, and type of structures constructed; achieve economy and efficiency in the use of land, natural resources, energy, and the provision of public services and utilities; encourage useful open space; provide better housing, employment, and shopping opportunities particularly suited to the needs of the residents of the township and state; and encourage the innovative reuse and improvement of existing sites and buildings. This Article provides for several different types of PUDs and this Section sets forth general standards that apply to all PUDs.

17.1.2 Purpose and Intent: The use, area, height, bulk and placement regulations of this Ordinance are primarily applicable to the usual situation of one principal building on a lot. In certain developments, including but not limited to condominium, townhouse, and apartment developments, these requirements might result in design and land use arrangements with multiple buildings on a lot and a design that is less in the interest of public health, safety and welfare than if a controlled degree of flexibility in the regulation of land development were allowed. Similarly, when single family homes or other commercial or industrial developments are involved, the design may be improved by allowing smaller lot sizes and more open space.

Planned unit development (PUD) is a technique intended to permit and control the development of carefully planned areas for various compatible uses allowed by the Zoning Ordinance and in some cases for other uses not so provided. It is a discretionary review and approval procedure that results in an approved development if all standards of this Article are met and denial if they are not. Once approved, the classification "PUD" is applied to the property and is placed on the Zoning Map. The underlying zoning district does not change if a PUD is approved, but development of land which receives PUD approval is thereafter guided by the terms of the approved site plan for the PUD and the associated conditions on the PUD Permit, rather than by the language of the underlying zoning district. Like a special land use, an approved PUD has all the rights and privileges of an approved use by right as long as all conditions attached to the PUD approval are complied with.

The benefits of a PUD to land developers, to new users and to the general public are all so great that all development in all zones in which fifteen (15) or more lots, dwelling units or building sites are proposed shall go through PUD review and approval; except for Conservation PUDs without bonuses, which are a development option selected exclusively by choice of the land developer. To encourage development to use one of the PUD options in this Article, incentives in the form of bonus lots are provided for exceptional design, the

provision of affordable housing and more permanently protected open space for most types of PUDs.

It is intended that each type of land use in a PUD shall afford reasonable protection from encroachment or interference by other incompatible land uses, and that reasonable protection be afforded to land uses adjacent to a PUD. It is further intended that open space in a PUD be carefully scrutinized prior to approval to ensure it best protects and advances preservation of the character of this Township and wherever feasible, creates continuous links of open space between properties.

17.1.3 Types of PUDs: The following types of PUDs are permitted in various districts as specified in the pertinent section of this Article. Each type of PUD has different standards and is allowed in different districts.

A. Conservation PUD: These are residential developments with at least fifty (50) percent of the site retained in permanent open space and all of the allowed dwelling units concentrated on the balance of the land. This option is considered a use by right under this Ordinance except when bonus lots are involved. This development option is provided pursuant to Public Act 178 of 2001, which added Section 16h and some definitions to Section 40 of Public Act 183 of 1943. The requirements for establishing a Conservation PUD are found in Section 17.2.

B. Residential PUD: These are PUDs with a single density or a mixed density of dwelling units, and a single type or multiple types of dwelling units. A small amount of nonresidential use is permitted under limited circumstances. The requirements for establishing a Residential PUD are found in Section 17.3.

C. Mixed-Use PUD: These are PUDs that typically have mixed residential densities, mixed types of dwelling units and a mixture of residential and nonresidential uses, sometimes in the same structure. The Mixed-Use PUD is intended for relatively large scale PUDs, such as a resort/recreational use or a combined golf course/residential development [like Crystal Mountain Ski and Golf Resort]. A proposed new town that was not of the neotraditional design, would also be likely to use the Mixed-Use PUD. The requirements for establishing a mixed-use planned unit development are found in Section 17.4.

D. Neotraditional PUD or Traditional Neighborhood Development (TND): These are PUDs that have mixed residential densities, mixed types of dwelling units and a mixture of residential and nonresidential uses, that are designed using the principles of New Urbanism and specific pattern books that define architectural detail of buildings, as well as building type and placement.[Examples include the New Neighborhood in the Village of Empire, and Cherry Hill Village in Canton Township]. The requirements for establishing a Neo-Traditional PUD are found in Section 17.5.

E. Nonresidential PUD: These are PUDs that accommodate comparatively large-scale nonresidential development like a shopping center or industrial park in a campus-like setting with substantial amounts of open space. The requirements for establishing a Nonresidential PUD are found in Section 17.6.

F. Hardship PUD: This type of PUD is expected to be rarely, if ever used. This PUD exists to ensure no land is so restrictively zoned that it constitutes a taking under the 5th Amendment to the US Constitution, and the comparable provision of the State Constitution. In other

words, it exists to deal with the unusual situation where an existing zoning classification as it applies to a particular parcel, fails to permit any economically viable use as proven by the landowner, and which in most cases, the owner has attempted without success to get the property rezoned to another district which s/he believes is economically viable. The requirements to qualify for a hardship planned unit development are found in Section 17.7.

G. Transfer of Development Rights Overlay Zone: This is the only type of PUD that is a separate zoning classification. That means land must be zoned into the TDR PUD classification in order for a transfer of development rights to occur. It applies on top of certain underlying zoning districts where the land has been identified as appropriate for designation as either a sending area or a receiving area. A sending area is land from which the development rights are sold and transferred to a different location within the overlay zone where the land is designated as a receiving area for transferred development rights. The requirements for transferring development rights within the TDR Overlay zone are found in Article XII, and in Section 17.8.

17.1.4 Relationship of PUDs to Zoning Districts: Except as otherwise provided in other Sections of this Article, while one or more types of PUDs are permitted in almost all zoning districts, the underlying zoning districts that apply to a particular parcel establish the permitted uses and densities, as well as the basic limitations on height, bulk, setback, yard area and related requirements. Yet, because of the inherent flexibility necessary for application of the PUD technique, land uses, densities, height, bulk, setbacks, parking, signage, and related standards can be waived or reduced as a part of the site plan review and approval process for a PUD, provided such actions are within the parameters provided for that type of PUD as detailed in the remainder of this Article.

17.1.5 Bodies Responsible for Review and Approval of PUDs: Table 17-1 identifies what body or official is responsible for review, approval, approval with conditions, or denial of different types of PUDs, as well as references to the relevant sections of this Ordinance with the applicable procedures. See also Section 17.1.15 for the review and approval procedures.

**Table 17-1
Procedures for Review and Approval of PUDs**

Type of PUD	Body Responsible for Preliminary Review	Body Responsible for Final Approval	Site Plan Review Required	PUD Review Procedure	Preapplication Conference Required	Public Hearing Required
Conser- vation, Sec.17.2	Site Plan Review Committee	Site Plan Review Committee, unless there are bonus lots, then the Planning Commission	Minor Site Plan, Section 14.23.4	Sections 17.1 and 17.2	With Zoning Administrator	Not unless there are bonus lots, then Section 17.1.15.C
Residen- tial, Sec.17.3	Site Plan Review Committee	Planning Commission	Major Site Plan, Section 14.23.3A	Sections 17.1 and 17.3	With Site Plan Review Committee, Section 17.1.14	Yes Section 17.1.15.C
Mixed- Use,	Site Plan Review	Planning Commission	Major Site Plan,	Sections 17.1 and	With Site Plan Review	Yes Section

Sec. 17.4	Committee		Section 14.23.3A	17.4	Committee, Section 17.1.14	17.1.15.C
Neotraditional, Sec. 17.5	Site Plan Review Committee	Planning Commission	Major Site Plan, Section 14.23.3A	Sections 17.1 and 17.5	With Site Plan Review Committee, Section 17.1.14	Yes Section 17.1.15.C
Nonresidential, Sec. 17.6	Site Plan Review Committee	Planning Commission	Major Site Plan, Section 14.23.3A	Sections 17.1 and 17.6	With Site Plan Review Committee, Section 17.1.14	Yes Section 17.1.15.C
Hardship, Sec. 17.7	Planning Director and Zoning Administrator	Township Board of Trustees	Major Site Plan, Section 14.23.3A	Sections 17.1 and 17.7	With Planning Director and others; See Section 17.7.4	Yes Section 17.7.5.
TDR, Sec. 17.8	Site Plan Review Committee & Development Rights Review Committee	Planning Commission and Township Board of Trustees	Major Site Plan, Section 14.23.3A	Sections 17.1 and 17.8	With Site Plan Review Committee and Development Rights Review Committee, Section 17.1.14	Yes Section _____

17.1.6 Eligibility Requirements: All planned unit developments, except for Conservation PUDs and Hardship PUDs are subject to the requirements of this Section. The applicant, through written submittal, and the Planning Commission, through written findings, shall demonstrate that the proposed planned unit development meets the following eligibility requirements:

- A. Compliance with the open space standards in Table 17-2 and the land use standards of the underlying district in which it is proposed to be located, along with such other uses as may be approved through the PUD review and approval process.
- B. The PUD shall result in a recognizable and substantial benefit to the ultimate users of the PUD and to the Township. Such benefit must otherwise be unfeasible or unlikely to be achieved by development under a single zoning district taking into consideration the reasonably foreseeable detriments of the proposed development and use(s); including, without limitation:
 - 1. the long-term protection and/or preservation of natural resources and natural features and/or historical and/or architectural features of a significant quantity and/or quality in need of protection or preservation on a local, state and/or national basis;
 - 2. reducing to a significant extent the nonconformity of a nonconforming use or structure, i.e., modification of a nonconforming use or structure so that, to a significant extent, it is rendered more conforming, or less offensive, to the zoning district in which it is situated.
 - 3. the provision of additional amenities which would not otherwise be provided in a conventional development, including but not limited to more usable open space.
- C. All land for which application is made must be owned or under control of one person at the time of application and approval and the parcel must be capable of being planned and developed as one integral land use unit. Noncontiguous parcels may be considered where other benefits to the public are sufficiently great to warrant such consideration as documented in the written findings of the Planning Commission.

- D. The PUD shall remain under the control or authority of a single individual, corporate or organizational owner who is authorized to administer the PUD. A person shall be considered to control all lands in the PUD either through ownership or by written consent of all owners of said land that they will be subject to the conditions and standards of the PUD Permit. Elimination of a single authority, such as by sale of part of the PUD shall not occur without approval of a site plan amendment.

17.1.7 Determining the Maximum Number of Permitted Lots or Dwelling Units:

The total number of lots and dwelling units permitted are those which result when all applicable federal, state, county and local laws and regulations have been applied to the parcel as described in Section 17.1.7.A. below. To accurately establish this number, the applicant shall prepare a sketch plan that is consistent with state and township requirements for a multiple parcel land division, a preliminary plat or preliminary Condominium Project. This sketch plan shall be reviewed per the procedure in Section 17.1.7.B. below.

A. **New Lots Created for Development Must be Buildable:** All lots created for residential, commercial, office, industrial or other developed use, must meet the requirements of the Land Division Act, PA 288 of 1967, as amended and all separately described areas of land to be used under the Condominium Act, PA 59 of 1978 shall meet the requirements of that act, as amended. In addition, all lots or separately described areas created shall have sufficient area to meet District Health Department requirements for septic waste disposal, unless the site is served by public sewer, or an approved community sewer system as provided for in this Ordinance and all lots or building sites created shall be buildable under local, county, state or federal wetland, flood plain, critical sand dune, high risk erosion or other applicable regulations. Similarly, all land to be used as right-of-way for a public road shall be suitable for that purpose and shall conform with all applicable County Road Commission or Michigan Dept. of Transportation standards, as applicable. All private roads shall conform with the standards provided in this Ordinance.

B. **Determination of Permitted Lots:** The Site Plan Review Committee or the Zoning Administrator and Planning Director together, on behalf of the Site Plan Review Committee, shall review the sketch plan and determine the number of lots under the Land Division Act and/or dwelling units or building sites under the Condominium Act and/or the number of lots permitted in the underlying zoning district, whichever is more, that could feasibly be created within the context of lots that may be limited by Section 17.1.7.A. This number shall be the maximum number of lots, dwelling units or building sites allowable in the development, prior to the determination of any bonus lots or extra dwelling units by the Planning Commission. The determination on the number of permitted lots, dwelling units, or building sites may be appealed to the Zoning Board of Appeals.

C. **Optional Bonus Lots, Extra Dwelling Units, or Extra Building Sites:** In return for exceptional design, more permanent open space or for affordable dwelling units, or some combination, bonus lots or dwelling units may be added to the total number of permitted lots, dwelling units or building sites in a PUD as calculated according to the procedures in Section 17.1.7 A and B above, once conformance with the following requirements is determined. Bonus lots, extra dwelling units or extra building sites are only permitted for residential dwelling units, and are only permitted in the following underlying zones: RP-2.5. Nonresidential PUDs and Hardship PUDs are not eligible for bonus lots, but the residential part of all other types of PUDs are eligible, if the underlying zone is RP-2.5. The Site Plan

Review Committee or the Zoning Administrator and Planner together, on behalf of the Site Plan Review Committee, shall make the initial determination of whether bonus lots, extra dwelling units or extra building sites should be permitted, and if so, the number of bonus lots after applying the formula below. The Planning Commission shall make the final determination as to whether and how many bonus lots, extra dwelling units or extra building sites are permitted which number shall be included in their conditional approval of the PUD site plan.

1. The maximum number of bonus lots, extra dwelling units or extra building sites shall equal thirty three percent (33%) of the total number of lots calculated according to the procedures in Section 17.1.7 A and B, rounded to the nearest whole number with any 5/10ths rounded up. The maximum number of bonus lots may be achieved as follows:

a. Up to one-third (1/3) of the total in Section 17.1.7.C.1 may be achieved by an exceptional layout or design that shows unusual respect for preservation of the natural environment, protects existing vegetation or open space in creative ways, and/or has an architectural design that blends well with the natural environment. These design features shall be assured in the master deed in a Condominium Project, or in deed restrictions, and/or in appropriate road maintenance agreements.

b. Up to one-third (1/3) of the total in Section 17.1.C.1 may be achieved by the provision of more permanent open space than the minimum required in Table 17-2 or by provision of an acceptable forest management plan that demonstrates a commitment and ability to professionally manage a forest for the long-term. The open space shall be assured in the master deed in a Condominium Project, or in deed restrictions.

c. Up to one-third (1/3) of the total in Section 17.1.7.C.1 may be achieved by the provision of at least five (5) percent of the total dwelling units or allowable density, or a minimum of two (2) units as affordable housing. The provision of affordable housing shall be assured through an appropriate written development agreement between the Township and the applicant.

2. The burden is on the applicant to present facts that demonstrate that the above requirements for bonus lots are met to the satisfaction of the Planning Commission.

D. Minimum Open Space: The minimum amount of permanent common open space that shall be provided for each type of PUD is listed in Table 17-2. Permanent common open space and maximum open space that is wetlands or open water in columns two and three of Table 17-2 respectively, shall be measured as a percentage of the total acreage of the land that makes up the PUD, except as otherwise provided in this Article. Additional open space requirements are found in Section 17.1.8 and in the separate sections for each type of PUD authorized in this Article.

**Table 17-2
Minimum Permanent Common Open Space**

Type of PUD	Minimum Open Space	Maximum Open Space that is Wetlands or Open Water
Conservation, Sec.17.2	50%	25%
Residential, Sec. 17.3	30%*	15%
Mixed-Use, Sec. 17.4	20%*	10%

Neotraditional, Sec. 17.5	20%*	5%
Nonresidential, Sec. 17.6	20%	15%
Hardship, Sec. 17.7	20%	15%
TDR, Sec. 17.8	20%	10%

*Means minimum open space may be reduced by up to five (5) percent for a TDR PUD in a receiving zone.

17.1.8 Open Space Requirements: All land designated and approved as common open space in a PUD shall remain as permanently protected open space. All open space, tree cover, recreational area, scenic vista, or other approved open land areas shall be either set aside as common land for the sole benefit, use, and enjoyment of present and future lot owners or residents within the PUD, or at the initiative of the applicant and acceptance by the appropriate public body, may be dedicated to the public as park land for the use of the general public. The Planning Commission shall determine which is most appropriate based on the following considerations:

A. That open space land shall be legally conveyed from the tract owner or owners to a home owners association or other similar nonprofit organization so that fee simple title shall be vested in tract lot owners as tenants in common, provided that permanent arrangements have been made for the maintenance of said land and any buildings thereon and that an open space easement for said land may be conveyed to the public to assure that open space land shall remain open.

B. That open space land may be voluntarily dedicated to the public for park or recreational purposes by the tract owner or owners, provided that the location and extent of said land conforms to the Benzie County Comprehensive Plan, or to the Benzie County Recreation Plan, and that access to and the characteristics of said land is such that it will be readily available to and desirable for public use, development, and maintenance in which event the developer shall not be required to improve the same.

C. The dedicated open space shall be set aside by the developer through an irrevocable conveyance that is reviewed and approved by the Township Attorney, such as: recorded deed restrictions, covenants that run with the land, transfer to a nonprofit land trust, a recorded conservation easement such as that provided in the State of Michigan Conservation and Historic Preservation Easement Act, Public Act 197 of 1980, as amended (MCL 399.251) or dedication to and acceptance of the open space by the Township or other public entity. Such conveyance shall assure, unless the land is dedicated to the Township and accepted by it, that the Township will not be liable for any uses or activities occurring within the dedicated open space and that the open space will be protected from all forms of development, except as shown on an approved site plan, and shall never be changed to another use unless mutually agreed by the written consent of the Planning Commission and the property owner or homeowners association. Such conveyance shall also:

1. Indicate the proposed allowable use(s) of the dedicated open space.
2. Require that the dedicated open space be maintained by parties who have an ownership interest in the open space in the manner specified in the PUD approval.
3. Provide standards for scheduled maintenance of the open space.
4. Provide for maintenance to be undertaken by the Township in the event that the dedicated open space is inadequately maintained, or is determined by the Township to be a public nuisance, with the assessment of costs upon the property owners.

5. Bind all successors and future owners in fee title to commitments made as a part of the proposal. This provision shall not prohibit a transfer of ownership or control, provided notice of such transfer is provided to the Township and the land uses continue as approved in the planned unit development.

17.1.9 General Standards Which Apply to all PUDs: The Planning Commission shall review the particular circumstances of the PUD application under consideration in terms of the following standards and shall approve a PUD only upon finding of compliance with each of the following standards, as well as applicable standards established elsewhere in this Ordinance:

A. Uses: Permitted land uses are those in the underlying zoning district which applies to the land contained in a PUD application. Except that the Planning Commission can permit other land uses provided such uses are not inconsistent with the class of land uses permitted in the underlying zone(s).

B. Dimensional Standards: Dimensional standards shall be as provided in the Schedule of Regulations on Table 5-1 in Article V for the underlying zone, except as modified by the requirements for the different types of PUDs in the following Sections of this Article. The Planning Commission can waive any setback, yard, bulk or height standard up to ten (10) percent for a PUD that otherwise meets the terms of this Ordinance.

C. Signs: All signs in a PUD shall comply with the requirements of Article XIX, except that the Planning Commission may approve different signage if a comprehensive sign plan for the proposed PUD is submitted that does not result in greater total sign area, or sign height, even though more signs are used, and is otherwise consistent with the intent and purpose of the sign regulations. Applicants are especially encouraged to design monument-style entry signs aesthetic landscaping and lighting that points toward the ground and away from any residence, building or right-of-way.

D. Parking and Loading: The Planning Commission shall find that review of the Site Plan for the Planned Unit Development provides safe and convenient vehicular and pedestrian traffic within the site and that the proposed parking layout will not adversely affect the flow of traffic within the site or to and from the adjacent streets. All parking shall comply with the requirements of Article XX, except that where the overall integrity of the PUD would be improved with a waiver of parking design standards that do not undermine the intent and purpose of the parking regulations, then the Planning Commission may grant such waiver, however, the total number of required parking spaces cannot be reduced below that necessary to meet anticipated need; except in the case of a Neotraditional PUD where a comprehensive parking plan is submitted which shows how all parking needs will be adequately met and may include on-street parking, and the rest of the PUD site plan meets the requirements of this Ordinance.

E. Landscaping: Landscaping shall ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property and will create a pleasant pedestrian scale outdoor environment. All landscaping shall comply with the requirements of Article XXI, except that the Planning Commission may approve different landscaping, if a comprehensive landscape plan for the proposed PUD is submitted that would result in a comparable or better design that is also consistent with the intent and purpose of the landscape regulations.

F. Public Facilities: The PUD shall conform with the following public facility requirements.

1. The Planned Unit Development shall not place demands on public services and facilities in excess of current capacity, unless planned improvements have already been scheduled for completion, or will be completed concurrent with the construction of the PUD.
2. The Planned Unit Development shall be designed so that its pedestrian, nonmotorized and automobile circulation systems are safely and conveniently integrated with the off-site transportation circulation system of the Township, those of abutting property and any linear trail or park systems.
3. The PUD site plan shall demonstrate a safe and adequate on-site system of potable water and wastewater lines that can accommodate the proposed development, that are efficiently integrated into off-site potable water and wastewater public improvement plans, where public off-site facilities are available.
4. Adequate off-site facilities for potable water supply, sewage disposal, solid waste disposal, electrical supply, fire protection and roads are planned and programmed for the development proposed in the PUD site plan, and the development is appropriately located in relation to schools, police protection and other emergency services.
5. The improvement standards applicable to the public facilities that will serve the site comply with the regulations of the appropriate governmental agency. Provided however, the development may deviate from the County's road standards so the development achieves greater efficiency of infrastructure design and installation through clustered or compact forms of development, when the following minimum design principles are followed:
 - a. The circulation system is designed to provide safe, convenient access to all areas of the proposed development using the minimum practical roadway length. Access is provided by a private vehicular right-of-way or pedestrian way or a commonly owned easement. Internal pathways are provided to form a logical, safe and convenient system for pedestrian access to dwelling units and common areas, with appropriate linkages off-site.
 - b. Roadways are designed to permit access by emergency vehicles to all lots and/or units. An access easement is granted for emergency vehicles and utility vehicles, as applicable, to use roadways in the development for the purpose of providing emergency services and for installation, maintenance and repair of utilities.
 - c. Principal vehicular access points are designed to provide for smooth traffic flow, minimizing hazards to vehicular, pedestrian, or bicycle traffic. Where a PUD abuts a major collector, arterial road or highway, direct access to the road or highway from individual lots, units or buildings is not permitted, unless specifically approved as part of the PUD site plan.

G. Conformance with Comprehensive Plan: The PUD shall be consistent with the Benzie County Comprehensive Plan.

H. Cultural Preservation: The PUD shall be designed to preserve public vistas and existing important natural, historical, archeological and architectural features of significance within and adjacent to the development.

I. Good Neighbor Requirement: The PUD 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, fumes, ground vibration, water runoff, odors, light, glare or other nuisance.

J. **Building Harmony:** The design of the PUD shall exhibit a reasonable harmonious relationship between the location of buildings on the site relative to buildings on lands in the surrounding area; and there shall be a reasonable architectural and functional compatibility between all structures on the site and structures within the surrounding area. It is not intended that contrasts in architectural design and use or facade materials is to be discouraged, but care shall be taken so that any such contrasts will not be so out of character with existing building designs and facade materials so as to create an adverse effect on the stability and value of the surrounding area.

K. **Compatible with Character of the Area:** All PUDs shall be compatible with the character of surrounding land uses and maintain and enhance the value of surrounding properties.

L. **Stormwater Runoff:** The PUD shall not result in any greater stormwater runoff to adjacent property after development, than before. The open space shall be provided with ground cover suitable to control erosion and all vegetation shall be maintained continuously in a healthy living condition.

M. **Solid Waste:** The design of the PUD shall ensure that outdoor storage of garbage and refuse is contained, screened from view, and located so as not to be a nuisance to the subject property or neighboring properties.

N. **Conformance with Requirements of Other Public Agencies:** The PUD shall meet the standards of other governmental agencies, where applicable.

O. **Phasing:** The PUD shall be designed such that phases of development are in a logical sequence, so that any one phase will not depend upon a subsequent phase for adequate access, public utility services, common infrastructure, drainage or erosion control. See also Section 17.1.12.

17.1.10 **PUD Conditions:** The Planning Commission may impose conditions with the approval of a PUD which are necessary to ensure compliance with the standards for approval stated in this Section and any other applicable standards contained in this Ordinance. Such conditions shall be considered an integral part of the PUD approval and shall be enforced by the Zoning Administrator. However, no conditions shall be imposed upon a Conservation PUD that have the effect of prohibiting the exercise of this option. See also Article XIV.

17.1.11 **Planning Commission Design Guidelines:** The Planning Commission may prepare or cause to be prepared design guidelines, best practice guidelines and/or administrative guidelines to assist property owners, developers, zoning staff and themselves in the best application of the PUD provisions of this Ordinance.

17.1.12 **PUD Phasing:**

A. When proposed construction of any PUD is to be phased, the project shall be designed in a manner that allows each phase to fully function on its own regarding services, utilities, circulation, facilities, and open space. Each phase shall contain the necessary components to insure protection of natural resources and the health, safety, and welfare of the users of the PUD and the residents of the surrounding area.

B. Each phase of the project shall be commenced within twelve (12) months of the schedule set forth on the approved site plan. If construction of any phase is not commenced within the approved time period, an extension may be granted, following review of a formal request for extension by the permit holder and approval of same by the Planning Commission. Such approval may be withheld only where harm to adjacent lands or uses would occur, there have been significant changed conditions in the area, or in the standards in the Ordinance that apply to that development, or in the case of fraud or violation of the terms of the original approval. A decision on an extension and its length may only be made following a public hearing that documents the facts and rationale for the decision, and at which the permit holder is given the opportunity to be heard. The hearing shall be preceded by one (1) notice published not less than fifteen (15) days before the public hearing in a newspaper of general circulation in the Township.

17.1.13 Reserved for Future Use

17.1.14 Pre-Application Conference: A preapplication conference between the applicant, the site designer, the chairperson of the Planning Commission or his/her designee, the Zoning Administrator and/or the Planner and other members of the Site Plan Review Committee as deemed appropriate shall be held prior to submittal or review of any application for a PUD. A site visit may be scheduled as a part of the preapplication conference. The purpose of the preapplication conference is to review Ordinance requirements as they apply to the site, before the applicant spends any significant money on even preliminary site designs.

17.1.15 PUD Application, Review and Approval Procedures: An application for any Planned Unit Development, except a Hardship PUD, shall be submitted and acted upon in accordance with the following procedures:

A. Application: Applications for a Planned Unit Development shall be submitted twenty-one (21) calendar days prior to the next scheduled Planning Commission meeting through the Zoning Administrator who will review the application for completeness, then transmit it to the Planning Commission. Each application shall be accompanied by the payment of a fee in accordance with Section 14.7.5.

B. Required Information: An application for a Planned Unit Development shall be accompanied with the following documents and information:

1. A Planned Unit Development application form supplied by the Zoning Administrator which has been completed in full by the applicant, a sketch plan as required in Section 17.1.7, and a request for the number of bonus lots, extra dwelling units, or extra building sites if any, and as applicable.
2. Following review of the initial application, sketch plan and request for bonus lots by the Site Plan Review Committee as described in Section 17.1.7 B. and C., and determination of the maximum number of permitted lots, dwelling units, building sites and a conditional determination on the number of permitted bonus lots, extra dwelling units, or extra building sites the following information shall be submitted by the applicant:
 - a. An updated application form.
 - b. A detailed site plan as specified in Article XIV, Part IV.
 - c. A statement with regard to compliance with:
 1. The eligibility requirements of Section 17.1.6,
 2. The objectives of the type of PUD proposed,
 3. The criteria required for approval in Section 17.1.9,

4. The specific standards applicable to the type of PUD requested as provided in this Article, and
5. Conformance with other criteria imposed by this Ordinance affecting the Planned Unit Development under consideration.

C. **Public Hearing:** Upon receipt of a complete application for a Planned Unit Development as provided in Section 17.1.15 B.2. above, the Zoning Administrator shall schedule a public hearing for the purpose of receiving comments relative to the Planned Unit Development application. All public notices and hearings shall conform with the requirements of Section 14.16.

D. **Review and Approval:**

1. Within forty-five (45) days following the public hearing, the Planning Commission shall review the application for a Planned Unit Development, comments received at the public hearing, the site plan, and other materials submitted in relation to the application, and make a decision to either deny, approve, or approve with conditions, the Planned Unit Development application in accordance with the purpose and objectives of this Article, the eligibility requirements of Section 17.1.6, the criteria for approval stated in Section 17.1.9, the open space requirements of Section 17.1.8, the access requirements of Article III, other relevant sections of Article XVII, the sign requirements of Article XIX, the parking requirements of Article XX, the landscaping, buffering and screening requirements of Article XXI, the environmental provisions of Article XXII, as well as such other standards contained in this Ordinance which relate to the Planned Unit Development under consideration.
2. The Planning Commission shall prepare a written report stating its findings and conclusions on the request for a Planned Unit Development, and any conditions relating to an affirmative decision.

E. **Planned Unit Development Permit:** Following final approval of a Planned Unit Development site plan and final approval of any engineering plans, a permit may be obtained from the Zoning Administrator provided the applicant has obtained all other applicable Township, County, State or Federal permits.

F. **Continuing Adherence to Approved Site Plan:** Any property owner who fails to develop and maintain an approved PUD according to the approved site plan shall be deemed in violation of the provisions of this Ordinance and shall be subject to the penalties for same.

G. **Recording of Action:** The applicant shall record an affidavit which has received the approval of the Township Attorney with the County Registrar of Deeds as provided for in this Ordinance. These documents shall be binding upon the landowners, their successors and assigns, and shall constitute the development regulations for the land. Development of the land shall be limited to the uses, density, configuration, design guidelines and all other elements and conditions set forth on the PUD Site Plan, PUD Permit and any other written agreement prepared as a part of the approved PUD. The applicant shall submit proof to the Zoning Administrator that these documents have been recorded with the County Registrar of Deeds within ninety (90) calendar days of its approval or the PUD shall be rendered invalid. Once the proper PUD documents have been recorded with the County Registrar of Deeds,

the applicant may proceed, consistent with the approved PUD Site Plan and PUD Permit, to develop the land.

H. Amendments: Amendments to an approved site plan for a PUD shall be processed according to the procedure in Article 14.

Section 17.1.16 Appeal to Circuit Court: An appeal on a decision by the Site Plan Review Committee or Planning Commission to approve, deny or approve with conditions a Planned Unit Development may be taken to Circuit Court, and may not be appealed to the Zoning Board of Appeals. [See Section 606 of the Michigan Zoning Enabling Act (MZEA), Public Act 110 of 2006, as amended]

Section 17.2 CONSERVATION PUD

17.2.1 Authorization: Conservation PUD is an option open to land owners in districts permitting residential development pursuant to Section 16h, of Public Act 178 of 2001, MCL 125.216h. A Planned Unit Development Permit may be issued for construction and occupancy of a Conservation PUD, providing the standards, procedures, and requirements set forth in this Section 17.2 are complied with.

17.2.2 Purpose and Intent: The provisions of this Section 17.2, permit the grouping of single family dwellings on a limited portion of developable land in order to preserve agricultural lands, woodlands, open space, natural features, and rural character. By permitting flexibility in design, cluster housing developments can provide common open space, recreational opportunities, privacy, and affordable living arrangements for residents. Further, cluster development reduces the consumption of land, promotes efficient public services and often preserves rural character better than traditional lot-by-lot development.

17.2.3 Objectives: Encourage conservation design that accommodates single family dwellings while:

A. Protecting and buffering sensitive lands such as wetlands, flood plains, sand dunes, steep slopes, lakes, rivers, and streams;

B. Using trees, other vegetation, hills, berms and other open space to buffer the new residential development from the contiguous public road, and any development on abutting property;

C. Permitting the continued use of land well suited to long-term agriculture or forestry, if so designated as part of the permanently protected open space on the site.

17.2.4 Qualifying Standards: Conservation PUDs are permitted in the R-1, R-2, R-3, R-4, R-5, RP-2.5, RP-5, RP-10 and RP-20 zoning districts following approval of a site plan pursuant to Article XIV, Part IV, Site Plan Review.

17.2.5 Uses that May be Permitted:

A. Single family dwellings and associated accessory uses and structures such as a garage, tool shed, green house, play set, garden and flagpole.

B. Common open space as provided in this Section and Section 17.1.7.D and 17.1.8.

- C. Nameplates and signs in compliance with the provisions of Article XIX of this Ordinance.
- D. Off street parking in compliance with the provisions of Article XX of this Ordinance.
- E. Other uses listed as permitted principal uses or permitted accessory uses, or permitted conditional uses in the district if so approved by the Site Plan Review Committee upon a finding that such a use or accessory structure was not inconsistent with the purpose, intent and objectives of this Section, and created no unreasonable negative impact on abutting properties. Fences, landscaping, berms and similar buffers as provided in Section 3.22 and Article XXI may be imposed as a condition of approval to limit possible negative impacts on abutting properties from any uses that may be permitted under this subsection 17.2.5.

17.2.6 Lot Size Variation Procedure: The lot area for lots or dwelling units within Conservation PUDs may be reduced from those sizes required by the applicable zoning district within which said development is located by compliance with the following procedures:

A. Determine the number of permitted lots or dwelling units pursuant to the procedure in Section 17.1.7.

B. Lot sizes within a Conservation PUD shall not be reduced in area below the following minimum standards in Table 17-3.

**Table 17-3
Minimum Lot Size in Conservation PUDs**

Residential Use and Zoning District	Minimum Lot Size without Sanitary Sewer--provided it is approved by the District Health Department	Minimum Lot Size with Sanitary Sewer
One-Family Detached Dwelling Units in the R-1 residential districts	12,000 square feet (3.63 D.U. /acre)	12,000 square feet (3.63 D.U. /acre)
One-Family Detached Dwelling Units in the R-2 residential districts	14,520 square feet (3 D.U. /acre)	12,445 square feet (3.5 D.U. /acre)
One-Family Detached Dwelling Units in the R-3, R-4 and R-5 residential districts	14,520 square feet (3 D.U. /acre)	12,445 square feet (3.5 D.U. /acre)
One-Family Detached Dwelling Units in the RP-2.5, RP-5, RP-10, and RP-20 residential districts	21,780 square feet (2 D.U. / acre)	21,780 square feet (2 D.U. /acre)
Two-Family Dwelling Units within the R-2 and R-4 residential districts	14,520 square feet (3 D.U. /acre)	12,445 square feet (3.5 D.U. /acre)
Townhouses, Row Houses, or Other Similar Dwelling Units within the R-2 and R-4 residential districts	14,520 square feet (3 D.U. /acre)	10,890 square feet (4 D.U. /acre)

D.U. means dwelling units

C. **Permissive Minimum Yard Requirements:** Under the lot reduction procedure each lot shall have at least the following minimum yards:

1. Front Yard: Twenty-five (25) feet for all dwellings, provided that front yard requirements may be varied by the Planning Commission after consideration of common greens or other common open space if such space provided an average of twenty-five (25) feet of front yard area per dwelling unit and no dwelling unit is setback less than twenty (20) feet from the front yard line.
2. Side Yard: Eight (8) feet on each side for all single- and two-family dwellings. None for townhouses or row houses, provided that there shall be a minimum of fifteen (15) feet between ends of each building containing dwelling units.
3. Rear Yard: Twenty-five (25) feet for all dwellings, provided that rear yard requirements may be reduced by the Planning Commission after consideration of common open space lands or parks which abut the rear yard area. In no case shall the rear yard of a lot or dwelling unit be reduced below fifteen (15) feet.

D. Maximum Permissive Building Height: Two and one-half (2½) stories, but not exceeding twenty-eight (28) feet mean height.

E. Minimum Width: The minimum width of an individual lot shall conform with the Schedule of Regulations in Article XXX or shall be no less than 100 feet, except for lots on a cul-de-sac which shall not be less than sixty-five (65) feet in width at the building line, nor less than thirty (30) feet at the front lot line.

F. Minimum Perimeter Open Space: A minimum of twenty-five (25) feet of common open space shall be maintained around the perimeter of the property with a minimum of fifty (50) feet along the frontage of the property.

17.2.7 Minimum Open Space Requirements: The following standards apply to the open space land in a Conservation PUD in addition to the requirements in Section 17.1.8:

A. All common open space land in a Conservation PUD shall remain in an undeveloped state after the single family dwellings in the Conservation PUD are constructed. As provided in PA 178 of 2001, land in an undeveloped state, means a natural state preserving natural resources, natural features, or scenic or wooded conditions; agricultural use; open space; or a similar use or condition. Within a Conservation PUD, land in an undeveloped state does not include a golf course, but may include a recreational trail, picnic area, children's play area, greenway, or linear park. Land in an undeveloped state may be, but is not required to be dedicated to the use of the public. The requirements of Section 17.1.8.B. and C. shall also be conformed with for any land to be dedicated to the public.

B. At least fifty (50) percent of the property within a Conservation PUD shall be maintained in an undeveloped state. No land in existing or proposed right-of-way, parking areas, or minimum yard setbacks shall be counted when determining undeveloped open space. Water bodies and wetlands that are to be preserved as open space shall count toward this minimum up to the maximum amount listed in Table 17-2, Section 17.1.7.D.

C. At least twenty-five (25) percent of the common open space shall be directly usable and accessible to owners of dwellings in the Conservation PUD.

D. The proposed open space shall be clearly depicted on the site plan and differentiated from the land proposed for clustering of residences.

E. Specific uses for the proposed open space shall be clearly indicated on the site plan and described in appropriate detail in the accompanying application.

F. Open space is encouraged around the perimeter of the project to screen and buffer the dwelling units from abutting property and from the main roadway beyond the minimum required in Section 17.2.6.F.

G. Proposed dwelling units shall be separated by at least twenty-five (25) feet from wetlands, surface waters, flood plains, or other sensitive open space.

H. Open space shall be reasonably shaped, contiguous, and located for convenient use by residents of the development.

I. Up to twenty (20) percent of the useable open space may be used for common septage or sanitary waste disposal, if the method and location is approved by the District Health Department and/or the Michigan Department of Environmental Quality, whichever has jurisdiction. No part of the preserved open space shall be used for an access road.

17.2.8 Other Required Standards: The following additional requirements apply to Conservation PUDs:

A. The site shall have direct access to a county road or a state highway via a new public road built to County Road Commission standards or via a private road built to the standards provided for in this ordinance.

B. Dwelling units shall be separated from nearby farm structures by at least one-hundred (100) feet, unless a lesser amount is approved by the farm structure owner, and shall conform with all state Department of Agriculture requirements for siting dwelling units near livestock operations.

C. The Conservation PUD design shall protect roadside character, improve public safety and preserve vehicular carrying capacity by not fronting lots or dwellings along an existing county road unless, because of natural limitations on the land, there is no other option, in which case, access shall still be by means of a new common public road, an approved private road or by shared driveways serving at least two and not more than three residences each.

17.2.9 Application, Review and Approval Procedures: A Conservation PUD shall be applied for, reviewed and approved using the same procedure as for a minor Site Plan in Article XIV, Part IV, Section 14.23.4. This includes submittal, review and approval of a site plan and application of the same standards for review and approval, in addition to the standards of this Section 17.2. If approved, a Planned Unit Development Permit shall be issued with any conditions detailed in the same manner as for an approved Site Plan. No application for a Conservation PUD that meets the requirements of this Section 17.2 shall be denied.

Section 17.3 RESIDENTIAL PLANNED UNIT DEVELOPMENT

17.3.1 Authorization: Residential PUDs are permitted pursuant to the authority of Section 503 of the Michigan Zoning Enabling Act (MZEA), Public Act 110 of 2006, as amended. A Planned Unit Development Permit may be issued for construction and occupancy of a Residential PUD, providing the standards, procedures, and requirements set forth in this Section 17.3 are complied with.

17.3.2 Purpose and Intent: Projected urbanization in certain areas of Benzonia and Platte Townships in the next decade will produce a need for an economical single family living unit that is adaptable to urban densities, but that retains many of the attractive features of the suburban home. Among the housing concepts emerging to meet this need are townhouses, row houses, and similar types of housing units with common property areas; single family subdivisions in which housing units are arranged in clusters separated from each other by common open space; and housing units developed with related recreational space such as golf courses, swimming pools, private parks, community center, and other recreational facilities. It is the purpose of this Section 17.3 to encourage more imaginative mixed-character housing environments within the residential districts through the creation of planned unit developments. A planned reduction of the individual lot area requirements for each zone district is permitted, providing the overall number of permitted dwelling units remains the same.

17.3.3 Objectives: The Planning Commission shall make findings as to how well the proposed Residential PUD conforms with the following objectives:

- A. To provide a more desirable living environment by preserving the natural character of open field, stands of trees, brooks, ponds, flood plains, hills, and similar natural assets.
- B. To encourage the provision of open space and the development of recreational facilities at a generally central location and within reasonable distance of all living units.
- C. To encourage developers to use a more creative and imaginative approach in the development of a residential area.
- D. To provide for more efficient and aesthetic use of open areas by allowing the developer to reduce development costs through the bypassing of natural obstacles in the residential site.
- E. To encourage variety in the physical development pattern of the Township by providing a mixture of housing types.

17.3.4 Qualifying Standards: An application for a Residential Planned Unit Development Permit shall comply with the following standards to qualify for consideration:

- A. The site shall be under the control of one owner or group of owners, and shall be capable of being planned and developed as one integral unit.
- B. The site shall be located within an R-1, R-2, R-3, R-4, R-5, or RP-2.5 district.
- C. The site shall be within an urban services area as provided in the Benzie Comprehensive Plan, unless this standard is waived by the Planning Commission.
- D. Adequate public or private water and sewer facilities shall be provided as part of the site development. Common septage or sanitary waste disposal system is permitted, if the method and location is approved by the District Health Department and/or the Michigan Department of Environmental Quality, whichever has jurisdiction.

17.3.5 Uses That May Be Permitted: The following uses may be permitted within a Residential PUD:

- A. All uses permitted by right, by right with conditions, or by Special Land Use Permit in the district in which the property is located and subject to all restrictions specified for that district except as modified by a PUD Permit.
- B. Two-family dwellings in R-4 districts.
- C. Townhouses, row houses, or other similar housing types which can be defined as a single family dwelling with no side yards between adjacent dwelling units, provided that there shall be no more than five (5) dwelling units in any one building.
- D. Recreation and open space, provided that the following uses may be set aside as common land for open space or recreation use under the provisions of this Section:
 - 1. Private recreational facilities such as golf courses, swimming pools, or other recreational facilities which are limited to the use of the owners or occupants of the lots located within the planned unit development; unless approved by the Planning Commission for use by the general public.
 - 2. Historic building sites or historical sites, parks, and parkway areas, ornamental parks, extensive areas with tree cover, wetlands, lowlands along streams, sand dunes or areas of rough terrain when such areas have natural features worthy of scenic or natural area preservation.
- E. Name-plates and signs in compliance with the provisions of Article XIX of this Ordinance.
- F. Off-street parking in compliance with the provisions of Article XX of this Ordinance.
- G. Customary accessory uses as permitted in the respective district.
- H. Fences, landscaping, berms and similar buffers as provided in Section 3.22 and Article XXI may be imposed as a condition of approval to limit possible negative impacts on abutting properties from any uses that may be permitted under this subsection 17.3.5.

17.3.6 Lot Size Variation Procedure: The lot area for lots or dwelling units within developments may be reduced from those sizes required by the applicable zoning district within which said development is located by compliance with the following procedures:

- A. Determine the number of permitted lots or dwelling units pursuant to the procedure in Section 17.1.7.
- B. Lot sizes within a Residential PUD shall not be reduced in area below the following minimum standards in Table 17-4:

**Table 17-4
Minimum Lot Size in Residential PUDs**

Residential Use and Zoning District	Minimum Lot Size without Sanitary Sewer--provided it is approved by the District Health Department	Minimum Lot Size with Sanitary Sewer
One-Family Detached Dwelling Units in the R-1 residential districts	12,000 square feet (3.63/acre)	12,000 square feet (3.63/acre)

One-Family Detached Dwelling Units in the R-2 residential districts	14,520 square feet (3/acre)	12,445 square feet (3.5/acre)
One-Family Detached Dwelling Units in the R-3, R-4 and R-5 residential districts	14,520 square feet (3/acre)	12,445 square feet (3.5/acre)
One-Family Detached Dwelling Units in the RP-2.5 residential districts	21,780 square feet (2/acre)	21,780 square feet (2/acre)
Two Family Dwelling Units within the R-2 and R-4 residential districts	14,520 square feet (3/acre)	12,445 square feet (3.5/acre)
Townhouses, Row Houses, or Other Similar Dwelling Units within the R-2 and R-4 residential districts	14,520 square feet (3/acre)	10,890 square feet (4/acre)

C. Permissive Minimum Yard Requirements: Under the lot reduction procedure each lot shall have at least the following minimum yards:

1. Front Yard: Twenty-five (25) feet for all dwellings, provided that front yard requirements may be varied by the Planning Commission after consideration of common greens or other common open space if such space provided an average of twenty-five (25) feet of front yard area per dwelling unit and no dwelling unit is setback less than twenty (20) from the front yard line.
2. Side Yard: Eight (8) feet on each side for all single- and two-family dwellings. None for townhouses or row houses, provided that there shall be a minimum of fifteen (15) feet between ends of each building containing dwelling units.
3. Rear Yard: Twenty-five (25) feet for all dwellings, provided that rear yard requirements may be reduced by the Planning Commission after consideration of common open space lands or parks which abut the rear yard area. In no case shall the rear yard of a lot or dwelling unit be reduced below fifteen (15) feet.

D. Maximum Permissive Building Height: Two and one-half (2½) stories, but not exceeding twenty-eight (28) feet mean height.

E. Minimum Width: The minimum width of an individual lot shall conform with the Schedule of Regulations in Article V or shall be no less than 100 feet except for lots on a cul-de-sac which shall not be less than sixty-five (65) feet in width at the building line, nor less than thirty (30) feet at the front lot line.

F. Minimum Perimeter Open Space: A minimum of twenty-five (25) feet of common open space shall be maintained around the perimeter of the property with a minimum of fifty (50) feet along the frontage of the property.

17.3.7 Open Space Requirements: The following standards apply to the open space land in a Residential PUD in addition to the requirements of Section 17.1.8.

A. For each square foot of land gained through the reductions of lot sizes under the provisions of this Section, equal amounts of land shall be provided in open space. At least thirty (30) percent of the net area calculated in Section 17.1.7 shall be open space. Land in a golf course or other common outdoor recreational use may be counted as open space.

- B. No land in existing or proposed right-of-way, parking areas, or minimum yard setbacks shall be counted when determining undeveloped open space. Water bodies and wetlands that are to be preserved as open space shall count toward this minimum up to the maximum amount listed in Table 17-2.
- C. Ten (10) percent of the available common open space, not including any land in a golf course, shall be directly usable and accessible to owners or residents of dwellings in the Residential PUD, as determined by the Planning Commission.
- D. The proposed open space shall be clearly depicted on the site plan and differentiated from the land proposed for clustering of residences.
- E. Specific uses for the proposed open space shall be clearly indicated on the site plan and described in appropriate detail in the accompanying application.
- F. Open space is encouraged around the perimeter of a site to screen and buffer the dwelling units from abutting property and from the main roadway beyond the minimum required in Section 17.2.6.F.
- G. Proposed dwelling units shall be separated by at least twenty-five (25) feet from wetlands, surface waters, flood plains, or other sensitive open space.
- H. Open space shall be reasonably shaped, contiguous, and located for convenient use by residents of the development.
- I. Up to twenty (20) percent of the useable open space may be used for common septage or sanitary waste disposal, if the method and location is approved by the District Health Department and/or the Michigan Department of Environmental Quality, whichever has jurisdiction. No part of the preserved open space shall be used for an access road.

17.3.8 Other Required Standards:

- A. At least six different architectural designs for dwelling units shall be used in the PUD and they shall be mixed so that no two dwellings of the same style are side by side. Garages shall not project forward from the face of the dwelling unit and wherever feasible, garage doors shall not be on the same side as the front door of the dwelling.
- B. PUDs with more than fifteen (15) dwelling units shall have direct access to a paved county road or a state highway via a new public road built to County Road Commission standards or via a paved private road built to the standards provided for in this ordinance.
- C. Site design shall avoid removing natural vegetation that could be used to screen structures, especially along a public street or highway.
- D. Structures proposed on or along ridge lines shall conform with the standards of Section 24.6.D even if not in the Crystal Lake Watershed.
- E. The Residential PUD design shall protect roadside character, improve public safety and preserve vehicular carrying capacity by not fronting lots or dwellings along an existing county road unless, because of natural limitations on the land, there is no other option, in which case, access shall still be by means of a new common public road, an approved private road or by shared driveways serving at least two and not more than three residences each.

Section 17.4 MIXED USE PLANNED UNIT DEVELOPMENTS

17.4.1 Authorization: Mixed Use PUDs are permitted pursuant to the authority of Section 503 of the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended. A Planned Unit Development Permit may be issued for construction and occupancy of a Mixed Use PUD, providing the standards, procedures, and requirements set forth in this Section 17.4 are complied with.

17.4.2 Purpose and Intent: It is the intent of this Section to carry out the same creative approach to land development as set forth in Article 17, Section 17.3 with the addition of some commercial uses as part of the PUD.

17.4.3 Objectives: The Planning Commission shall make findings as to how well the proposed Mixed Use PUD conforms with the following objectives:

- A. All the objectives listed in Section 17.3.3.
- B. The nonresidential component of the Mixed Use PUD shall clearly complement and not in any way detract from the residential portion of the PUD or from other development in the area.

17.4.4 Qualifying Standards: An application for a Mixed Use Planned Unit Development Permit shall comply with the following standards to qualify for consideration:

- A. All the standards listed in Section 17.3.4 shall be met.
- B. Commercial or office uses shall not be constructed or established until fifty (50) percent of all proposed dwelling units are constructed and thirty-five (35) percent are occupied.
- C. Nonresidential uses (not including a golf course or other recreational facility serving the residents of the PUD) shall not exceed four (4) percent of the total area of the proposed planned unit development site.
- D. The Planning Commission shall make written findings, that permitted nonresidential uses will not unreasonably increase traffic in the area, will not reduce the value of adjacent homes, structures and uses, will not create unnecessary noise, dust, odors, lights, sound or other nuisances to adjacent properties, and shall materially improve the quality of the area.
- E. The nonresidential use portion of the PUD shall be located with direct access to a paved private road, county road or state highway and shall conform with all access management regulations of this Ordinance.
- F. The nonresidential component of the PUD shall have its principal access separate from the residential portion of the PUD, but residents of the PUD shall be able to safely and conveniently access the nonresidential portion by motorized vehicle, bicycle or sidewalk.

17.4.5 Uses that May be Permitted:

- A. All uses permitted in a Residential PUD pursuant to Section 17.3.5.

B. Any use permitted by the Planning Commission that is listed as permitted by right or by right with conditions in the C-1, C/R, or N/C districts; except no wholesale sales or storage facilities are permitted. Any use permitted by Special Land Use Permit in these districts may also be permitted, but only via approval as a special land use pursuant to the procedures in Article XVI.

17.4.6 Lot Size Variation Procedure:

A. Lot sizes for residential dwellings may be varied per the standards in Section 17.3.6.

B. Lot sizes for nonresidential standards shall conform with the requirements for that use in the nonresidential district in which the use is permitted as determined by the Planning Commission.

17.4.7 Open Space Requirements:

A Mixed Use PUD shall conform with the open space requirements in Section 17.3.7.

17.4.8 Other Required Standards:

All the standards listed in Section 17.3.8 shall be met.

Section 17.5 NEOTRADITIONAL PLANNED UNIT DEVELOPMENTS

17.5.1 Authorization: Neotraditional PUDs are permitted pursuant to the authority of Section 503 of the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended. A Planned Unit Development Permit may be issued for construction and occupancy of a Neotraditional PUD, providing the standards, procedures, and requirements set forth in this Section 17.5 are complied with.

17.5.2 Purpose and Intent: It is the intent of this Section to authorize the creation of new neighborhoods in or adjacent to existing villages and cities in Benzonia or Platte Township or to create new towns using the neotraditional model. Neotraditional neighborhoods are characterized by narrow lots, higher density, parking and garages in the rear, pedestrian orientation, narrower streets, on-street parking, a traditional downtown close to residential neighborhoods, multi-use buildings, a town square and a town hall near the village center, and public parks close to neighborhoods. To these ends, this Neotraditional PUD provides extraordinary flexibility to design new neighborhoods in or adjacent to existing villages and cities in the Township or new towns.

17.5.3 Objectives: The Planning Commission shall make findings as to how well the proposed Neotraditional PUD conforms with the following objectives:

A. Is consistent with the principles of New Urbanism as published in the Charter of New Urbanism by the Congress of New Urbanism and are hereby incorporated into this Ordinance by reference. See www.cnu.org.

B. Is consistent with the goals and objectives of the Benzie County Comprehensive Plan and the Benzie County Open Space and Natural Resources Protection Plan.

17.5.4 Qualifying Standards: An application for a Planned Unit Development Permit shall comply with the following standards to qualify for consideration as a Neotraditional PUD.

A. The underlying zoning district for the residential portion of the Neotraditional PUD shall be the VR, Village Residential District.

B. The underlying zoning district for the commercial portion of the Neotraditional PUD shall be the Village Commercial District.

C. The underlying zoning district for any use not included in the Village Residential or Village Commercial District, shall be as established by the Planning Commission.

D. A pattern book conforming with the principles of the Congress of New Urbanism shall be developed and approved by the Planning Commission to ensure development in the Neotraditional PUD meets the high architectural, aesthetic, and engineering standards expected of a neotraditional neighborhood or new town.

E. Adequate public or private water and sewer facilities shall be provided as part of the site development. Common septage or sanitary waste disposal system is permitted, if the method and location is approved by the District Health Department and/or the Michigan Department of Environmental Quality, whichever has jurisdiction.

17.5.5 Uses that May be Permitted: The following uses may be permitted within a Neotraditional PUD:

A. Any principal or accessory uses allowed by right, by right with special conditions or any special land use permitted in the underlying zoning district.

B. Name-plates and signs in compliance with the provisions of Article XIX of this Ordinance or the approved Pattern Book, whichever is more restrictive.

C. Off-street parking in compliance with Article XX or the approved Pattern Book.

D. Fences, landscaping, berms and similar buffers as provided in Section 3.22 and Article XXI may be imposed as a condition of approval to limit possible negative impacts on abutting properties from any uses that may be permitted under this subsection 17.5.5.

17.5.6 Lot Size and Setback Variation Procedure: Lots sizes and setbacks within a Neotraditional PUD can vary by ten (10) percent from the standards of the underlying district, provided no more than twenty (20) percent of the total lots in the development are of the smaller size.

17.5.7 Open Space Requirements: The following standards apply to the open space land in a Neotraditional PUD in addition to the requirements of Section 17.1.8.

A. A minimum of twenty (20) percent of the total land area in the Neotraditional PUD shall be permanently protected open space that is either dedicated to and accepted by a governmental agency, or owned by a nonprofit entity responsible for managing all the land open to the public in the PUD.

B. No land in existing or proposed right-of-way, parking areas, or minimum yard setbacks shall be counted as meeting the open space requirement. Water bodies and wetlands that are to be preserved as open space shall count toward this minimum up to the maximum amount listed in Table 17-2, Section 17.1.7.D.

C. All of the available common open space shall be directly usable and accessible to owners or residents of dwellings in the Neotraditional PUD.

- D. The proposed open space shall be clearly depicted on the site plan and differentiated from the land proposed for residences.
- E. Specific uses for the proposed open space shall be clearly indicated on the site plan and described in appropriate detail in the accompanying application.
- F. Proposed dwelling units shall be separated by at least twenty-five (25) feet from wetlands, surface waters, flood plains, or other sensitive open space.
- G. Open space shall be located for convenient use by residents of the development.
- H. Up to forty (40) percent of the useable open space may be used for common septage or sanitary waste disposal, if the method and location is approved by the District Health Department and/or the Michigan Department of Environmental Quality, whichever has jurisdiction. No part of the preserved open space shall be used for an access road.

17.5.8 Other Standards:

The Planning Commission shall have complete discretion as to whether or not the proposed Neotraditional PUD is consistent with the principles of New Urbanism, the standards of this Ordinance, and is consistent with the Comprehensive Plan of Benzie County.

17.5.9 Reserved for Future Use

Section 17.6 NONRESIDENTIAL PLANNED UNIT DEVELOPMENTS

17.6.1 Authorization: Nonresidential PUDs are permitted pursuant to the authority of Section 503 of the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended. A Planned Unit Development Permit may be issued for construction and occupancy of a Nonresidential PUD, providing the standards, procedures, and requirements set forth in this Section are complied with.

17.6.2 Purpose and Intent: It is the purpose of this Section to provide opportunities for planned office, commercial and industrial development particularly suited to the needs of the residents of the Township and State in locations where public services are adequate to accommodate the jobs and activities created by such uses.

17.6.3 Objectives: The following objectives shall be met by an application for a Nonresidential PUD in order to realize the inherent advantages of coordinated, flexible, comprehensive, long-range planning and development of such Nonresidential PUD:

A. Property is located within an area designated for urban growth in the Benzie County Growth Management Plan.

B. The use is consistent with the character of the area and has a quality of construction commensurate with other new developments within the Township.

17.6.4 Qualifying Standards: Each property proposed for a Nonresidential PUD shall conform with the following qualifying standards:

A. Parcel shall be a minimum of twenty (20) acres in size.

B. Parcel shall be served by public sewer and water.

C. The site shall have direct access to a county road or a state highway via a new public road built to County Road Commission standards or via a private road built to the standards provided for in this Ordinance.

17.6.5 Uses that May be Permitted: The following uses are permitted in a Nonresidential PUD:

A. Office, governmental, institutional, commercial, or industrial uses, or a mix thereof.

B. The uses permitted by right, by right with conditions, or by Special Land Use Permit in the underlying zoning district shall establish the permitted uses.

C. Not more than twenty (20) percent of the gross floor area of a Nonresidential PUD in a C-1 or O-1 district may be used for dwelling units. All dwelling units shall be above the ground floor businesses or office uses.

D. Nameplates and signs in compliance with the provisions of Article XIX of this Ordinance.

E. Off street parking in compliance with the provisions of Article XX of this Ordinance.

F. Fences, landscaping, berms and similar buffers as provided in Section 3.22 and Article XXI may be imposed as a condition of approval to limit possible negative impacts on abutting properties from any uses that may be permitted under this subsection.

17.6.6 Lot size and Setback Variation Procedure:

A. Lots sizes and setbacks within a Nonresidential PUD can vary by ten (10) percent from the standards of the underlying district, provided no more than twenty (20) percent of the total lots in the development are of the smaller size.

B. The minimum setback requirements of the underlying zoning district shall be maintained around the perimeter of the PUD.

17.6.7 Open Space Requirements: At least twenty (20) percent of the total acreage of the site shall be retained as permanent open space. Not more than fifteen (15) percent of the permanent open space shall be wetlands or open water. Required open space shall conform with the requirements of Section 17.1.8.

17.6.8 Other Standards: No Nonresidential PUD shall be approved unless the applicant, through written submittal, and the Planning Commission, through certification of written findings, demonstrate that the land use and development meet the following standards:

A. Conforms with all access management regulations of this Ordinance.

B. The Planning Commission shall make written findings, that permitted nonresidential uses will not unreasonably increase traffic in the area, will not reduce the value of adjacent homes, structures and uses, will not create unnecessary noise, dust, odors, lights, sound or other nuisances to adjacent properties, and shall materially improve the quality of the area.

Section 17.7 HARSHIP PLANNED UNIT DEVELOPMENT

17.7.1 Authorization: Hardship PUDs are permitted pursuant to the authority of Section 503 of the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended. A Planned Unit Development Permit may be issued for construction and occupancy of a Hardship PUD, providing the standards, procedures, and requirements set forth in this Section are complied with.

17.7.2 Purpose and Intent:

A. It is the intent of this Section to provide a site specific administrative remedy to allow reasonable use of property in those limited instances in which a property owner demonstrates to the Township Board of Trustees that (1) the applicant's property cannot be used for the purposes permitted in the zoning district, (2) the plight is due to unique circumstances peculiar to the property and not to the general neighborhood conditions, (3) the proposed development and use would not alter the essential character of the area, and (4) the applicant's problem has not been self-created.

B. If and when a property owner meets such four-part threshold burden of proof, it is not intended that any use may then be approved. Rather, this Section is intended to authorize administrative relief to the minimum extent necessary to allow reasonable use of property on the particular site, taking into consideration the objective of achieving compatibility and high quality development.

C. In order to satisfy the finality requirement dictated by the Michigan Supreme Court in *Paragon Properties Company v City of Novi*, a property owner shall not be required to seek variance relief at the Board of Appeals if relief is sought and denied under this Section. An application under this Section also represents a waiver of the right to request a use variance from the Board of Appeals, under the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended.

17.7.3 Application Requirements:

A. In addition to the information required for other variance requests, an application for a Hardship Planned Unit Development shall include a plan drawn to scale detailing the specific use and improvements proposed by the applicant, and a summary of the facts which support each of the following conclusions:

1. Applicant's property cannot be used for the purposes permitted in the zoning district.
2. Applicant's plight is due to unique circumstances peculiar to his property and not to general neighborhood conditions.
3. Applicant's suggested use would not alter the essential character of the area.
4. Applicant's problem has not been self-created.

B. At the end of each statement (1. through 4.) identify all persons who will appear at the hearing with respect to each of the facts, and, separately, identify all persons who will appear at the hearing relative to the respective conclusion (and if any person is to be offered as an expert witness, include with the application a resume which shows the education and experience of such person within the particular area of expertise).

17.7.4 Pre-Hearing Conference:

A. Prior to the scheduling of a hearing, the applicant shall contact the Planner for the purpose of scheduling a pre-hearing conference.

- B. The purposes of the pre-hearing conference shall be to:
1. Review the procedure for the hearing and identify all persons who will appear (directly or through affidavit) and the evidence to be offered on behalf of the applicant.
 2. Attempt to secure a statement of agreed upon facts to be used to narrow the matters of dispute and shorten the hearing.
 3. Explore a means of providing relief to the applicant by way of non-use variance from the Board of Appeals.
 4. Discuss the need, desirability, and the terms of providing, a verbatim record of the hearing.

C. The Planner shall determine who should be present at the pre-hearing conference based upon the application submitted, and taking into consideration the discussion with the applicant or the applicant's representative.

D. The pre-hearing conference shall be scheduled and conducted on an expeditious basis so as to avoid unreasonable delay to the applicant. Sufficient time shall be taken, however, to achieve the purposes of the pre-hearing conference, stated above.

17.7.5 Hearing Procedure:

A. The applicant shall have the burden of proof. In order to be entitled to relief, the applicant must demonstrate each of the four factors set forth in Section 17.7.3.A, paragraphs 1. through 4., above.

B. Manner of Presentation:

1. Community representatives shall present an overview of the zoning regulations involved. This may include an indication of the objectives sought to be achieved in the zoning district, and any planning, engineering, financial, environmental or other considerations which are generally relevant within the zoning district and/or in the general area of the property at issue.
2. The applicant may present witnesses, including the applicant, or may submit affidavits, for the purpose of attempting to prove facts or conclusions. The applicant shall be provided with the opportunity to present all testimony and evidence proposed to be presented at the pre-hearing conference, either through witnesses or affidavits, however, the chairperson of the Township Board may restrict testimony and evidence which would result in unreasonable duplication. In addition, by motion made on its own or at the request of a person at the hearing, the Township Board may require the presence of any witness who has offered either testimony by affidavit on a material question of fact or testimony of an expert nature, with the view of permitting members of the Township Board to ask questions of such witnesses.
3. At the conclusion of the applicant's presentation, interested persons attending the hearing shall be provided with the opportunity to present testimony and evidence in the same manner and subject to requiring the presence and questioning of witnesses, as provided above for the applicant.
4. When interested persons have completed their presentations, at the same meeting and/or at an adjourned meeting date, testimony and evidence may be presented on behalf of the community in the same manner, and subject to requiring the presence and questioning of witnesses, as provided above for the applicant. The purpose of such presentation shall be to ensure that a full

- picture, including all relevant information, is before the Township Board for consideration as it relates to the specific application presented.
5. If testimony or evidence has been offered by or on behalf of interested persons and/or the community, the applicant shall have the opportunity to make a responsive presentation, restricted to answering the points raised by interested persons and community representatives. The manner of presenting witnesses, and requirement of their presence and questioning, shall be the same as provided above for the applicant's principal presentation.
 6. At the hearing, the Township Board may determine to establish other rules of procedure, such as meeting hours on any given day, procedure for presentations by interested persons and/or on behalf of the community, or other rules found to be necessary or appropriate by the Township Board. When questions of procedure arise during the hearing, the chairperson of the Township Board may solicit the recommendation of the representatives of both the applicant and the community.
 7. If a hearing is not completed at a given meeting within the time period allowed by the Township Board, it shall adjourn the hearing for a maximum of thirty (30) days to a place, time and date certain for continuation.

17.7.6 Decision of the Township Board:

- A. The Township Board may deem it appropriate in any given case to provide an opportunity for anyone presenting testimony or evidence to submit proposed findings of fact and conclusions.
- B. At the conclusion of the hearing, the Township Board may make its decision at that meeting, or it may adjourn the hearing to a new date for the purpose of reviewing the testimony and evidence, and reviewing proposed findings and conclusions submitted by hearing participants, in preparation for making its decision.
- C. If the Township Board determines to grant a Hardship Planned Unit Development, it shall be the minimum relief required to allow reasonable use of the property, while maintaining the essential character of the area. The motion may include conditions that are authorized by law.
- D. If the Township Board adopts a motion to grant a Hardship Planned Unit Development, such motion may be made as a tentative grant of relief, subject to review by the Planning Commission, Planner, consultant, Zoning Administrator, or other person or official with expertise, with a view of obtaining recommendations on any conditions that may be relevant and authorized by law, and for the further purpose of ensuring that the grant of relief would not violate applicable law. If a motion authorizing such a tentative grant of relief is made, the Township Board, in the same motion, should request the completion of all reviews by other boards or persons by a specific date, so that relief may be expeditiously finalized.

Section 17.8 TRANSFER OF DEVELOPMENT RIGHTS PUD OVERLAY ZONE

17.8.1 Authorization: Transfer of Development Rights PUD Overlay Zones are created pursuant to the authority of the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended. This overlay zone includes both sending areas and receiving areas. A Planned Unit Development Permit may be issued for construction and occupancy of a PUD, providing the standards, procedures, and requirements set forth in this Section 17.8 are complied with.

Intended sending zones are RP-5, RP-10, and RP-20.

Intended receiving zones (in which bonus lots are permitted) are R-2, R-3 and VR (new zone, Village Residential)

**ARTICLE XVIII
SUBDIVISIONS & CONDOMINIUM PROJECTS**

Section 18.1 PURPOSE & INTENT

- A. The purpose of this Article is to set forth the procedures and standards for review and approval, approval with conditions, or denial of subdivisions as they relate to this Zoning Ordinance and is adopted pursuant to authority of the Land Division Act, P.A. 288 of 1967, as amended and the Condominium Act, P.A. 59 of 1978 as amended.
- B. Subdivisions are subject to a multi-step local, county and state approval process. Physical improvements to the land to be subdivided are authorized by a final preliminary plat approval as provided in Public Act 288 of 1967 and sale of lots are permitted only after final plat approval. Additional requirements are provided in this Article and other pertinent sections of this Ordinance.
- C. Pursuant to authority conferred by Section 141 of the Condominium Act (MCLA 559.241), Public Act 59 of 1978, as amended, all condominium projects and condominium subdivisions must be approved by the Platte Township Planning Commission.
- D. All subdivisions, condominium projects and condominium subdivisions shall go through the site plan review requirements of Article 14.

Section 18.2 SUBDIVISION OF LAND

- A. No person may subdivide his land except in accordance with all of the provisions of Public Act 288 of 1967. In particular, no person may create more lots than permitted under the land division provisions of Sections 108 and 109 of the Land Division Act, being Public Act 288 of 1967 as amended, unless and until a final preliminary plat of the subdivision has been approved.
- B. The Benzie County Register of Deeds may not record a plat of any subdivision within the Township's jurisdiction unless the final plat has been approved under this Ordinance and as required under Michigan law.

Section 18.3 PRE-APPLICATION PROCESS – SKETCH PLAN

The utilization of pre-application procedures for pre-preliminary plats as provided in this Section is not required by statute. Its use is entirely at the discretion of the subdivider. The subdivider is encouraged to use the procedure because of the advantages to the subdivider as identified in the purposes outlined in this section.

- A. Purpose:

1. To provide guidelines for the subdivider concerning development policies of the Township.
2. To acquaint the subdivider with the platting procedures and requirements of the Township Board, Planning Commission and other agencies.
3. To provide the Planning Commission and other affected agencies with general information concerning the proposed development.
4. Acceptance of the sketch plan does not assure acceptance of the preliminary plat.

B. Requirements:

1. Pre-Preliminary Plat or Sketch Plan - the plan shall show the subdivision's entire development scheme in schematic form including the area for immediate development, and shall include the following:
 - a. General layout of streets, blocks and lots in sketch form.
 - b. Existing conditions and characteristics of the land on and adjacent to the site including the subdividers total land holdings, buildings and land uses adjacent to the site.
 - c. Any general area set aside for schools, parks and other community facilities.
2. Engineering Letter: A letter from a licensed surveyor concerning the general feasibility of the land for subdividing.
3. Ownership: The Township Board and Planning Commission may require such proof of ownership of the land proposed to be subdivided as they deem necessary.
4. Environmental Assessment: An analysis of any environmentally sensitive areas or threat to any endangered species of flora or fauna.

C. Procedure:

1. The subdivider may submit three (3) copies of the pre-preliminary plat to the Zoning Administrator.
2. The Zoning Administrator will review the plan and may also require that copies of the pre-preliminary plat be submitted to other affected public agencies for review.

3. The Zoning Administrator shall present a copy of the pre-preliminary plat to the Planning Commission at the next scheduled meeting along with a written report on the project.
4. The Planning Commission shall inform the subdivider or his agent of the Township's development policies and make appropriate comments and suggestions concerning the proposed development scheme.
5. The Planning Commission may hold a public hearing on the proposed plat, unless said plat has been the subject of a previous public hearing as a zoning change request.
6. The Planning Commission shall inform the Township Board of the results of the review of the pre-preliminary plat.

Section 18.4 CONDOMINIUM SUBDIVISION PLAN

A. This section requires site plan review of condominium subdivisions to ensure that condominium projects comply with this Zoning Ordinance and all other applicable ordinances. Condominium projects may be approved as provided by this section, in any Zoning Districts.

B. Except for allowable bonus lots, the overall density of the condominium project shall not be higher than the underlying Zoning District allows. The total acreage of the project, divided by the minimum lot size of the underlying Zoning District, equals the basic number of building sites permitted. Compliance with required front, side and rear yards, shall be determined by measuring the distance from the equivalent front, side or rear yard boundaries of the building site to the closest respective front, side or rear boundary of the building footprint or envelope.

C. All dedicated public roadways in site condominium subdivisions shall meet the requirements of the Benzie County Road Commission. All private roads shall meet the requirements of Section 3.24.

D. Preliminary Condominium Subdivision Plan: All condominium projects shall require preliminary condominium development plan approval by the Planning Commission prior to conducting any on-site improvements.

1. Twelve (12) copies of the preliminary Condominium Subdivision plan and other required documentation shall be submitted to the Zoning Administrator at least twenty-one (21) days before a meeting of the Planning Commission. The Planning Commission shall study the plan and shall either approve or disapprove the preliminary plan. The information and drawings must be clearly marked "Preliminary Condominium Subdivision Plan".

2. Any significant changes in the preliminary Condominium Subdivision plan, once it has been approved, must be submitted to the Planning Commission for approval in compliance with this Section.
3. The following information shall be included in the preliminary condominium development plan:
 - a. A site plan in accordance with Article XIV. In particular the following information is essential:
 1. Location and size of condominium units, limited common areas, general common areas, sidewalks, landscaping features, signs, and utilities.
 2. Street and utility specifications and sectional diagrams.
 - a. If a condominium is proposed to have private streets, the Site Plan Review Committee shall require that the private streets be developed to the standards contained in Section 3.24 of this Ordinance.
 - b. A storm drainage and storm water management plan shall be submitted, including all lines, swales, drains, basin, and other facilities.
 3. Existing and projected topographical contours shall be depicted at a minimum of two (2) foot intervals.
 4. A copy of the proposed Master Deed and restrictions with proposed use and occupancy restrictions and a description of all common elements highlighted.
 - b. A Condominium Subdivision plan in accordance with the requirements of Section 66 of the Condominium Act, P.A. 59 of 1978.

Documented proof of review by the Benzie County Road Commission, the Benzie-Leelanau District Health Department, the Michigan Department of Transportation, and the Michigan Department of Environmental Quality.

4. In its review of the preliminary Condominium Subdivision plan, the Planning Commission may consult with the Zoning Administrator, an attorney, engineer, the appropriate fire chief, planner, or other appropriate officials and persons regarding the adequacy of the proposed common elements and maintenance provisions, use and occupancy restrictions, utility systems and streets, project layout and design, or other aspects of the proposed project. Any costs incurred may be charged to the applicant pursuant to the provisions of Article 14.

5. Approval of the preliminary Condominium Subdivision plan shall authorize the construction of necessary site improvements. Construction of buildings and structures shall not be permitted until a final Condominium Subdivision plan has been approved by the Planning Commission.
6. The Condominium Subdivision shall provide for dedication of easements to the appropriate public agencies for the purposes of construction, operation, maintenance, inspection, repair, alteration, replacement and/or removal of pipelines, conduits, mains and other installations of a similar character for the purpose of providing public utility services, including conveyance of sewage, potable water and stormwater runoff across, through and under the property subject to said easement, and excavation and refilling of ditches and trenches necessary for the location of such installations.
7. All condominium projects and condominium subdivisions which consist in whole or in part of condominium units which are building sites shall be marked with monuments the same as is required under the Land Division Act; Public Act 288 of 1967, as amended for subdivisions.

E. Final Condominium Subdivision Plan: Twelve (12) copies of the final Condominium Subdivision plan and other required documentation shall be submitted to the Planning Commission which shall either approve or disapprove the final Condominium Subdivision plan. The information and drawings must be clearly marked "final Condominium Subdivision plan."

1. No buildings or structures shall be constructed nor shall any other site improvements or changes be made on the property in connection with a proposed condominium project except those necessary to complete a final Condominium Subdivision plan as approved by the Planning Commission, including any conditions of approval and other applicable requirements of local, state, or federal laws and regulations.
2. No zoning permits shall be issued for a condominium project until a final Condominium Subdivision plan has been approved by the Planning Commission, all conditions to commencement of construction have been met, and all applicable approvals or permits from appropriate township and state review and enforcement agencies have been obtained for the project.

F. Final Approval: The office of the County Register of Deeds shall be furnished with a copy of the recorded master deed, as defined in Section 8 of the Condominium Act prior to the issuance of any building permits. The master deed must ensure that the Township will not be responsible for maintenance or liability of the non-dedicated portions of the subdivision, that all private roads will be properly maintained, that snow

removal will be provided, and that there is adequate access and set up area for emergency vehicles. Responsibility for the maintenance of stormwater retention areas, drainage easements, drainage structures, lawn cutting, and other general maintenance of common areas must be clearly stated in the recorded master deed.

1. Approval of the final Condominium Subdivision plan shall not constitute approval of expandable or convertible portions of a condominium project unless the expandable or convertible areas were specifically reviewed and approved by the Planning Commission in compliance with the procedures, standards, and requirements of this section.
2. Any significant change proposed in connection with a condominium project for which the final Condominium Subdivision plan has previously been approved by the Planning Commission shall be subject to review as required for the original application as provided by this section.
3. All provisions of the condominium project or condominium subdivision plan which are approved by the Planning Commission shall be incorporated, as approved, in the master deed for the condominium subdivision. Any proposed changes (including expansion or conversion of a condominium project to include additional land) to the approved condominium project or condominium subdivision plan shall be subject to review and approval by the Planning Commission as an amendment to a planned unit development, subject to the procedures provided for in this Ordinance.

G. Fees: Fees for the review of Condominium Projects or Condominium Subdivisions shall be established from time to time by resolution by the Township Board of Trustees.

ARTICLE XIX SIGNS

Section 19.1 PURPOSE

A. The purpose of this Article is to regulate commercial and noncommercial outdoor signs in a manner which: recognizes the communication needs of both businesses and other parties; protects property values and neighborhood character; creates a more attractive business climate; promotes pedestrian and traffic safety by reducing sign distractions, obstructions and other hazards; and promotes pleasing community environmental aesthetics.

B. Compliance with this Ordinance does not relieve the applicant of the responsibility for compliance with other township, state or federal sign regulations, nor does the issuance of a Zoning Permit grant permission to the applicant to place signs on any property including road rights-of-way other than property owned or otherwise legally under the control of the applicant. The issuance of a zoning permit only assures the applicant that the sign meets the requirements of the Township Zoning Ordinance.

Section 19.2 PERMIT REQUIRED

Except as otherwise provided in Sections 19.3, 19.4 and 19.10, no sign may be constructed, erected, moved, enlarged, illuminated or substantially altered unless a Zoning Permit has been issued in accordance with the provisions of this Ordinance. Mere repainting or changing the message of a sign shall not in and of itself be considered a substantial alteration.

Section 19.3 SIGNS EXCLUDED FROM PERMIT

The following signs are permitted without a Zoning Permit, but shall conform to the requirements set forth herein as well as all other applicable requirements of this Article.

A. One (1) sign not exceeding six (6) square feet in sign face area that is customarily associated with residential use and that is not of a commercial nature, such as signs: giving property identification; names or numbers of occupants; such as 4-H Clubs group memberships; or, centennial farm signs.

B. Signs not exceeding two and one-half (2 1/2) square feet in sign face, on mailboxes or newspaper tubes, and signs posted on private property relating to private parking, or warning the public against trespassing or danger from animals.

C. Signs erected by or on behalf of or pursuant to the authorization of a governmental body, including legal notices, identification, and informational signs, including historical markers, traffic, directional, and regulatory signs.

- D. Official signs of a non-commercial nature erected by public utilities.
- E. Flags, or insignia of any governmental or non-profit organization when not displayed in connection with a commercial promotion or as an advertising service.
- F. Integral decorative or architectural features of buildings or work of art, so long as such features or works do not contain letters, trademarks, moving parts, or lights.
- G. Signs directing and guiding traffic on private property that do not exceed four (4) square feet each and that bear no advertising matter.
- H. Informational signs not exceeding (1) one square foot in sign face.
- I. A total of two (2) banners, one (1) banner and one (1) commercial advertising flag, or two (2) commercial advertising flags, each such banner or commercial advertising flag not to exceed twenty-four (24) square feet in sign face, used to attract attention to a community activity or event (also see Sec. 19.4, A, 4.)
- J. Street name signs located in accord with County Road Commission standards at street intersections, not to exceed one (1) square foot in sign face.

Section 19.4 TEMPORARY SIGNS: PERMIT EXEMPTIONS

- A. The following temporary signs, related to temporary land uses, are permitted without a Zoning Permit. However, such signs shall conform to the requirements set forth herein as well as all other applicable requirements of this Article.
 - 1. Real estate signs: Signs containing the message that the real estate on which the sign is located (including buildings) is for sale, lease, or rent, together with information identifying the owner or agent. Not more than one such sign shall be erected per site, shall not exceed six (6) square feet in sign face area, and shall be removed within ten (10) days after sale, lease or rental. However, a second sign may be erected on a site of twenty (20) acres or more in area and having a street frontage width of six hundred sixty (660) feet or more as long as the second sign shall not exceed sixteen (16) square feet in sign face area.
 - 2. Construction site identification signs: Such signs may identify the project, the owner or developer, architect, engineer, contractor and subcontractors, funding sources, and may contain related information including, but not limited to, sale or leasing information. Not more than one such sign, not exceeding thirty-two (32) square feet in sign face area, shall be erected per site. In the place of the one large sign up to four (4)

individual smaller signs may be erected on the site, upon the condition that each such smaller sign shall not exceed four (4) square feet in sign face area per sign.

3. Political Signs: Signs erected in connection with elections or political campaigns. Such signs shall be removed within three (3) days following the election or conclusion of the campaign. No such exempt sign may exceed six (6) square feet in sign face area. Any larger political signs require a Zoning Permit.
4. Special temporary event signs: One sign not exceeding twenty-four (24) square feet in sign face indicating a special temporary event such as a carnival, circus, festival or similar event, placed on the lot where the activity is to take place. Such signs may be erected not sooner than two (2) weeks before the event and must be removed not later than three (3) days after the event.
5. Seasonal commodity signs: Seasonal commodity signs shall not have a total sign face greater than thirty-two (32) square feet, of which not more than twenty (20) square feet may be on premises and not more than twelve (12) square feet may be off-premise. No single off-premise sign face shall be more than six (6) square feet. Such signs shall not be set in place for use until one (1) week before the beginning of the harvest season.
6. Yard sale, or garage sale signs or other similar temporary activity signs not covered in the foregoing categories, so long as such signs meet the following restrictions:
 - a. Not more than one (1) such sign may be located on any lot.
 - b. No such sign may exceed four (4) square feet in surface area.
 - c. Such signs shall be erected not more than three (3) days prior to the event and shall be removed immediately following the event.
 - d. Such signs shall not be erected more than one (1) time per each six (6) months.
 - e. Directional signs not exceeding two (2) square feet in area may be erected, but no advertising signs may be installed on public or utility poles.
 - f. All signs shall be removed within twenty-four (24) hours of the sale.

B. Other temporary signs, not listed in subsection (A), shall be regarded and treated in all respects as permanent signs.

Section 19.5 DETERMINING THE NUMBER OF SIGNS

- A. For the purpose of determining the number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related, and composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements, each element shall be considered a single sign.
- B. A two-sided or multi-sided sign shall be regarded as one (1) sign so long as:
1. With respect to a V-type sign, the two (2) sides are at no point separated by a distance that exceeds five (5) feet; and
 2. With respect to double faced (back to back) signs, the distance between the backs of each face of the sign does not exceed three (3) feet.

Section 19.6 COMPUTATION SIGN AREA

- A. The sign face area of a sign shall be computed by including the entire area within a single, continuous, perimeter of not more than eight (8) straight lines, or a circle or an ellipse, enclosing the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework or bracing that is clearly incidental to the display itself.
- B. If the sign consists of more than one (1) section or module, all of the area, including that between sections or modules, shall be included in the computation of the sign face area.
- C. With respect to two-sided, multi-sided or three- dimensional signs, the sign face area shall be computed by including the total of all sides designed to attract attention or communicate information that can be seen at any one time by a person from one vantage point. Without otherwise limiting the generality of the foregoing:
1. The sign face of a double-faced, back-to-back sign shall be calculated by using the area of only one side of such sign, so long as the distance between the backs of such signs does not exceed three (3) feet.
 2. The sign face area of a double faced sign constructed in the form of a "V" shall be calculated by using the area of only one side of such sign (the larger side if there is a size difference), so long as the interior angle of the "V" does not exceed 30 degrees and at no point does the distance between the backs of such sides exceed five (5) feet.

Section 19.7 SIGNAGE TABLES

- A. Tables 19-1 and 19-2 in Sections 19.8 and 19.9 respectively summarize the

signage allowed by this Ordinance for each category of land use. To use the Tables refer to the key to the tables (below) and related footnotes (in Sections 19.8 and 19.9):

B. Key to Table:

Example: 1/2/48 (1) = N/SFSF/TSF (footnote)

Legend:

- N = Number of Signs
- SFSF = Allowed Square Footage of Sign Face
- TSF = Total Square Footage of Sign face and area encompassed by support structure
- V = Variable Number of Signs Allowed
- NA = Not Applicable
- (F) = Footnote
- EA = Each Sign Face
- T = Total All Sign Faces in This Category

Section 19.8 SIGN REQUIREMENTS WHERE PERMITS ARE REQUIRED

A. Sign requirements for signs requiring permits follow in Table 19-1:

**Table 19-1
Signs Requiring Permit**

Land Use	Free Standing Business Sign A. Pole B. Ground	Wall Signage A. Wall Sign B. Marquee C. Projecting	Ingress Egress	Subdivision Group Housing	Entrance Way	Business Center	Home Occupation
1. Residential							
A. Residential Unit							1/6T/NA
B. Subdivision Development				1/32EA/45			
C. Multi-family Development				1/32EA/45			
D. Mobile Home Park				1/32EA/45	2/2EA/NA		
2. Commercial (1)	(4)						
A. Single Businesses	1/40EA/NA	V/100T/NA(2)	2/3EA/NA				
B. Single lot	1/40EA/NA	V/100T/NA(2)	2/3EA/NA				

multiple business							
C. Business Center		V/V/NA (3)	V/3EA/NA	1/V/EA/NA	V/16EA/NA	1/125T/NA (4)	
3. Industrial	1/40EA/NA	V/100T/NA	V/3EA/NA	1/322EA/45	V/16EA/NA		
4. Agriculture	1/20EA/NA	V/100T/NA	2/3EA/NA				
5. Institutional Gov., Religious	1/32EA/NA	1/20T/NA	2/3EA/NA		V/16EA/NA		

6. For off-premise highway advertising signs, see Section 19.11.

Footnotes for Table 19-1 follow Table 19-2 in next section.

Section 19.9 SIGN REQUIREMENTS WHERE PERMITS ARE NOT REQUIRED

A. Sign requirements for signs for which permits are not required follow in Table 19-2:

**Table 19-2
Sign Without a Permit**

Land Use	Commodity	Estate	Political	Etc.	Flag	Construction Site	Temporary Event
1. Residential		1/6T/NA					
A. Residential Unit	1/6T/NA	1/6T/NA	V/6/NA	1/4/NA		1/32/NA	
B. Subdivision Development						1/32/NA	
C. Multi-Family Development		1/6T/NA	V/6/NA	1/4/NA		1/32/NA	
D. Mobile Home Park			V/6/NA			1/32/NA	
2. Commercial (1)							
A. Single Businesses		1/6T/NA	V/6/NA		2/24/NA	1/32/NA	1/24/NA
B. Single lot multiple business		1/6T/NA	V/6/NA			1/32/NA	1/24/NA
C. Business Center		1/6T/NA	V/6/NA			1/32/NA	1/24/NA
3. Industrial		1/6T/NA	V/6/NA		2/24/NA	1/32/NA	
4. Agriculture	V/5/NA	1/6T/NA	V/6/NA	1/4/NA		1/32/NA	

5. Institutional Gov., Religious		1/6T/NA	V/6/NA	1/4/NA	2/24/NA	1/32/NA	A/24/NA
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B. Footnotes to Tables 19-1 and 19-2.

- (1) Lots in excess of one hundred (100) feet in width shall be allowed two-tenths (0.2) of one (1) square foot of additional sign face for each one (1) foot of lot width in excess of one hundred (100) feet. "Width" shall be measured along the traveled portion of the roadway which has the primary business focus.

Should there be reasonable doubt as to whether a commercial development is a Single Lot Multiple Business or a Business Center, only the standards for one (1) development classification may be applied to any single development.

- (2) The total accumulated square footage of any one and/or all types of wall, marquee or projecting sign faces shall be one hundred (100) square feet.
- 3) Each business may have one (1) square foot of sign face for each foot of building frontage not to exceed one hundred twenty (120) square feet in sign face area.
- (4) One (1) free-standing identification sign may be erected for a shopping center or other integrated group of stores or commercial buildings. The area for said sign shall be based on one (1) square foot of sign face for each lineal foot of building front, however, it shall not exceed one-hundred and twenty-five (125) square feet in area.
- (5) See Sec. 19.4 A 5.

Section 19.10 GASOLINE SERVICE STATIONS

Automobile gasoline service stations, including any business selling gasoline, in addition to the principal signs may, attach two (2) other signs, not exceeding fifteen (15) square feet in display area, per side, to the column(s) of the pylon sign, advertising the price of gasoline or other accessory product sold on the premises, including the advertising of accepted credit cards. Directional signs or lettering displayed over individual entrances or service bays, shall be permitted, provided they consist only of the words, "washing", "lubrication", "repairs" or "mechanic on duty" or similar words directly relating to motor vehicle services offered on the premises. Not more than one (1) such sign, per bay, shall be permitted and each sign shall not exceed four (4) square feet in total display area.

Section 19.11 OFF-PREMISE HIGHWAY ADVERTISING SIGNS

Off-premise highway advertising signs are those signs and sign structures which are defined and regulated by the Michigan Department of Transportation pursuant to the Highway Advertising Act of 1972, Public Act 106 of 1972, as amended, and as further regulated by this Ordinance. (Found at MSA 9.391(101) and thereafter, or at MCL 252(302) and thereafter.) An off-premise highway advertising sign is also defined as one which advertises a business, product or profession which is not located on the premises of the sign. Permits are required from MDOT for signs along State and Federal highways.

In addition to such regulations and administration, set forth in the above-cited statutes, the following shall also apply to any such signs and structures on the applicable lands along State and Federal Highways.

1. The size of such signs shall not exceed one hundred twenty-eight (128) square feet in area, including border or trim, but excluding ornamental base or apron, supports and other structural members;
2. Such sign and sign structure shall not be closer than one thousand (1,000) feet to another such off-premise advertising sign and sign structure, on the same side of the highway;
3. Such sign and sign structure shall not exceed twenty-four (24) feet in height;
4. Such sign and sign structure shall meet the front and side yard set back requirements for a structure located in the Zoning District;
5. Such sign and sign structure shall be maintained in regards to structural soundness and readability, and in accordance with the other provisions of this said Article XIX.

Off-premise highway advertising signs shall only be permitted as regulated by MDOT adjacent to State and Federal Highways.

All off-premise highway advertising signs shall, prior to construction, require a Zoning Permit from the Township.

The permit fee schedule shall be established by resolution of the Township Board. All permit fees shall be paid upon application.

Section 19.12 PROHIBITED SIGNS

The following signs shall not be allowed in any District:

1. Signs that are not consistent with the standards of this Ordinance,
2. Signs which are not clean or in good repair,
3. Signs that are not securely affixed to a substantial structure,
4. Signs that resemble any official traffic sign or appear to attempt to direct the movement of traffic, or are located where they interfere with motorists view of intersections or driveways,
5. Revolving, moving, or flashing signs (except time, date and weather signs), pennants, streamers, and airborne devices.
6. Signs other than utility company signs attached to utility poles, and
7. Portable signs.
8. Signs remaining after a business or activity has terminated must be removed within thirty (30) days.

Section 19.13 SIGN SETBACKS AND HEIGHT REQUIREMENTS

A. Setbacks: For the purpose of establishing sign setback requirements from an abutting roadway, the below listed types of signs shall be setback from the edge of the traveled surface of the roadway as follows in Table 19-3:

**Table 19-3
Sign Setbacks**

Sign	Feet
Business Center	32
Construction Site	32
Entrance Way	27
Free Standing	32
Historical Marker	32
Home Occupation	32
Identification	32
Informational	42
Real Estate	22
Seasonal Commodity	22
Off-premise highway advertising Signs - Billboards	At front or side yard setback and in conformance with applicable MDOT and/or Benzie County Road Commission requirements

B. No sign may extend above any parapet or be placed upon any roof surface, except that for purposes of this section, roof surfaces constructed at an angle of seventy-five (75) degrees or more from horizontal shall be regarded as wall space. This subsection shall not apply to displays, including lighting, erected in connection with the observation of holidays on the roofs of residential structures.

C. No wall sign attached to a building may project more than twelve (12) inches from the building wall.

D. Regarding ground and pole signs, whenever possible, a ground sign shall be used, not to exceed eight (8) feet in height; however, when, for safety reasons, a line of sight below the sign is needed, a pole sign, not to exceed sixteen (16) feet may be permitted.

Section 19.14 SIGN ILLUMINATION

- A. Unless otherwise prohibited by this Ordinance, signs may be illuminated if such illumination is in accordance with this section.
- B. No sign within one-hundred and fifty (150) feet of a residential zone may be illuminated between the hours of midnight and 6 a.m.
- C. Lighting directed toward a sign shall be shielded so that it illuminates only the face of the sign and does not shine directly into a public right-of-way or residential premises.
- D. Except as herein provided, illuminated signs are not permissible in the residential zoning districts.
- E. Subject to Subsection (G), illuminated tubing or strings of lights that outline property lines, sales areas, roof lines, doors, windows, or similar areas are prohibited.
- F. Subject to Subsection (G), no sign may contain or be illuminated by flashing or intermittent lights or lights of changing degrees of intensity, except signs indicating the time, date or weather conditions.
- G. Subsections (E) and (F) do not apply to temporary signs erected in connection with the observance of holidays.

Section 19.15 NON-CONFORMING SIGNS

- A. Subject to the remaining restrictions of this Section, non-conforming signs that were otherwise lawful on the effective date of this Ordinance may be continued.
- B. No person may engage in any activity that causes an increase in the extent of nonconformity of a non-conforming sign. Without limiting the generality of the foregoing, the non-conforming sign may be enlarged or altered in such a manner as not to increase the non-conforming condition. Illumination may not be added to any non-conforming sign.
- C. A non-conforming sign may not be moved except to bring the sign into complete conformity with this Ordinance.
- D. If a non-conforming sign is destroyed, it may not thereafter be repaired, reconstructed, or replaced except in conformity with all the provisions of this Ordinance.
- E. The message of a non-conforming sign may be changed so long as this does not create any new non-conformities (for example, by creating an off-premises sign under

circumstances where such a sign would not be allowed.)

F. Subject to the other provisions of this section, non-conforming signs may be repaired and renovated.

G. If a non-conforming sign, other than an off-premise sign, advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating or being offered or conducted, that sign shall be considered abandoned and shall be removed within thirty (30) days after such abandonment by the sign owner, owner of the property where the sign is located, or other party having control over such sign.

H. If a non-conforming off-premise sign remains blank for a continuous period of one hundred eighty (180) days, that off-premise sign shall be deemed abandoned and shall, within thirty (30) days after such abandonment, be altered to comply with this article or be removed by the sign owner, owner of the property where the sign is located or other person having control over such sign. For purposes of this section, a sign is "blank" if:

1. It advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating or being offered or conducted; or
2. The advertising message it displays becomes illegible in whole or substantial part; or
3. The advertising copy paid for by a party other than the sign owner, or promoting an interest other than the rental of the sign, has been removed.

**ARTICLE XX
PARKING AND LOADING REGULATIONS**

Section 20.1 PURPOSE

A. It is the intent of this Ordinance that parking spaces shall be provided and adequately maintained by each property owner in every zoning district for the off-street storage of motor vehicles for the use of occupants, employees and patrons of each building and premise constructed, altered or enlarged under the provisions of this Ordinance. All vehicles shall preferably be stored on the premises occupied by the principal building, but may be stored on premises located outside the premises within specifically limited walking distances as specified in Section 20.2.B of this Ordinance.

B. In order to prevent undue interference with public use of streets and alleys, every manufacturing, storage, warehouse, department store, wholesale store, retail store, hotel, hospital, laundry, dairy, mortuary, and other uses similarly and customarily receiving or distributing goods by motor vehicle shall provide space on the premises for that number of vehicles that will be at the premises at the same time on an average day of full use as provided in this Article.

Section 20.2 REQUIREMENTS

There shall be provided in all Districts at the time of erection or enlargement of any main building or structure, automobile off-street parking space with adequate access to all spaces. The proper number of parking spaces for any given use as specified in this Article are based upon considerations of the maximum number of motor vehicles that can be expected on the premises at the same time during an average day:

A. Required off-street parking spaces shall consist of a parking strip, parking bay, driveway, garage, or combination thereof and shall be located on the premises they are intended to serve.

B. Location of off-street parking for other than residential use shall be either on the same lot or within three hundred (300) feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot. Ownership shall be shown of all lots or parcels intended for use as parking by the applicant on the site plan.

C. The joint use of parking facilities in a PUD shall be approved by the Planning Commission as part of the PUD review and approval process, all other joint use of parking facilities by two (2) or more uses may be granted by the Board of Appeals whenever such use is practical and satisfactory to each of the uses intended to be served, and when all requirements for location, design, and construction are met.

1. The total number of parking spaces shall not be less than the sum of the requirements of the space requirements computed separately.

2. In the instance of dual function of off-street parking space where operating hours or parking needs of individual buildings or uses concur at distinctly different times, the Board of Appeals may grant an exception.
3. A copy of an agreement between joint users shall be filed with the application for a building permit and recorded with the Register of Deeds of Benzie County. The agreement shall include a guarantee for continued long-term use and maintenance of the parking facility by each party.

D. In cases of uses not specifically mentioned, the requirements of off-street parking spaces shall be in accord with the use which the Zoning Administrator considers is similar in type. The Zoning Administrator may consult parking standards publications from the American Planning Association, Institute of Transportation Engineers, Transportation Research Board, Urban Land Institute and American Association of Highways and Transportation Officials in making a determination.

E. Off-street parking areas shall not be used for commercial repair work, storage of merchandise, or servicing or selling of trucks or motor vehicles. Parking space be used only for the parking of vehicles used to service the establishment to which it is accessory and by its patrons, unless a dual use agreement is in place as provided in subsection C. above.

F. Whenever a use requiring off-street parking is increased in floor area, or when interior building modifications result in an increase in capacity for any premise use, additional parking shall be provided and maintained in the proper ratio to the use change increased floor area or capacity. Additional parking shall be provided at the time of enlargement and prior to receipt of a Certificate of Zoning Compliance.

G. The outdoor parking of motor vehicles in residential districts and on non-farm residential lots less than two (2) acres in the Agricultural Production districts shall be limited to registered and licensed passenger vehicles and commercial vehicles built on a chassis which is rated one (1) ton or less and not exceeding ten thousand (10,000) pounds in gross vehicle weight, except when said vehicles are associated with the use permitted by Specific Land Use Regulations in Article XV or a Special Use Permit pursuant to Article XVI. On non-farm residential lots greater than two acres in the Agricultural Production districts said vehicles shall be parked behind the building line, with side or rear yard parking preferred.

H. No parking area or parking space or loading area which exists at the time this amendment becomes effective or which subsequent thereto is provided for the purpose of complying with the provisions of this Ordinance shall thereafter be relinquished or reduced in any manner below the requirements established by this Ordinance unless and until equal or better facilities are approved and provided.

I. The right-of-way of any county road or state highway shall not be used for off-street parking or loading without the written permission of the County Road Commission

for county roads and streets or the Michigan Department of Transportation for state highways, as applicable.

Section 20.3 PARKING SPACE REQUIREMENTS

A. All land uses shall provide parking spaces that conform with the requirements of this Section.

B. Definitions: The following words used in this Section have special definitions as provided below:

1. Requirements for parking stated in terms of “employees” shall be based upon the maximum number of employees likely to be on the premises during the largest shift.
2. The term "floor area" and “usable floor area” are as defined in Article II and illustrated in Figure 21-3.
3. “Fractional Spaces”: When units of measurement determining the number of required parking spaces result in a fractional spaces, any fraction up to and including one-half (1/2) shall be disregarded and fractions over one-half (1/2) shall require one (1) parking space.
4. The term "parking" includes the surface area required for the parking space as specified in Section 20.4, and is in addition to that surface area required for maneuvering lanes on Table 20-2.
5. “Seating capacity”: When benches, pews or other similar seating is used, each 18 inches of said seating shall be counted as one seat, unless the standard specifies otherwise.

C. Table 20-1 provides the specific off-street parking space requirements for each common land use.

Table 20-1

PARKING STANDARDS	
USE	NUMBER OF MINIMUM PARKING SPACES PER UNIT OF MEASURE
RESIDENTIAL & RELATED USES	
Bed and breakfast operations	One (1) space for each sleeping room, plus two (2) spaces for permanent residents.
Boarding houses, fraternities, sororities	One (1) space for each bedroom or each two (2) occupants of the structure, whichever is greater.
Community residential care facilities < 6 persons	Four (4) spaces.
Convalescent homes, convents or similar uses	One (1) space for each three (3) beds, plus one (1) space for every three (3) employees.
Mobile home parks	Two (2) spaces for each mobile home site, plus one (1) space for each mobile home park employee.
Multiple family dwellings	Two (2) spaces for each dwelling unit.
Single and two family dwellings	Two (2) spaces for each family dwelling unit.

CIVIC, NONPROFIT, INSTITUTIONAL, PUBLIC & PRIVATE RECREATION & RELATED USES	
<ul style="list-style-type: none"> • Beaches, parks and other outdoor public recreation areas 	As established by the Planning Commission upon recommendation of the Site Plan Review Committee, based on the size, accessibility and facilities available.
<ul style="list-style-type: none"> • Boat launching ramps and waterfront access sites 	Twenty-five (25) spaces per ramp, or access site.
<ul style="list-style-type: none"> • Educational and social institutions: 	
<ul style="list-style-type: none"> • Auditoriums and gyms (incidental to) schools, churches, and institutional buildings of similar use with fixed seats 	One (1) space for each four (4) seats, plus one (1) space for every two (2) employees.
<ul style="list-style-type: none"> • Auditoriums (other than incidental to schools and churches), lodge halls, fraternal organizations, private clubs, public meeting halls, community centers, or buildings of similar use without fixed seats 	One (1) space for every six (6) persons of legal capacity as established by local, county or state fire, building or health codes.
<ul style="list-style-type: none"> • Charitable, eleemosynary or philanthropic organizations 	One (1) space for each two hundred (200) sq. ft. of floor area.
<ul style="list-style-type: none"> • Elementary and junior high schools 	Three and one-half (3 ½) per classroom, plus separate parking where the school contains an auditorium and/or stadium or gym.
<ul style="list-style-type: none"> • High schools and colleges 	One (1) space for every employee, plus one (1) space for each five (5) students.
<ul style="list-style-type: none"> • Institutions for human care and habitation: 	
<ul style="list-style-type: none"> • Community residential care facilities >6 persons 	One (1) space for each three (3) beds, plus one (1) space for every three (3) employees.
<ul style="list-style-type: none"> • Convalescent homes, nursing homes, convents or similar uses 	One (1) space for each three (3) beds, plus one (1) space for every three (3) employees.
<ul style="list-style-type: none"> • Hospitals, sanitariums 	One (1) space for each three (3) patient beds, plus one (1) space for each staff or visiting doctor, plus one (1) space for each three (3) employees.
<ul style="list-style-type: none"> • Orphanages 	One (1) per employee and one (1) per four (4) beds.
<ul style="list-style-type: none"> • Clinics, health care facilities 	One (1) space per two hundred (200) square feet of floor area, or two (2) spaces per examination room plus one (1) space per employee

USE	NUMBER OF MINIMUM PARKING SPACES PER UNIT OF MEASURE
Libraries, museums, post offices	One (1) space for every eight hundred (800) sq. ft. of usable floor area, plus one (1) space for every four (4) employees.
Nursery school, day nurseries or child care centers	One (1) space for each three hundred and fifty (350) sq. ft. of usable floor area.
Private golf clubs, swimming pool clubs, tennis clubs, lodges or other similar uses	One (1) space for every two (2) member families or individuals, plus spaces required for each accessory use, such as a restaurant or bar.
Public buildings	One (1) space for each two hundred (200) sq. ft. of gross floor area used by the public, and one (1) space for each six hundred (600) sq. ft. of gross floor area not used by the public.
Religious institutions: Churches or temples	One (1) space for each three (3) seats or six (6) feet

	of pews in the main unit of worship.
Utility and public service installations	One (1) space per two hundred (200) sq. ft. of gross floor area.
AGRICULTURAL & RELATED USES	
Agriculture service establishments	One (1) space for each two hundred (200) sq. ft. of customer service area, and one (1) space for each employee.
COMMERCIAL & RELATED USES	
Automatic Teller Machine (ATM) (free standing, not applicable when associated with another use)	Two (2) spaces per machine.
Automobile service and repair garages, gasoline filling and service stations (see convenience retail establishments)	Three (3) spaces for each repair and service stall, plus one (1) space for every employee.
Barber shops and beauty parlors	Three (3) spaces for each of the first two (2) beauty or barber chairs, and one-half (1/2) space for each additional chair.
Business service establishments: <ul style="list-style-type: none"> • Advertising and mailing • Banks and credit unions • Employment services • Investment companies • Real estate companies 	One (1) space for every two hundred (200) sq. ft. of useable floor area.
Business, vocational or trade schools	One (1) space per one hundred (100) sq. ft. of gross floor area.
Catering service	One (1) space per two hundred (200) sq. ft. of gross floor area, plus one (1) space per employee in the largest shift.
Clinics and professional offices of doctors, dentists, or similar professions	One (1) space for each fifty (50) sq. ft. of usable floor area in waiting rooms, and one (1) space for each examining room, dental chair, or similar use area.
Clothing, furniture, appliance, hardware, shoe repair, personal services (other than beauty and barber shops), wholesalers	One (1) space for every two hundred (200) sq. ft. of usable floor area.
Commercial kennel	One (1) space per four hundred (400) sq. ft. of gross floor area, but no fewer than four (4) spaces.

USE	NUMBER OF MINIMUM PARKING SPACES PER UNIT OF MEASURE
Convenience retail establishments	Five (5) spaces per each one thousand (1,000) sq. ft. of gross floor area.
Dance schools	One (1) space for each one hundred (100) sq. ft. of dance floor area, plus one (1) space for each six hundred (600) sq. ft. of gross floor area.
Drive-through banks, cleaners, drug stores, and similar businesses	Space for five (5) cars between the sidewalk area and the pickup window, and one (1) space for every two hundred (200) sq. ft. of usable floor area if there is no customer space inside. There shall be one hundred-sixty (160) linear feet of vehicle queuing area per each service window, of which a minimum of one-hundred (100) linear feet shall be located between the street right-of-way and the first service window or order

	board. All queuing area shall be contained on private property.
Drive-through restaurants or fast-food establishments	One (1) space per fifty (50) sq. ft. of eating area, plus one (1) space for each employee on the largest working shift.
Food service establishments:	
<ul style="list-style-type: none"> Carry-out food or walk-up, establishment including bakeries, ice cream shops and delicatessens if carry-out only, or if all seating is exterior only. 	One (1) space for each employee, plus five (5) spaces.
<ul style="list-style-type: none"> Restaurant or establishment for sale and consumption, of beverages, food or refreshments on the premises including drive-in, but not including drive-through restaurants 	One (1) space for each seventy-five (75) sq. ft. of usable floor area, or one (1) space for each two (2) persons allowed within the maximum occupancy load as established by the local fire marshal.
Funeral homes and mortuaries	One (1) space for every twenty-five (25) sq. ft. of usable floor area of chapels and assembly rooms.
Furniture, antique, appliance, household equipment, showroom of a plumber, decorator, electrician or similar trade, and other similar uses (including resale shops but not flea markets)	One (1) space for each eight hundred (800) sq. ft. of usable floor area, plus one (1) additional space shall be provided for each two (2) persons employed therein.
Garden center, greenhouse (if it has retail sales)	One (1) space for each two hundred (200) sq. ft. of usable floor area, plus one (1) space for each two thousand (2,000) sq. ft. of exterior sales area.
General offices	One (1) space for every two hundred (200) sq. ft. of usable floor area.
General retail stores, except otherwise specified herein	One (1) space for every one hundred and fifty (150) sq. ft. of usable floor area.
Health or fitness club, or martial arts schools	One (1) space for each two hundred (200) sq. ft. of usable floor area, plus one (1) space for each employee.
Hotels	One (1) space for each guest room, plus one (1) additional space for every five (5) employees.
Laundromats and coin operated dry cleaners	One (1) space for each two (2) washing and/or dry-cleaning machines.
Motels, and auto courts	One (1) space for each sleeping unit, plus one (1) space for each one (1) employee.
Music and voice schools	One (1) space per three (3) students at any one time.
Open air business	One (1) space per three thousand (3,000) sq. ft. of exterior sales area, except for open air flea markets which require one (1) space for each three hundred (300) sq. ft. of exterior sales area.

USE	NUMBER OF MINIMUM PARKING SPACES PER UNIT OF MEASURE
Office supply, factory and mill supplies, and related activities	One (1) space for each four hundred (400) sq. ft. of gross floor area.
Personal service establishment	One (1) space per two hundred (200) sq. ft. of retail sales area, and one (1) space for each four hundred (400) sq. ft. of service area.
Planned commercial or shopping center	One (1) space for each one hundred (100) sq. ft. of usable floor area.

Repair services	One (1) space for each two hundred (200) sq. ft. of usable floor area, plus one (1) space for each employee.
Supermarket, self-service food store	One (1) space for every fifty (50) sq. ft. of usable floor area.
Taverns, bars	One (1) space for every seventy-five (75) sq. ft. of usable floor area, or one (1) space for every three (3) seats, whichever is greater.
Vehicle, farm equipment and other machinery sales and service establishments	One (1) space for each two hundred (200) sq. ft. of usable floor area of sales room, and one (1) space for each one (1) auto service stall in the service room.
Vehicle wash (automatic)	One (1) space for each one (1) employee. In addition, reserved parking spaces equal in number to five (5) times the maximum capacity of the vehicle wash. Maximum capacity of the vehicle wash shall mean the greatest number of vehicles possibly undergoing some phase of washing at the same time, which shall be determined by dividing the length in feet of each wash line by twenty (20).
Vehicle wash (self-service or coin operated)	Five (5) spaces for each washing stall, in addition to, the stall itself.
Indoor Entertainment	
Amusement center, video or pinball arcade	One (1) space per game, provided that where such games are an accessory use, one (1) space is required for each game above four (4) games.
Bingo parlor	One (1) space for each three (3) seats or one (1) per one hundred (100) sq. ft. of usable floor area, whichever is greater.
Bowling alleys	Five (5) spaces for each alley, plus one (1) space for each employee, plus spaces for each accessory use, such as a bar or restaurant.
Dance halls, pool and billiard rooms, exhibition halls, roller and ice skating rinks	One (1) space for each two (2) persons allowed within the maximum occupancy load as established by local, county or state fire, building or health codes, plus one (1) space for every three (3) seats of spectator seating (one seat equals two feet of bench length).
Indoor racquet courts	Three (3) spaces per court, plus one (1) space per employee on the largest shift, plus spaces for any other principal or accessory uses, plus one (1) space for every three (3) seats of spectator seating (one seat equals two feet of bench length).

USE	NUMBER OF MINIMUM PARKING SPACES PER UNIT OF MEASURE
Indoor soccer facility	Fifty (50) spaces for every playing field, plus one (1) space for every three (3) seats of spectator seating (one seat equals two feet of bench length), plus two (2) spaces for every three (3) employees on the maximum shift, but in no case less than one hundred (100) spaces.
Theaters and commercial auditoriums	One (1) space for each three (3) seats, plus one (1) for each two (2) employees.
Outdoor Entertainment	

Boat, canoe, jet ski and bicycle rental	Five (5) spaces per employee where it is the principal use; where it is an accessory use, parking may be waived partially or wholly in the discretion of the Zoning Administrator.
Campground	Two (2) dust free 10'x30' spaces for every campsite.
Golf courses open to the public, except Miniature or "Par 3" courses	Four (4) spaces for each hole, plus one (1) space for each employee, plus required spaces for each accessory use, such as a restaurant or bar.
Golf driving range	One (1) space for each tee, plus one (1) space for each employee on the largest work shift.
Marinas	One and one-half (1-1/2) spaces per boat mooring slip.
Miniature or "Par 3" golf courses	Three (3) spaces for each hole, plus one (1) space for each employee, plus required spaces for each accessory use, such as a restaurant or bar.
Racetrack	One (1) space for every four (4) seats; one (1) seat is equal to two (2) feet of bench length.
Racquet sports	Three (3) spaces, plus three (3) spaces per court or one (1) per three (3) spectator seats, whichever is greater.
Rifle and archery range (indoor or outdoor)	A minimum of five (5) spaces, plus one (1) space per target area.
Stadiums and sport arenas	One (1) space for every four (4) seats or six (6) feet of benches.
Theme park, scenic area, amusement ride, water slide, go cart track and similar uses	Two (2) spaces per three (3) seats on amusement rides or twenty (20) spaces per ride or attraction with no specific or defined seating.
INDUSTRIAL & RELATED USES	
Auto body/paint shop	One (1) space per each service bay and employee.
Contract construction uses	One (1) space per employee, plus one (1) space per company vehicle.
Dangerous chemical manufacturing, storage and/or distribution	One (1) space per employee on the largest shift.
Incinerators and recycling centers	One (1) per employee, plus one (1) per each simultaneous truck.

USE	NUMBER OF MINIMUM PARKING SPACES PER UNIT OF MEASURE
Industrial or manufacturing establishments, testing laboratories, creameries, bottling works, printing and engraving shops	One space for every two (2) employees for industries working two (2) or more shifts. One space for every three (3) employees for industries working one shift or one space for every 400 square feet of gross floor area, whichever is greater.
Industrial service establishments	One (1) space for every two (2) employees for industries working two (2) or more shifts. One (1) space for every three (3) employees for industries working one (1) shift, or one (1) space for every four hundred (400) sq. ft. of gross floor area, whichever is greater.
Medical or dental laboratories	One (1) space per two hundred (200) sq. ft. of gross floor area.

Mini-warehouse (self-service storage facility)	One (1) space per ten (10) storage units plus one (1) space per employee.
Research and development establishments	One (1) space per employee on the largest shift.
Wholesale trade establishments and warehouses	One (1) space for every eight hundred (800) square feet of gross floor area.
PLANNED UNIT DEVELOPMENTS	
Planned Unit Developments: <ul style="list-style-type: none"> • Commercial • Industrial Park • Institutional • Mixed use • Residential 	Parking standards shall be established by the Planning Commission after receiving the recommendation of the Zoning Administrator based on the mix of proposed uses compared to the standards for those, or the most similar uses in this schedule.

Section 20.4 PARKING SITE REQUIREMENTS

All off-street parking areas shall be designed, constructed and maintained in accordance with the following standards and requirements:

- A. No parking lot shall be constructed until a permit therefore is issued by the Zoning Administrator and by the Soil Erosion and Sedimentation Control Agent.
- B. Before such permit is issued, plans and specifications shall be submitted to the Zoning Administrator showing the location, capacity, size, site, design, surfacing, marking, lighting, drainage, curb cuts, entrances, exits, landscaping and any other detailed features essential to the design and construction of the proposed parking facility.
 - 1. Plans for the layout of off-street parking facilities shall be in accord with the following minimum requirements of Table 20-2:

Table 20-2

PARKING PATTERN (in degrees)	MANEUVERING LANE WIDTH	PARKING SPACE WIDTH	PARKING SPACE LENGTH
1 TO 29 ° (PARALLEL PARKING)	12 FT	10 FT	20 FT
30 ° TO 53 °	16 FT	10 FT	20 FT
54 ° TO 74 °	18 FT	10 FT	20 FT
75 ° AND UP	24FT	10 FT	20 FT

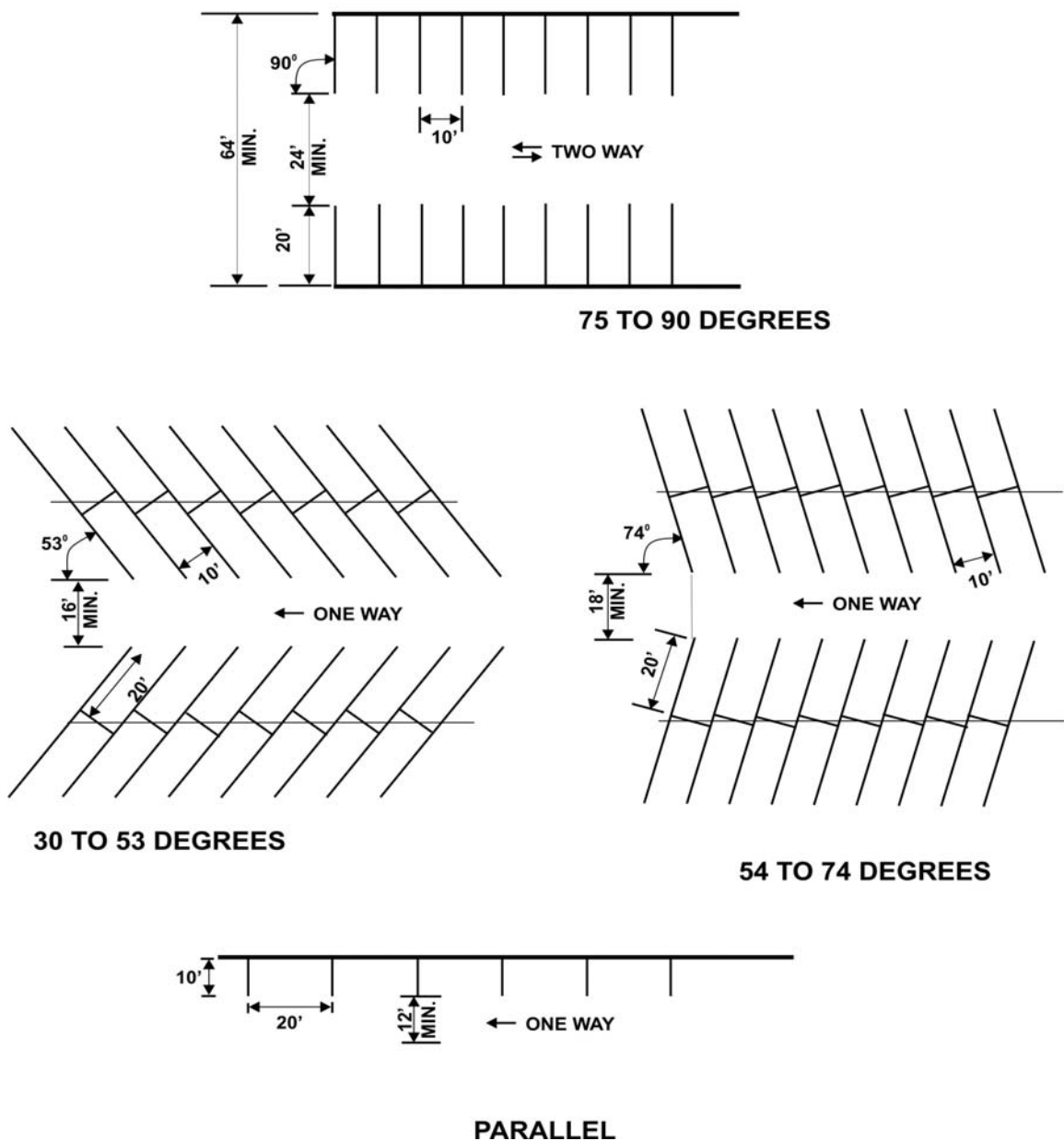
- 2. All parking spaces shall be provided access by means of maneuvering lanes. Backing directly onto a street shall be prohibited. The width of required

maneuvering lanes may vary depending upon the proposed parking pattern as follows and illustrated on Figure 20-1:

- a. For parallel parking, one-way drives or boulevards, the maneuvering lane width shall be a minimum of twelve (12) feet.
- b. All maneuvering lane widths shall permit one-way traffic movement, except for the ninety (90) degree pattern, which may provide for two-way traffic movement.

FIGURE 20-1

PARKING SPACE DIMENSIONS



3. Adequate ingress and egress to the parking lot by means of clearly-defined drives shall be provided for all vehicles. Ingress and egress to a parking lot lying in an area zoned for other than single-family residential use shall not be across land zoned for single-family residential use. Access management requirements in Article III shall also be conformed with.
4. Each entrance and exit to and from any off-street parking lot located in an area zoned for other than single-family residential use shall be at least twenty-five (25) feet distant from adjacent property located in any single-family residential district.
5. All off-street parking areas abutting residential districts shall be provided with an obscuring fence no less than four feet (4') in height. Such fences shall be constructed of materials approved by the permit issuing authority and shall be durable, weather resistant and easily maintained.
6. Except for single-family and two-family residential lots, all parking areas, including parking spaces, maneuvering lanes and access drives shall be provided with a durable, smooth and dustless surface; and shall be graded and drained to dispose of all collected surface water.
7. Except for single-family residential lots, all parking areas with a capacity of six (6) or more vehicles shall provide adequate lighting throughout the hours when the parking areas is in operation. All lighting shall be installed as to be confined and directed into the parking area only and shall comply with the requirements of Section 21.2.
8. A no-building buffer strip not less than (10) feet wide shall be required on the perimeter of all parking lots. Said buffer strip shall be used for landscaping, screening or drainage as required herein.

C. All parking areas containing over twenty seven hundred (2700) square feet or more of parking areas, including access drives thereto, shall be effectively landscaped with planting strips on all sides adjacent to or visible from surrounding properties and on all sides of a public street pursuant to the requirements of Section 21.9.

D. Whenever a development requiring off street parking has parking areas containing over twenty seven hundred (2700) square feet or more, provision shall be made for on-site snow storage area in addition to the required parking lot area. Snow storage shall be provided on the ratio of fifteen (15) square feet per one hundred (100) square feet of parking lot surface area. Snow storage areas shall be located in such manner that when utilized they do not interfere with clear visibility of traffic or adjacent streets and highways and the landscaping required in Section 20.4 is protected from damage.

Section 20.5 LOADING & UNLOADING REQUIREMENTS

On the same premises with every building, structure, or part thereof involving the receipt or distribution of vehicles, materials, or merchandise, 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 public streets. Such space shall be provided as follows:

A. Loading space required under this Section shall be provided as areas additional to the off-street parking space required in Section 20.4 of this Article and shall not be considered as supplying off-street parking space.

B. There shall be provided adequate space for standing, loading and unloading services not less than twelve (12) feet in width, twenty- five (25) feet in length and fourteen (14) feet in height (open or enclosed) for all uses listed in the following Table 20-3 or for similar uses involving the receipt or distribution by vehicles of materials or merchandise:

Table 20-3

LOADING & UNLOADING

USES	FLOOR AREA (square feet)	REQUIRED SPACE
Commercial use such as retail stores, personal services, amusement, automotive service	First 2,000	None
	Next 20,000 or fraction thereof	One space
	Each additional 20,000 or fraction thereof	One space
Hotels, offices	First 2,000	None
	Next 50,000 or fraction thereof	One space
	Each additional 100,000 or fraction thereof	One space
Wholesale & storage, including building & contractor's yards	First 20,000	One space
	Each additional 20,000 or fraction thereof	One space
Manufacturing uses	First 20,000	One space
	Each additional 20,000 or fraction thereof	One space
Funeral homes & mortuaries	First 5,000 or fraction thereof	One space
	Each additional 10,000 or fraction thereof	One space
Hospitals	First 10,000	None

	Next 100,000 or fraction thereof	One space
	Each additional 200,000 or fraction thereof	One space
Schools, churches, clubs, public assembly buildings	For each building	One space
For similar uses not listed	For each building 5,000 or over	One space

C. Access to a truck standing, loading, and unloading space shall be provided directly from a public street or alley and such space shall be so arranged to provide sufficient off-street maneuvering space as well as adequate ingress and egress to and from a street or alley as determined by the Site Plan Review Committee.

D. Off-street loading spaces and access drives shall be paved, drained, lighted, and shall have appropriate bumper or wheel guards where needed. Any light used for illumination shall be so arranged as to reflect the light away from adjoining premises and streets (see Section 20.4.B.7 and 21.2). Where any off-street loading space adjoins or abuts a lot or premises used for residential, educational, recreational, or religious purposes, or abuts a residential district, there shall be provided a masonry wall or solid fence not less than four (4) feet in height between the off-street loading space and said residential, educational, recreational, or religious premises or residential zone.

ARTICLE XXI
LANDSCAPING, BUFFERING AND SCREENING

Section 21.1 PURPOSE

The purpose of this article is to provide regulations and requirements for fencing, landscaping, berming or screening of the perimeter of certain activities in order to protect the character of the surrounding area, prevent trespassing into unsafe areas, discourage theft, stabilize soils, control wind-blown dust and debris, prevent light from glaring onto adjoining properties, reduce stormwater runoff, increase ground water infiltration and reduce noise.

Section 21.2 LIGHTING REQUIREMENTS

- A. All outdoor lighting (includes light source and lenses) with illumination above 150 watts in all use districts used to light the general area of a specific site shall be shielded to reduce glare and shall be so arranged as to prevent overlapping and to reflect lights away from all adjacent residential districts or adjacent residences. Lighting shall also be shielded on the top to prevent unnecessary lighting of the night sky. Lighting fixtures shall be a down-type having one-hundred (100) percent cutoff. The light rays may not be emitted by the installed fixture at angles above the horizontal plane, as may be certified by a photometric test.
- B. All outdoor lighting in all use districts shall be directed toward, and confined to the ground areas of, lawns and parking lots. Parking lots shall not be lit between the hours of 9:00 am and 4:00 p.m., unless conditions regarding weather, employment, or parking lot use patterns warrant otherwise.
- C. All lighting in business districts used for the external illumination of buildings, so as to feature said buildings, shall be placed and shielded so as not to interfere with the vision of persons on adjacent highways or adjacent property.
- D. Illumination of signs shall be directed or shaded downward so as not to interfere with the vision of persons on the adjacent highways or adjacent property.
- E. All illumination of signs and any other outdoor feature shall not be of a flashing, moving or intermittent type. Artificial light shall be maintained stationary and constant in intensity and color at all times when in use.
- F. All freestanding and outdoor lighting shall not exceed thirty (30) feet in height except to light a stadium.
- G. Unless otherwise approved by the Planning Commission, parking lot light sources shall be high pressure sodium. Other light sources should use warm

white or natural lamp colors.

Section 21.3 RIGHT-OF-WAY PROTECTION AND PUBLIC SAFETY

No trees or shrubs shall be planted within a public right-of-way without the prior written consent of the appropriate public agency responsible for maintaining the right-of-way. Landscaping shall not interfere with public safety, and shall not interfere with the safe movement of motor vehicles, bicycles, or pedestrians (see especially Section 3.20). Landscape materials shall not obstruct the operation of fire hydrants, electrical or other utility lines or facilities.

Section 21.4 REQUIRED VEGETATION

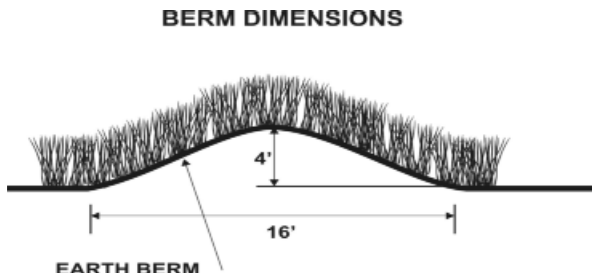
A greenbelt, buffer strip, or berm as required by this Ordinance or as a condition to the approval of a Site Plan, Special Use Permit, Planning Unit Development Permit or variance, shall be installed and maintained in a healthy living condition for the duration of the principal use of property in accordance with the following requirements. Where this Ordinance or a condition of a permit issued under this Ordinance fails to specify a particular option, the owner or developer may choose which option to install: a greenbelt, buffer strip or berm. If none is selected, the Zoning Administrator shall select and so note on the permit. See also Section 21.8.

A. Greenbelts: A greenbelt shall consist of an open space strip running along the property line at least thirty (30) feet in width, seeded and maintained as grass or other plant ground cover. Trees or shrubs may be planted at the discretion of the landowner without regard for the spacing requirements of Section 21.4.B.

B. Buffer Strips: A buffer strip shall consist of a landscaped strip at least fifteen (15) feet in width containing at least two (2) trees plus one (1) additional tree for each twenty (20) feet in length of the buffer strip. Said trees shall be at least one and three-fourths (1¾) inches in caliper measured six (6) inches above ground level. Dead or dying trees shall be replaced within eight (8) months. Grass or other plant ground cover, mulch, or ornamental bark or stone, shall completely cover area not planted in trees or shrubs.

C. Berms: A berm shall consist of a linear mound of earthen material rising to a height of at least four (4) feet with a minimum base of sixteen (16) feet covered and maintained as grass, ground cover, shrubs or other approved vegetation and constructed in accordance with the diagram below, or with a base of at least four (4) times the desired height of the berm. See Figure 21-1 and the provisions of Section 21-7.

Figure 21-1



D. Plant Materials:

1. Plant Material Spacing:

- a. Except as provided below, plant materials shall not be placed closer than four (4) feet from the fence line property line.
- b. Where plant materials are placed in two or more rows, plantings shall be staggered in rows.
- c. Evergreen trees shall be planted not more than twenty (20) feet on centers, and shall be not less than five (5) feet in height, nor closer than five (5) feet to an adjoining property line.
- d. Narrow evergreens shall be planted not more than six (6) feet on centers, and shall not be less than three (3) feet in height.
- e. Tree-like shrubs shall be planted not more than ten (10) feet on centers, and shall be not less than four (4) feet in height.
- f. Large deciduous shrubs shall be planted not more than four (4) feet on centers, and shall not be less than six (6) feet in height.
- g. Large deciduous trees shall be planted not more than twenty (20) feet on centers, and shall not be less than eight (8) feet in height, nor closer than ten (10) feet to an adjoining property line, unless approved by the neighboring property owner.

Suggested Plant Materials:

The Zoning Administrator shall maintain a list of preferred vegetation for use in Greenbelts, Buffer Strips, and Berms, and may refer the applicant to the Benzie Soil Conservation District for assistance. The Zoning Administrator shall also maintain a list of native and natural planting materials for use where a more natural and less ornamental appearance is desired, as well as a list of salt tolerant species which are encouraged to be planted along major thoroughfares.

Section 21.5 UNDESIRABLE TREES

Tree health problems and “nuisance” characteristics are primary reasons to prohibit planting specific tree species. Tree health problems are usually due to

insect or disease susceptibility. The result is poor tree vigor and growth, dieback and early mortality. Weakened trees may also become hazardous to people and property. Nuisance means that a characteristic of the specific tree species may create irritating or annoying conditions that must be dealt with regularly. For example, fruits drop every year and can create slippery sidewalks. Some roots grow toward water, often getting into sewer lines, requiring them to be roto-rooted out. Trees on the undesirable list have characteristics that may require additional time, maintenance or money. Sometimes the benefits of the tree species outweigh the negative characteristics. For example, a mulberry tree in the back yard may attract and feed birds without causing problems on sidewalks or sewers.

The Zoning Administrator shall maintain a list of vegetation undesirable for use in Greenbelts, Buffer Strips, and Berms, and may refer the applicant to the Benzie Soil Conservation District for alternate species.

Section 21.6 DRIVES AND ACCESSWAYS

Necessary drives and accessways from public rights-of-way through such buffer strips shall be permitted, provided that such accessways shall not be subtracted from the lineal dimension used to determine the required number of plants.

Section 21.7 BUFFERING PROVISIONS FOR SURFACE MINING AREAS AND JUNK YARDS

Where requirements in Article XVI for buffering for surface mining areas, and junk yards or any other use in Article XVI are more restrictive than provisions of Article 21, the provisions of Article XVI shall apply.

Section 21.8 SIDE AND REAR YARD LANDSCAPING AND FENCING OPTIONS

In any situation requiring either a greenbelt, buffer strip or berm to meet the requirements of Section 21.4, the landowner has the option in fulfilling landscaping requirements. A fence meeting the requirements of Section 21.15 may also be used in addition to any of these landscaping options, unless required as a standard or condition of approval of a site plan, Special Use Permit, Planned Unit Development Permit or variance.

Table 21-1

**SIDE YARD & REAR YARD
LANDSCAPING & FENCING OPTIONS**

	GREENBELT Section 21.4.A	BUFFER STRIP Section 21.4.B	BERM Section 21.4.C	FENCE* Section 21.15	YARD	NOTE
When a use in an						
C-1, C/R, C-3, C-4, VC, L-1, I/O district abuts an R-1, R-2, R-3, R-4, R-5, VR, or RP district or an existing single family dwelling unit in any district then	X	or X	or X		side	
	X	or X	or X		rear	
Special Use abutting any district or an existing single family dwelling unit in any district	X	or X	or X		side	Unless a specific landscaping option is required by a standard in Article XVI.
	X	or X	or X		rear	
P.U.D. abutting any district or an existing single family dwelling unit in any district	X	or X	or X		side	Unless a specific landscaping option is required by a standard in Article XVII.
	X	or X	or X		rear	

A fence is optional at the discretion of the landowner, unless required as a condition of approval of a site plan, Special Use Permit, P.U.D. Permit, or variance. Any fence erected must meet the requirements of Section 21.15, and any special standards particular to that use (as in Article XVI) or if around a trash receptacle, per the requirements of Section 21.12, or if around a loading/unloading area, per the requirements of Section 21.9.

Section 21.9 PARKING LOT LANDSCAPING AND

LOADING SPACE FENCING

A. Separate landscaped areas shall be required either within or at the perimeter of parking lots. There shall be one (1) tree for every eight (8) parking spaces, with minimum landscaped space within a designated parking area of fifty (50) square feet. A minimum distance of three (3) feet shall be established between proposed tree or shrub plantings and the backside of the curb or edge of the pavement. This distance shall be increased if the volume of snow to be plowed from the parking lot requires a larger storage area.

B. Landscaping along the perimeter of the parking lot shall meet the requirements for a buffer strip in Section 21.4.D.

Where any off-street loading space adjoins or abuts a lot or premises used for residential, educational, recreational, or religious purposes, or abuts a residential district, there shall be provided a masonry wall or solid fence not less than four (4) feet in height between the off-street loading space and said residential, educational, recreational, or religious premises or residential zone.

Section 21.10 LANDSCAPING FOR ALL OTHER PROPERTIES REQUIRING SITE PLAN REVIEW

A. In addition to any greenbelt, buffer strip, berm and/or parking lot landscaping required by this Article, ten (10) percent of the site area, excluding existing thoroughfare right-of-way, shall be landscaped.

B. Areas used for storm drainage purposes, such as unfenced drainage courses or retention areas in front or side yards, may be included as a portion of the required landscaped area not to exceed five (5) percent of the site area.

Section 21.11 MINIMUM STANDARDS FOR LANDSCAPE MATERIALS

A. Quality: Plant material and grasses shall be of generally acceptable varieties and species, free of insects and diseases, hardy to the climate, conform to the current minimum standard of the American Association of Nurserymen, and shall have proof of any required governmental regulations and/or inspections.

B. Composition: A mixture of plant material, such as evergreen, deciduous trees and shrubs, is recommended as a protective measure against insect and disease infestation.

A limited mixture of hardy naturally occurring or native species is recommended rather than a large quantity of different species to produce a more aesthetic, cohesive design and avoid a disorderly appearing arrangement. See Sections 21.4.D and 21.5.

C. Existing Trees

1. If existing plant material is labeled "To Remain" on site plans by the applicant or required by the Zoning Administrator, protective techniques, such as, but not limited to, fencing or barriers placed at the dripline around the perimeter of the plant material shall be installed during construction. No vehicle or other construction equipment shall be parked, or stored, or driven within the dripline of any plant material intended to be saved. Other protective techniques may be used provided such techniques are approved by the Zoning Administrator.

2. In the event that healthy trees which are used to meet the minimum requirements of this Ordinance or those labeled to remain are cut down, destroyed, damaged, or excavated at the dripline, as determined by the Zoning Administrator, the Contractor shall replace them with trees which meet Ordinance requirements.

Section 21.12 SCREENING OF TRASH

All areas used for the storage of trash or rubbish including dumpsters and other commercial containers shall be screened by a solid fence or dense plant materials no less than six (6) feet in height. If a fence is used, view obstructing doors at least six (6) feet in height shall be installed and kept closed except when accessing.

Section 21.13 EXISTING SCREENING

Any fence, landscape screen, wall or hedge which does not conform to this Ordinance and which is legally existing at the effective date of this Ordinance may be continued and maintained, provided there is not physical change other than necessary maintenance and repair; unless otherwise regulated by this Ordinance.

Section 21.14 MAINTENANCE

It shall be the owner's responsibility to see that the landscaping is maintained in a neat, clean, orderly and healthful condition. This includes, among other things, proper pruning, mowing of lawns, weeding, removal of litter, replacement of plants when necessary, and the regular watering of all plants.

Section 21.15 FENCES, WALLS AND SCREENS

A. Fence, wall and screen requirements follow:

1. Whenever a use is established or substantially improved in a nonresidential district and the lot abuts a residential district, a fence at least six (6) feet in height shall be erected along the common lot by the

nonresidential use unless the abutting lot owner in the residential district signs a waiver for this requirement and a buffer strip, or berm shall be installed instead.

2. No fence, wall, or structural screen other than plant material shall be erected higher than eight (8) feet in an C-1, C/R, C-3, C-4, VC, L-1, or I/O district.

3. No fence shall be required to be higher than five (5) feet in height between uses within the same district, nor permitted to be higher than six (6) feet between uses in the same residential district.

B. Fences on all lots of record in all residential districts which enclose property and/or are within a required side or rear yard shall not exceed six (6) feet in height, measured from the surface of the ground. Fences located in the front yard or beyond the front of the dwelling unit shall not exceed three (3) feet in height, measured from the surface of the ground and shall have at least a seventy-five percent (75%) open area. No fence, wall, planting or structure shall, within ten (10) feet of any public or private right-of-way, be of such a nature as will impede clear vision of an intersecting sidewalk, street, alley or driveway (see Figure 3-2 in Article III). All fences shall be constructed so as to allow the passage of air through the fence to an adjacent dwelling.

C. Fences, walls, or obscuring walls shall not contain barbed wire, electric current or charge of electricity (except in RP, AP or F/R districts), glass, spikes, or other sharp protruding objects.

Notwithstanding the foregoing provision, security fences six (6) feet high or more may include up to eighteen (18) inches of barbed wire in an industrial area, surrounding a public utility, or around a police or corrections facility. Such barbed wire shall slant inward towards property, or be straight up. Security fences with barbed wire in any other location or surrounding any other use require approval by the Site Plan Review Committee.

D. All fences shall have the finish side facing out, away from the property on which the fence is located.

E. Fences are structures that may be erected along property lines or within yards, irrespective of the setback requirements of this Ordinance. No site plan review is required for a fence which conforms with Ordinance standards in an R-1, R-2, R-3, R-4, R-5, VR, or RP District. The Zoning Administrator may waive site plan review for a fence in any other district if no other structural changes or changes in the design or layout of the site are proposed.

F. The Zoning Administrator may require the removal, reconstruction or repair of any fence, wall or screen not in good condition.

Section 21.16 TIME TO COMPLETE AND PERFORMANCE GUARANTEE

A. Time Period to Complete. The required improvements are to be completed within one year of the issuance of the zoning permit. In the event of unusual delays, or adverse weather conditions that make it impossible to plant, the Zoning Administrator may grant a single extension of the time limit for a further period of not more than six (6) months.

B. Occupancy. No occupancy of land shall occur unless the parking and landscape improvements have been completed or a performance guarantee to cover the cost of the contemplated improvements as estimated by the Zoning Administrator, has been deposited with the Township pursuant to the requirements of this Ordinance.

C. Performance Guarantee: In all cases the Site Plan Review Committee or the Planning Commission may, due to weather conditions, seasonal availability of plant materials, or other factors, require a performance guarantee equal to the estimated cost of the plant material and installation cost. Such performance guarantee shall be related to the various vegetation or planting plans shown on the site plan. Such performance guarantee shall be processed according to the requirements of this Ordinance.

Section 21.17 WAIVER OF LANDSCAPING, BUFFERING AND FENCING REGULATIONS

A. Planning Commission Modification: Any of the requirements of this Article may be waived or modified through Site Plan approval, provided the Zoning Administrator for minor site plans or the Planning Commission for major site plans, first makes a written finding that specifically identified characteristics of the site or site vicinity would make required landscaping, fencing, buffering or screening unnecessary or ineffective, or where it would impair vision at a driveway or street intersection.

B. Board of Appeals: The Board of Appeals may require or waive any fencing, screening, landscaping or buffering as may be provided for in this Article as a condition of a variance or other authorization in whatever manner necessary to achieve an identified public purpose. The Board of Appeals shall record the reason for the condition and clearly specify what landscaping, buffering or fencing is required in any approval granted.

Section 21.18 LANDSCAPING, PLANTING AND SPACING GUIDELINES

The Zoning Administrator shall keep a list of landscaping, planting and spacing guidelines available for use by interested persons in designing and planting landscaping. These guidelines shall be prepared and periodically updated with assistance of the Soil and Water Conservation District. Additions to the list of prohibited trees in Section 21.5 may be made without amendment of this Ordinance in response to an insect, fungus or similar menace.

**ARTICLE XXII
ENVIRONMENTAL PROVISIONS**

Section 22.1 PURPOSE

It is the intent of these regulations to identify and protect those areas of the Townships that are considered to be environmentally sensitive to development, due to soil types, drainage, vegetation, wildlife habitats, floodplain, slope erosion or other factors, and that are subject to being seriously endangered, damaged, or destroyed if allowed to develop in a manner inconsistent with their conservation and preservation. Since the welfare and well-being of the citizens of the Townships are directly linked and related to the natural environment of the area, it is recognized by this Article that in order to maintain sensitive areas in their natural condition for the benefit of mankind, it is necessary to protect such areas from degradation.

Section 22.2 REGULATION OF ENVIRONMENTALLY SENSITIVE AREAS

All uses allowable in zoning districts of this Ordinance shall comply with the standards set forth in this section regulating the development of environmentally sensitive areas. These requirements shall be considered in addition to use restrictions or other applicable regulations for each zoning district, and shall be considered as a separate portion of the zoning application.

Section 22.3 ENVIRONMENTALLY SENSITIVE AREAS

The protection of areas of environmental concern, such as wetlands, high risk erosion, dunelands, floodplains, or steep slope areas, and lands lying in the Betsie River Natural River District must be considered in conjunction with development and must conform with the following regulations of state, county and township agencies as applicable:

- A. Dune Formations and High Risk Erosion Areas are sensitive sandy and clay areas under protection of the Michigan Natural Resources & Environmental Protection Act, PA 451 of 1994, Parts 353 and 323 respectively (formerly, the Sand Dunes Protection Act, PA 222 of 1976, as amended by Public Act 146 and 147 of 1989, and the Shorelands Protection and Management Act, Public Act 245 of 1970, as amended).

- B. Wetlands are defined by degree of soil wetness, generally including those soils classified by the Michigan Natural Resources & Environmental Protection Act, PA 451 of 1994, Part 303, Section 324.30301 et seq (formerly, the Goemere-Anderson Wetlands Act, PA 203 of 1979) as being able to support aquatic vegetation regardless of whether it has standing water or not. No activity shall be permitted on a site with regulated wetlands, unless a wetlands permit has been obtained by the applicant from the Michigan Department of Environmental Quality.

- C. Sensitive Riverine Areas are defined as areas on each side of streams that could be subject to flooding or erosion and alterations of land may require a soil erosion and sedimentation control permit under Part 91, Section 324.9101 et seq of the Michigan

Natural Resources & Environmental Protection Act, Public Act 451 of 1994, (formerly, PA 346 of 1972).

D. Inland Lakes are sensitive areas around the water body, including the watershed, which could be subject to flooding, erosion, or pollution per Part 301, Section 324.30101 et seq of the Michigan Natural Resources & Environmental Protection Act, Public Act 451 of 1994, (formerly, PA 345 of 1966.

E. Flood Plain Areas are low areas adjacent to inland lakes and streams subject to flooding according to the one hundred (100) year flood hazard boundary map as administered by the Federal Emergency Management Agency (FEMA) or an Intermediate Regional Flood map prepared by the Army Corps of Engineers (see Section 22.9). A structure proposed within a floodplain is not permitted to be erected until a permit from the Michigan Dept. of Environmental Quality is obtained pursuant to Part 31 of the Michigan Natural Resource & Environmental Protection Act, Public Act 451 of 1994 and Section 22.9 of this Article.

F. Steep Slopes

When the proposed building site has slopes in excess of fifteen (15) percent, questionable soils stability or evidence of erosion, the Zoning Administrator shall require the applicant to obtain a site analysis and conform with the applicable requirements of Article XII Overlay Districts and this Article.

G. Natural River District The rules and regulations adopted under Part 305, Section 324.30501, et seq, of the Michigan Natural Resources & Environmental Protection Act, PA 451 of 1994 (formerly PA 231 of 1970) the State of Michigan shall apply to the strip of land four hundred (400) feet wide on each side of and parallel to the Betsie River, Dair Creek, and the Little Betsie River.

Section 22.4 RETAINING WALL PERMIT

No shoreline retaining wall shall be erected without first having obtained a permit from the Michigan Department of Environmental Quality.

Section 22.5 REMOVAL OF VEGETATIVE COVER

Except where land owners are engaged in an active program of forest management pursuant to a written forest management plan prepared by a trained forester, or the land is enrolled in the state commercial forest management program or other state or federal sanctioned tax program for lands in active forest management, or the land is within a more restrictive District such as the Crystal Lake Overlay District, or the Platte Lakes Area Management Plan Overlay District, or the Waterbodies Overlay District, or is within those portions of the Betsie River, Dair Creek, and the Little Betsie River designated under the State Natural Rivers Program, the applicant shall provide evidence that the cutting and removing of trees and other native vegetation will be, wherever practical, performed according to the following standards:

- A. The removal of more than forty (40) percent of trees that are six (6) inches or more in diameter (measured at 1 foot above ground level) shall not be permitted.
- B. Cutting shall be done in such a manner as to avoid erosion, to preserve rare species of trees or greenery, to preserve scenic qualities, and to preserve desirable screening.
- C. All trees intended to remain standing and undamaged shall be clearly marked on the proposed site plan.
- D. In order to protect the trees and the roots of the trees, wherever practical, all structures and roads shall be set back at least 10 (ten) feet from the trees identified on the site plan to be left standing or undamaged.
- E. Wherever feasible, groups or clumps of trees shall be preserved to encourage survival of the root zone.
- F. Exceptions to the requirements of this subsection are as follows:
 - 1. Tree removal or transplanting occurring during use of land for agriculture or the operation of a commercial nursery or tree farm.
 - 2. Actions made necessary by an emergency, such as a tornado, windstorm, flood, freeze, dangerous and infectious insect infestation or disease, or other disaster, in order to prevent injury or damage to persons or property or to restore order.
 - 3. Tree trimming, removal, or transplanting performed by or on behalf of any governmental agencies.
 - 4. Repair or maintenance work performed by public utilities necessitating the trimming or cutting of trees.
 - 5. Removal or trimming of dead, diseased, or damaged trees where the damage resulted from an accident or nonhuman cause.

Section 22.6 GRADING AND FILLING OF PROPERTY AND STORMWATER DETENTION

A. When any land in the Township is developed or altered in any way which affects stormwater runoff, the owner shall detain such stormwater from runoff onto adjacent properties, including roads and other rights-of-way, in such a manner which shall result in the maximum amount of stormwater runoff not exceeding that which existed prior to the development or improvement of the property, and in accord with the requirements of the Michigan Natural Resources & Environmental Protection Act, PA 451 of 1994, Part 91, Section 324.9101 et.seq. formerly the Soil Erosion/Sedimentation Control Act, PA 347 of 1972, as amended. In addition, all development shall conform to the Benzie County Soil Erosion, Sedimentation and Stormwater Control Ordinance and any general rules or administrative guidelines.

B. Special attention shall be given to proper site drainage so that runoff of stormwater will not adversely affect neighboring properties or the water quality of the township's lakes and streams. Stormwater control mechanisms, such as retention/detention basins, vegetative buffers, swales, and infiltration trenches, shall be required to ensure that the peak rate of stormwater runoff after development does not exceed the rate prior to development. (For a storm with a twenty-five (25) year frequency of three (3) and one-half (1/2) inches and twenty-four (24) hour duration).

C. The final grade surface of ground areas remaining after the construction of a building or structure, and any earth changes made in connection with use of land shall be designed and landscaped such that surface water flows away from the building or structure and is collected or managed in a manner which avoids any increase in surface water discharge onto adjacent properties or public roads, the erosion of or filling of any road ditch, the blockage of any natural or public watercourse, the creation of standing water over a private sewage disposal drainage field, and any unnecessary impoundment of surface water. The provisions of this section shall be administered and enforced pursuant to the site plan review provisions of Article XIV, when applicable. In all other cases, the Zoning Administrator shall determine after consultation with the Soil Erosion, Sedimentation, and Stormwater Control administrator whether the provisions of this section are met. When it is determined that inadequate surface water control exists, no Certificate of Zoning Compliance shall be issued until the situation is corrected and approved by the Zoning Administrator.

D. Creation of Ponds: A manmade excavation or impoundment of surface water designed to retain or detain water with a surface area of at least one thousand (1000) square feet is subject to the following regulations:

1. A pond is an accessory or conditional use in all zoning districts.
2. No person shall commence the excavation, dredging, or construction of a dam, that is designed, intended or results in the creation or enlargement of a pond without first making application for and receiving a Zoning Permit approving the specific plans for a pond.
3. An application for a zoning permit for a pond shall be made pursuant to Sections 14.7 and 14.8 of this Ordinance.
4. Proposed ponds of less than **one (1)** acre in size shall be considered under Section 14.23.4 minor site plan.
5. Applications for ponds larger than **one (1)** acre and/or ponds which are located within five-hundred (500) feet of a lake, river, stream, or open county drain shall be required to be submitted to the Michigan Department of Environmental Quality to determine the extent to which the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, apply to the proposal.
6. Ponds (or man made lakes) in excess of 5 acres shall be considered major site plans under Part IV of Article XIV.
7. Plans for ponds shall indicate the size, depth, and proposed finished grade of the land both above and below water level, any proposed fencing location and specifications. In addition, the applicant shall indicate sources of water being

- used to supply the pond (such as stream impoundment, surface water runoff, springs, and wells).
8. No pond shall be closer than fifty (50) feet from any property line, easements for egress, dwelling units, septic drainage fields and domestic wells.
 9. Ponds on parcels of less than 20 acres in size that are not enclosed by a four feet high fence shall be required to provide and maintain one or more safety stations in compliance with the following:
 - a. U.S. Coast Guard approved ring buoys securely connected to forty feet of rope mounted on posts located at 500 feet intervals around the perimeter of the pond.
 - b. A twelve feet long pole shall be attached to one safety station.
 10. Ponds under five (5) acres are permitted without regard to the nine (9) previous subsections if:
 - a. On a bonafide commercial agriculture or horticulture operation in an Agriculture Production (AP) District;
 - b. The pond is approved by the National Resources Conservation Service as being in conformance with their existing pond design standards.

Section 22.7 GENERAL ENVIRONMENTAL PROTECTION & NUISANCE PREVENTION PROVISIONS

- A. Every use shall be so conducted and operated so that it is not detrimental to the health, safety, or welfare of persons or property, or obnoxious by reason of heat, glare, fumes, odors, dust, noise, smoke, water runoff, light, ground vibration or other nuisance beyond the lot on which the use is located. It shall be unlawful to carry on or permit to be carried on any activity or operation of use of any land, building, or equipment that produces irritants to the sensory perceptions greater than the measures herein established which are hereby determined to be the maximum permissible hazards to humans or to human activity.
- B. Dangerous Explosive and Flammable Materials:
 1. No use of a building or premises shall in any way represent a fire or explosion hazard to a use on adjacent property or to the public on a public street. All buildings, above or below ground storage and handling areas where dangerous chemicals, salts, flammable materials, or hazardous substances are regularly used, moved or stored shall conform to all applicable local, County, State and Federal regulations and requirements; including the maintenance of any clear zone and/or containment structures required by government authorities. Failure to disclose such materials to fire, emergency services agencies and the Michigan Department of Environmental Quality as may be required by State or Federal laws, is also a violation of this Ordinance.
 2. All outdoor above or below ground handling area and storage facilities for dangerous chemicals, explosive or flammable materials, fuels and other hazardous substances in excess of 50 gallons or 150 pounds per month,

shall:

- a. Be constructed and maintained in compliance with:
 1. All applicable Michigan Department of Environmental Quality, Michigan Department of Agriculture, State Fire Marshal and U.S. EPA Standards;
 2. The State Construction Code Act, Public Act 230 of 1972; and
 3. All applicable County, local Fire Code and "Right-to-Know" laws.
 4. A Pollution Incidence Prevention Plan (PIPP) if required under state law.
 - b. Be located on a lot at least one-half (½) acre in size.
 - c. Not store fuel in above or below ground tanks closer than seventy-five (75) feet to a building unless it is liquefied petroleum gas or heating fuel in an approved tank, in which case it shall not be closer to a building than the distance allowed by the State Mechanical Code.
 - d. Secondary containment structures shall be required to protect the environment from accidental spills of all hazardous liquids. Hazardous liquids shall include all "hazardous wastes" as defined by Act 64 of 1979, that are in liquid form. Secondary containment structures shall include structures such as but not limited to dikes and berms surrounding transfer and storage areas, enclosed structures, and interior storage rooms with sills and no floor drains. All secondary containment structures shall be at least large enough to hold the capacity of the largest drum or tank in the transfer or storage area. Secondary containment structures shall be covered, but if flammable, not fully enclosed, with a satisfactory dewatering plan to prevent leaks and spills from entering drains, sewers, surface or groundwater.
 - e. No floor drains shall be permitted in any areas involving the transfer or disposal of hazardous liquids unless all hazardous liquids are collected and properly treated or disposed of off site.
3. If the quantity of material in Section 22.7.B.2 above is less than the regulatory threshold of the Michigan Department of Environmental Quality, the Michigan Department of Agriculture, State Fire Marshal or U.S. EPA Standards then the secondary containment structures required in subsection 2.d. above shall conform with standards prepared by the Zoning Administrator and adopted by the Planning Commission.
 4. The owner shall supply the Zoning Administrator, Sheriff's Department and Emergency Services Coordinator with the name and phone number of persons responsible for materials on the site and who is available 24 hours in case of a leak or spill.
- C. Junk:
1. No person shall store, place, abandon, or permit to be stored, placed, abandoned, or allow to remain in any district a dismantled, partially

dismantled, unlicensed, or inoperable motor vehicle, junk, rubbish, or litter upon any premises, except as provided for in Article XVI, or in the case of motor vehicles, unless confined in a wholly enclosed structure.

2. No person shall store, place, abandon, or permit to be stored, placed, abandoned, or allow to remain in any district junked, wrecked, or inoperable farm machinery unless hidden from the view of the general public.

D. All proceedings of the Planning Commission, Zoning Board of Appeals, and Township Board of Trustees shall be conducted, and all decisions shall be made with due consideration given to the maintenance of reasonable circumstances regarding: emission and transmission of injurious or obnoxious noise, fire or explosive hazard, liquid or solid waste disposal, vibration, gas fumes, smoke, dust, dirt, litter, odor, light, glare, traffic congestion, ingress and egress, ease of police and fire protection, drainage, lateral land support, blighting influence, effect on property values, adequate light and air, overcrowding of persons, sanitation, general appearance of the area, surface and groundwater quality, and other similar considerations having an effect on public health, safety and general welfare of the people of the surrounding area.

Section 22.8 WATER SUPPLY AND SANITARY SEWERAGE FACILITIES

No structure for human occupancy shall be erected, altered, or moved upon any lot or premises and used in whole or in part for dwelling, business, industrial, or recreational purposes unless it shall be provided with a safe potable water supply and with a safe and effective means of collection, treatment, and disposal of human excreta and domestic, commercial and industrial wastes. All such installations and facilities shall conform with the minimum requirements of the Benzie-Leelanau District Health Department, and the Michigan Department of Environmental Quality.

Section 22.9 FLOOD PLAIN REGULATIONS

A. Intent and Purpose: The purpose of these regulations is to protect those areas of the Township which are subject to predictable flooding in the flood plain areas along Lake Michigan and along the major rivers, their branches, and tributaries within the Township so that the reservoir capacity shall not be reduced thereby creating danger to areas previously not so endangered in time of high water or to impede, retard, accelerate, or change the direction of the flow or carrying capacity of the river valley or to otherwise increase the possibility of flood. All land included in the flood plain area shall be subject to the requirements specified herein in addition to the normal zoning district requirements in which said land shall be located.

B. Flood Plain Delineation: Land subject to these floodplain regulations shall consist of all land which would be inundated during an Intermediate Regional Flood as established by the U.S. Army Corps of Engineers along any watercourse within the jurisdiction of this Ordinance, and all lands depicted on a NFIP Flood Hazard Boundary Map or Flood Insurance Rate Map prepared by the Federal Emergency Management Agency. A copy of the maps showing land subject to these provisions shall be kept on file in the Office of the Clerk of Benzonia and Platte Townships and the Office of the

Zoning Administrator.

C. Permitted Principal Uses: Notwithstanding any other provisions of this Ordinance, no building or structure shall be erected, converted, or structurally altered and no land and/or structure shall be used within a flood plain except for one or more of the following uses:

1. Open space uses such as farms, truck gardens, nurseries, parks, playgrounds, golf courses, nature preserves, bridle trails, nature paths, private or commercial recreations, and other similar open uses.
2. Off-street parking uses, provided that all parking shall be at grade level and in conformance with the provisions of Article XX of this Ordinance.
3. Public utility facilities, provided utilities are constructed or elevated to withstand flood damages and are constructed as further regulated by this Ordinance.
4. Yard and setback areas required for any district within the flood plain areas may be included within the flood plain areas. However, the elevation of the lowest floor designed or intended for human habitation shall be above the established flood plain.

D. Flood Plain Lands - Site Development Requirements: No building or structure shall be erected, converted, or structurally altered or placed within the boundaries of the lands listed in Section 22.9. B. except as permitted below:

1. The lowest floor designated or intended for human habitation shall be above the established flood plain. Land may be filled to meet the minimum requirements of the established flood plain and grade level only under the following conditions:
2. A permit pursuant to the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, Part 31, Section 324.3108 et.seq., as amended, and Rule R 323.1311 - 323.1329, Michigan Administrative Code is obtained from the Michigan Department of Environmental Quality.
3. A permit pursuant to the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, Part 91, Section 324.9101, et.seq., as amended, is obtained from the Michigan Department of Environmental Quality.

E. Uses Permitted by the Site Plan Review Committee: Certain uses may be authorized in any flood plain by approval of the Site Plan Review Committee. All lands included in the flood plain shall be subject to the provisions herein and to the district requirements in which said land shall be located.

1. The construction or location of outdoor play equipment, bleachers, and similar outdoor equipment and appurtenances, storage of materials or equipment, provided such elements shall not cause any significant obstruction to the flow or reduction in the water impoundment capacity of the flood plain.

F. Data Submission: Prior to the issuance of a zoning permit for structures adjacent to flood plain area, the Zoning Administrator shall require the applicant for such permit to submit topographic data, engineering studies, proposed site plan, or other similar data needed to determine the exact elevation and location of the one hundred (100)

year flood plain and the possible effects of flooding on a proposed structure and/or the effect of the structure on the flow of water. All such required data shall be prepared by technically qualified persons. The opinion of hydrologic engineers within the DEQ shall be sought before a decision is made by the Zoning Administrator.

G. Existing Uses in the Flood Plain: It is the intent of this Ordinance to permit existing uses to continue in the flood plain until they are removed, but not to encourage their survival.

1. It is recognized there exists within the flood plain, as defined by this Ordinance, lots and structures which were lawful before this Ordinance was passed or amended which would be prohibited, regulated, or restricted under terms of this Ordinance or future amendments.
2. Such uses are declared by this Ordinance to be incompatible with permitted uses in the flood plain. It is further the intent of this Ordinance that such uses shall not be enlarged upon, expanded, or extended nor be used as grounds for adding other structures or uses prohibited in the flood plain.
3. Should a structure located in the flood plain, as defined by this Ordinance, be damaged by any means to an extent of more than fifty (50%) percent of the structure's pre-catastrophe market value as recorded by the assessing officer, it shall not be reconstructed. The damage to the structure based on its condition before destruction shall be determined by the Zoning Administrator after:
 - a. Receiving an estimate of the structural damage from the fire chief.
 - b. Receiving a figure representing the difference between the pre-catastrophe market value of the structure and the post-catastrophe value as determined by the assessing officer.
 - c. Dividing the sum of the figure derived:
 1. From the fire chief, and
 2. From the assessing officer, by two (2).
4. Any building damaged by any means to an extent of less than fifty (50%) percent of the structure's pre-catastrophe market value as recorded by the assessing officer may be modified, repaired, or replaced, but any alterations must incorporate floodproofing of utility and sanitary facilities up to the level of the 100 year floodplain or the level to be inundated during an Intermediate Regional Flood as determined by the U.S. Army Corps of Engineers. The costs of said improvements for floodproofing shall not be included in determining the damage costs.
5. The Board of Appeals may permit reconstruction of a use if the following conditions are met:
 - a. The structure is adequately protected against flood damage.
 - b. Not allowing reconstruction would create an unnecessary hardship on the appellant.

H. Liability: Under no circumstances shall the Townships of Benzonia or Platte incur any liability whatsoever for the granting of any use of a building or structure in flood plain or other environmentally sensitive areas.

Section 22.10 ENVIRONMENTAL, SOCIO-ECONOMIC & TRAFFIC IMPACT ASSESSMENTS

A. The Planning Commission may require a socio-economic, traffic and/or environmental impact assessment (EIA), at the expense of the applicant, for any residential, office, commercial or industrial development, which includes a land area of five acres or more or a building over 50,000 square feet, before approving a required site plan or making a decision upon a request for Planned Unit Development approval. At their discretion, the Planning Commission may accept a socio-economic, traffic and/or EIA prepared for another public agency.

B. A socio-economic or environmental impact assessment should analyze the impact of the proposed development on municipal utility systems, fire, police and school services, solid waste disposal, soils, air, groundwater, drainage, floodplain, wetland and similar water courses, and noise levels which might affect existing land uses or neighborhoods negatively, and other similar factors which may be unique to a specific proposal. The Planning Commission shall review the impact assessment to determine if any proposed impacts would result in pollution, impairment or destruction of the environment over the threshold established in the Michigan Natural Resources and Environmental Protection Act, Public Act 451 of 1994, Part 17, or greater than existing level of service standards applicable to services and facilities provided in the Township.

C. Traffic Impact Assessment

1. The Planning Commission may require a Traffic Impact Assessment (TIA), at the expense of the applicant, for any residential, office, commercial, industrial or mixed use development, which includes a land area of five acres or more or a building over 50,000 square feet, or when permitted uses could generate either a thirty percent (30%) increase in average daily traffic, or at least one hundred (100) directional trips during the peak hour of the traffic generator or the peak hour on the adjacent streets, or over seven hundred fifty (750) trips in an average day, before approving a required site plan or making a decision upon a request for Planned Unit Development approval. At their discretion, the Planning Commission may accept a TIA prepared for another public agency.
2. The Site Plan Review Committee shall establish standards for conducting a TIA and shall maintain a copy of such standards in the office of the Zoning Administrator. TIA standards shall either be the current model distributed by the Michigan Department of Transportation, or an alternative model with similar credibility and technical competence.

**ARTICLE XXIII
PLATTE LAKES AREA MANAGEMENT PLAN OVERLAY DISTRICT**

Section 23.1 ESTABLISHMENT OF OVERLAY DISTRICT; INTENT AND PURPOSE

This overlay district, the Platte Lakes Area Management Plan Overlay District, is hereby established and is intended to protect the health, safety and welfare of the Platte Lakes Area by promoting the preservation of natural features, protecting water quality and regulating development and the use of property which borders, encompasses or contacts the surface waters, watercourses and drainage ways to the Platte Lakes Area. The shape, size and character of the property located within this district may vary greatly due to circumstances imposed by the existing water bodies, watercourses, wetlands, drainage ways and varying slopes. Additionally, it is the intent of this ordinance to establish land management practices and procedures within the Platte Lakes Area that will help in the attainment and compliance with the court ordered Big Platte Lake water quality standard of 8.0 micro-grams per liter for phosphorus established in the Consent Judgment dated March 10, 2000 issued by the Ingham County Circuit Court in *Platte Lake Improvement Association vs. Michigan Department of Natural Resources*, File No. 86-57122 CE, particularly in Section 3 (Operation of the Hatchery), Paragraph F, sub-paragraph ii (Platte Lake Phosphorus Limit) thereof.

Section 23.2 PLATTE LAKES AREA

The Platte Lakes Area is defined as the property immediately surrounding the Platte Lakes. Boundaries may vary due to slopes and permeability of the soils, either of which may affect the distance of the boundary from the waters edge. The interpretation of the boundaries of this area shall be the responsibility of the Zoning Administrator, whose decision may be appealed to the Board of Appeals. In cases where a parcel is not entirely within the boundaries of the Platte Lakes Area only those portions within the Platte Lakes area are required to comply with the regulations of this Article.

Section 23.3 WATER RESOURCES SUBJECT TO ORDINANCE REGULATION

Navigable water bodies and watercourses, wetland areas 0.5 acre or larger in size, non-navigable waterways with tributaries from other non-navigable waterways whose origin is from surface run off, or springs and located within the Platte Lakes Area Management Plan Overlay District are subject to the regulations set forth in this Article XXIII.

Section 23.4 DISTRICT REGULATIONS

- A. Dwelling and Accessory Structures.
 - 1. Only one dwelling per lot is permitted.
 - 2. Newly created building lots must be a minimum of one hundred (100) feet in width at the building line.

- B. Impervious Surfaces.
 - 1. Impervious surfaces must be engineered and sloped in a manner that will not allow direct drainage into a water resource.
 - 2. Drainage of surface runoff from an impervious surface must be directed to a retention area or rock filled void large enough to allow natural absorption of storm water run off from a twenty-five (25) year storm event of three and one-half (3.5) inches of rain in a twenty-four (24) hour period.

- C. Steep Slopes.
 - 1. Engineered slopes must be less than eighteen (18%) percent when located within one hundred (100) feet of a water resource. The surface must be maintained with a vegetative cover to minimize surface runoff.
 - 2. Natural slopes greater than eighteen (18%) percent must be maintained with a vegetative cover or retaining systems to minimize surface runoff.

- D. Buffer Strips.

In order to protect water quality, preserve sensitive wildlife habitat and reduce soil erosion and sedimentation, any proposed development or redevelopment, as defined in this subsection, on properties subject to this overlay district shall be separated from the adjacent high water mark or bottom land of any subject water resource, by a buffer strip a minimum of twenty-five (25) feet in width as described below.

- 1. For purposes of this district, construction, development or redevelopment shall include any of the following activities:
 - a. The enlargement of the principle building square footage by more than two hundred (200) square feet.
 - b. The demolition of an existing principle building and the building of a new principle building within the same footprint.

- 2. The buffer strip shall consist of vegetation and or grass in living condition with the intent of minimizing sediment runoff into the adjacent water resource. A limited amount of

improvement may be permitted within the strip as described below:

- a. Buffer Strip: The depth of the buffer strip shall measure twenty-five (25) feet from the ordinary high water mark of the water body. This area is extremely sensitive and must be treated carefully when considering vegetation removal. Specifically any vegetative removal that would cause or enhance erosion is prohibited unless approved measures to eliminate or reduce erosion are implemented simultaneously. Subsequently, any existing erosion within the buffer zone to the adjacent water body, when identified by the Soil Erosion Control Agent, must be corrected per approved soil erosion control measures.
- b. Therefore, the removal of any vegetation within the buffer strip shall be limited to an area equal in width to twenty-five (25%) percent of the length of the water frontage of the parcel, or twenty-five (25) feet, whichever is greater. No contiguous area of clearance shall be wider than twenty-five (25) feet. Consistent with the spirit of the district's intent, as much as possible of the mature vegetation shall be preserved. Areas within this strip that do not include abundant native vegetation so as to permit relatively unimpeded pedestrian access to the water resource and/or to permit a virtually open view of the water from the principal structure, shall be included as a portion of the total clear area. Features permitted in the buffer strip may include footpaths constructed of permeable materials, stairways, fences and walls. The buffer strip may not be used for the dumping of brush, clippings, fill dirt, trash, debris or other materials. Under no circumstances shall the removal of vegetation be allowed where the slope is greater than eighteen percent (18%), except for poisonous plants, which may be removed by mechanical means only, not with herbicides.
- c. The mowing and or cutting of the vegetation within the buffer strip is an appropriate phosphorus reduction measure as long as the mowing height is such as to enable continued plant growth and the clippings from the mowing are removed to an area outside of the buffer strip where their decay and re-entry to the buffer strip is prevented. In any case, this distance for deposition of organic debris from the water body is no

less than the distance of the approved septic drain field from the water body for the property in question. If the property has a holding tank, the mowed clippings must be deposited at a location that meets the above criteria. If such a site cannot be arranged, then the buffer strip cannot be mowed. Under no circumstances can the mowed or cut vegetation be allowed to be deposited directly into the buffer strip or the adjacent water body.

- d. Removal of trees and shrubs within the buffer strip must be replaced with vegetation possessing equal or greater soil retaining potential. Grasses are preferred over trees, as far as phosphorous control is concerned, as trees deposit leaves and or needles into the buffer zone and adjacent water body. Re-vegetation may be conducted per Natural Resources Conservation Service or Benzie County Soil Erosion Control Plans. The removed material must be properly disposed of as provided in subparagraphs b and c, above.
- e. Removal of organic beach debris as well as tree leaves, etc. is encouraged as a phosphorus reduction measure so that phosphorus and other nutrients in the debris cannot decay and re-enter the water. The debris must be disposed of as provided in subparagraph c, above.
- f. Fertilization of any type is prohibited within the twenty-five (25) foot buffer zone.

E. Redirection of Water Resources.

Redirection of a water resource, in part or in whole, may only be conducted in accordance with a permit issued by the Michigan Department of Environmental Quality (MDEQ) or its successor agency.

F. Construction within the Platte Lakes Area Management Plan Overlay District.

- 1. Construction activities within the district shall not encroach or impact the designated buffer strip.
- 2. A Soil Erosion Control permit is required for earth changes within five hundred (500) feet of a lake or stream or for any earth change amounting to one (1) acre or more.

G. Fertilization within the district.

All fertilization within the district for non-agricultural operations is limited to phosphate free fertilizer.

H. Agricultural Operations

1. No grazing of livestock shall be permitted within fifty feet (50) of the high water mark.
2. An agricultural operation may operate under an approved Natural Resources Conservation Service conservation plan that will allow agricultural activity within a buffer strip while maintaining protection of the water resource.

Section 23.5 CONFLICTS

If there is any conflict between any provision of this Article and any other provision of this Zoning Ordinance, the more restrictive provision shall take precedence over the less restrictive.

**ARTICLE XXIV
CRYSTAL LAKE WATERSHED OVERLAY DISTRICT**

Sec. 24.1 PURPOSE

The purpose of this Article is to protect the environmental quality of Crystal Lake, the Crystal Lake shoreline, and the Crystal Lake watershed through appropriate land use and design regulations. The protection of the Crystal Lake watershed is deemed a public purpose in order to preserve important environmental, historical, residential, recreational, cultural, scenic, and economic attributes of the region.

More specifically, the purpose of this Article is to protect the public health, safety, and welfare; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird, and other wildlife habitat; to protect buildings and lands from accelerated erosion; to protect wetlands; to control building sites, placement of structures, and land uses; to conserve shore cover; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.

Sec. 24.2 WATERSHED OVERLAY DISTRICT

All areas that are in the Crystal Lake watershed, according to the Crystal Lake Watershed Overlay Map shall meet all requirements of this Article. The Crystal Lake Watershed Overlay Map shall be on file with the Township Clerk and the Zoning Administrator at all times. Any interpretations of the boundaries of this map shall be the responsibility of the Zoning Administrator, whose decision may be appealed to the Township Board of Appeals.

In cases where a parcel is partially inside and partially outside of the overlay district, only those portions located within the overlay district are required to comply with the regulations of this Article.

Sec. 24.3 USES PERMITTED

All uses permitted by right or by conditional or special land use permit in the underlying zoning district shall be permitted, in the Crystal Lake Watershed Overlay District except for:

- A. Confined Feedlots
- B. Slaughterhouses
- C. Gas Stations
- D. Auto Repair Shops
- E. Auto Washes

- F. Oil-change Establishments
- G. Industrial uses involved in the manufacturing, compounding, processing, or treating of products.

Sec. 24.4 LOT SIZE, WIDTH, AND SETBACK

Minimum lot size, lot width, and setback requirements of the underlying zoning district shall be met unless this Article specifically states otherwise.

Sec. 24.5 APPROVAL PROCESS

A. All of the following uses or buildings (including additions or extensions to such uses or buildings) that are located wholly or partially within the Watershed Overlay District shall be required to obtain site plan approval pursuant to Article XIV.

- 1. Commercial Establishments.
- 2. Industrial Establishments.
- 3. Multifamily Housing Developments.
- 4. Subdivisions and Condominium Subdivisions.
- 5. Parking Areas Containing Four or More Parking Spaces.
- 6. Private Roads or Paved Areas Exceeding Four Thousand (4,000) Square Feet.
- 7. Planned Residential Developments, Planned Unit Developments.

Sec. 24.6 DESIGN REQUIREMENTS

The purpose of the design requirements of this section are to slow the rate of stormwater runoff, to reduce erosion and sedimentation, to protect water quality, to keep nutrients from entering lakes and streams, to maintain water temperatures at natural levels, to preserve fish and wildlife habitat, and to preserve aesthetic and scenic values of the watershed environment.

All new development, including additions or extensions to existing buildings, shall meet the design requirements of this section.

- A. Setbacks from Crystal Lake:
 - 1. All principal buildings shall be set back at least thirty-five (35) feet from the ordinary high-water mark of Crystal Lake, subject to Sec. 3.2.
 - 2. Within thirty-five (35) feet of the ordinary high-water

mark of Crystal Lake, a maximum of 400 square feet of land shall be covered by impervious surfaces, including all structures and paving for each 100 linear feet of lake frontage.

3. No unsightly, offensive, or potentially polluting material, including but not limited to lawn clippings, leaves, garbage, trash, refuse, or toxic materials, may be dumped or stored within thirty-five (35) feet of the ordinary high-water mark of Crystal Lake.

B. Vegetative Buffer: All existing vegetation located within thirty-five (35) feet of the ordinary high-water mark of Crystal Lake shall be maintained as a vegetative buffer in accordance with this Section.

1. Removal of vegetation in the natural vegetative buffer shall be limited to no more than twenty-five (25) percent of the length of this buffer, provided that cutting of this twenty-five (25) percent shall not create a clearcut opening greater than twenty-five (25) feet wide for every one hundred (100) feet of shoreline.
2. Natural shrubbery, trees, or other vegetation shall be preserved as far as practical and, where removed, shall be replaced with other naturally occurring vegetation that is equally effective in retarding runoff, preventing erosion, and preserving natural beauty. A mowed lawn is not a desirable vegetative buffer adjacent to the shoreline.
3. Native plants, shrubbery, and trees are encouraged when new vegetation is planted.
4. Existing soil and organic matter shall not be altered or disturbed within the natural vegetative buffer.
5. These provisions shall not apply to the removal of dead, diseased, or dying trees at the discretion of the landowner.

C. Development on Steep Slopes: Development on slopes of twelve (12) percent or greater shall meet the design requirements of this Section.

1. Density: The permitted density for residential

dwelling shall be based on the existing slope of the site. The permitted number of dwellings shall be based on the procedures outlined in Section 16.19 (e) by applying the maximum density requirements of this Section.

<u>Maximum Density Without Sewer</u>	<u>Maximum Density With Sewers</u>	<u>Existing Slope</u>
1.00 Unit per Acre Percent	2.00 Units per Acre	12 to 17
0.75 Unit per Acre Percent	1.50 Units per Acre	18 to 24
0.50 Unit per Acre	1.00 Unit per Acre	25+ Percent

2. Lot Coverage: The amount of land allowed to be covered by impervious surfaces shall be based on the existing slope of the site. Lot coverage shall be defined as the percentage of the lot (excluding rights-of-way and wetlands) that is covered by impervious surfaces, including structures and paving. In the case of PUDs, PRDs, and Condominiums, each individual lot need not meet the requirements of this section, provided that the total project does meet the requirements of this section.

The maximum lot coverage shall be as follows:

<u>Lot Coverage</u>	<u>Existing Slope</u>
30 Percent	12 to 17 Percent
20 Percent	18 to 24 Percent
10 Percent	25+ Percent

3. Natural Vegetative Cover: As much of the existing vegetation, including bushes, shrubs, natural ground cover, and trees, shall remain on the site as possible. Lawn areas shall not qualify as natural vegetative cover required in this section. The required amount of vegetative area to remain undisturbed shall be based on the existing slope on the site and shall be clearly indicated on the proposed site plan or sketch plan. The natural vegetate areas shall be located along lot lines, natural drainage courses, wetlands, and steep slopes to the extent possible. In the case of PUDs, PRDs, and Condominiums, each individual lot need not meet the requirements of this Section, provided that the total project does meet the requirements of this Section.

<u>Percent of Lot to Remain in Natural Vegetative Cover</u>	<u>Existing Slope</u>
30 Percent	12 to 17 Percent
40 Percent	18 to 24 Percent
50 Percent	25+ Percent

4. Development of Slopes of Twenty-Five (25) Percent or Greater: Development on slopes of twenty-five (25) percent or greater shall be prohibited unless there are no other reasonable or prudent alternatives. If the property owner believes that no reasonable or prudent alternatives exist, he or she must first obtain a Special Land Use Permit as provided for in this Ordinance prior to any development on slopes of twenty-five (25) percent or greater. In reviewing the Special Land Use request, the Zoning Administrator or Planning Commission must find that the following conditions are met:

- (a) That no other reasonable or prudent alternatives exist.
- (b) That the development will not create excessive soil erosion or sedimentation and that it will not impair the quality of water discharged from the site.
- (c) That the peak rate of stormwater runoff after development will not exceed the peak rate of stormwater runoff that has occurred prior to the proposed development.
- (d) That all design requirements of this Section are met.

5. Determination of Slope: The determination of slope shall be made by the Zoning Administrator based on the Slope Map. The Slope Map shall be on file with the Township Clerk and the Zoning Administrator at all times. The Zoning Administrator shall make the best possible determination using the scale of the map and shall record his or her determination on a site plan that is made available by the property owner. In cases where there is more than one slope category on a lot or proposed development, the Zoning Administrator shall indicate these areas on the site plan.

If the property owner disagrees with the slope determination made by the Zoning Administrator, he or she may request a review of the determination by the Planning Commission during the site plan review process. In making its case, the property owner shall present topographic mapping or a survey prepared and sealed by a licensed community planner, a licensed architect, a registered civil engineer, or a licensed surveyor. Based on the evidence presented by the Zoning Administrator and the property owner, the Planning Commission shall make a slope determination and shall record its decision on the proposed site plan.

D. Development on Ridge Lines: A "ridge line" shall be defined as a line at which a critical slope area breaks to a slope of less than eight (8) percent for a distance of a least twenty (20) feet. A "critical slope area" shall be defined as all slopes facing Crystal Lake that have a significant portion of their grade being twelve (12) percent or greater for a distance of at least one hundred (100) feet.

1. All principal buildings shall be set back at least fifty (50) feet from all ridge lines.
2. All principal or accessory buildings or structures located within one hundred (100) feet of a ridge line shall not exceed eighteen (18) feet in height.
3. All accessory structures, such as but not limited to signs, sheds, garages, and satellite dishes, shall be set back at least thirty (30) feet from all ridge lines.
4. A building setback from the ridge line of only twenty (20) feet may be permitted if any of the following conditions exist:
 - (a) There are no other reasonable or prudent alternatives to achieve the required fifty (50)-foot setback.
 - (b) There would be significant environmental consequences if the fifty (50)-foot setback was required.
 - (c) The building is not located within a special or unique viewing area or view shed within the Crystal Lake Overlay District.

5. All existing vegetation located within twenty (20) feet on either side of the ridge line shall be maintained as a vegetative buffer in accordance with this Section.

(a) Removal of vegetation in the natural vegetative buffer shall be limited to no more than twenty-five (25) percent of the length of this buffer, provided that cutting of this twenty-five (25) percent shall not create a clear-cut opening greater than twenty-five (25) feet wide for every one hundred (100) feet of ridge line.

(b) Natural shrubbery, trees, or other vegetation shall be preserved as far as practical and, where removed, shall be replaced with other naturally occurring vegetation that is equally effective in retarding runoff, preventing erosion, and preserving natural beauty. A mowed lawn is not a desirable vegetation buffer adjacent to the ridge line.

(c) Native plants, shrubbery, and trees are encouraged when new vegetation is planted.

(d) Existing soil and organic matter shall not be altered or disturbed within the natural vegetative buffer.

E. Private Roads: All private roads located in the Watershed Overlay District shall meet the requirements of this Section.

1. Private roads shall not be located within thirty (30) feet of Crystal Lake or within ten (10) feet of a wetland or stream.

2. Private roads in hilly terrain shall be encouraged to locate along natural contours of the land in order to minimize cutting, filling, and erosion.

F. General Design Standards: For all developments in the Watershed Overlay District, the following general design standards shall be followed:

1. Natural vegetation shall be maintained wherever possible. If the removal of vegetation is required, reestablishment of a compatible plant material shall be required.

2. Existing mature trees shall be incorporated into the project design where feasible.
3. Natural drainage courses shall be protected from grading activity.
4. Where known, groundwater flow patterns shall not be interrupted.
5. Slopes created by the grading of the site should generally not exceed a slope ratio of one (1) foot of vertical slope to three (3) feet of horizontal distance.
6. Buildings shall be clustered as much as possible to retain open space and surrounding tree cover and to minimize changes in topography.
7. Screening along roadways shall make maximum use of berming and landscaping but shall not interfere with sight distances.

G. Construction Guidelines: For all developments in the Watershed Overlay District, the following construction guidelines shall be followed:

1. Whenever feasible, natural vegetation shall be retained and protected.
2. Where inadequate vegetation exists, temporary or permanent vegetation shall be established.
3. All exposed slopes and graded areas shall be landscaped with ground cover, shrubs, and trees as soon as possible.
4. The smallest practical area of land shall be exposed at any one time during development.
5. When land is exposed during development, the exposure shall be kept to the shortest practical period of time and, if possible, shall be scheduled during seasons of minimum precipitation.
6. The permanent final vegetation and all structures shall be installed as soon as practical.

7. Trees are susceptible to all development in their immediate vicinity; and, unless extreme measures are taken during construction to protect them, their life span will inevitably be shortened. The developer must demonstrate how trees will be protected during construction or how to relocate trees if necessary.

8. For relocating trees, the root ball must be approximately ten (10) to twelve (12) inches in diameter for every inch of the tree's diameter. Adequate drainage and backfill shall be necessary to complete the relocation. Root protection during construction is essential in saving mature trees. Recommended techniques include using a geotextile aeration mat to allow structures to have adequate ventilation, while protecting the roots from excessive compaction and steel-reinforced concrete paving patterned with voids to be filled with gravel or grass that allow drainage, while protecting the tree from root compaction in highly trafficked areas.

**ARTICLE XXV
SEXUALLY ORIENTED BUSINESSES (SOBS)**

Sec. 25.1 PREAMBLE

There is convincing documented evidence that sexually oriented businesses, because of their very nature, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them; and, have serious objectionable characteristics, particularly when they are located in close proximity to each other.

It is not the intent of this Ordinance to suppress any activity protected by the First Amendment of the United States Constitution or the Michigan Constitution, but to enact content neutral regulations which address the adverse secondary effects of sexually oriented businesses.

The Townships recognize that state and federal law prohibits the distribution of obscene materials and expects and encourages state enforcement officials to enforce state and federal obscenity statutes against any such illegal activities within the Townships.

Sec. 25.2 INTENT AND PURPOSE

It is the purpose of this Ordinance to regulate sexually oriented businesses and related activities to promote and ensure the health, safety, and general welfare of the citizens of the Township and to establish reasonable and uniform regulations to prevent the deleterious effects of sexually oriented businesses within the Township. The provisions of this Ordinance do not have the purpose of imposing a limitation or restriction on the content of any communicative material, including sexually oriented materials. Similarly, it is not the intent of this Ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment of the United States Constitution, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent of this Ordinance to condone or legitimize the distribution of obscene materials.

Sec. 25.3 DEFINITIONS

As used in this Article, the following terms shall have the indicated meanings:

- A. ADULT BOOK OR VIDEO STORE: An establishment having as a substantial or significant portion of its stock in trade, books, magazines, periodicals, films, computer software or video tapes which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined herein.
- B. ADULT ENTERTAINMENT ESTABLISHMENT: A theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances presented for the enjoyment of the audience which has paid or promised to pay an admission fee and which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities".
- C. ADULT MINI-THEATER: A commercial establishment where, for any form of consideration, in an enclosed area with a capacity of less than ten (10) persons, films, motion pictures, video cassettes, slides, or similar photographic reproductions are shown which are characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas".
- D. ADULT MOTION PICTURE THEATER: A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas," as defined herein.
- E. ADULT NOVELTY BUSINESS: A business that has as a substantial or significant portion of its activity in the sale of devices which stimulate human genitals or devices designed for sexual stimulation.
- F. NUDITY or STATE OF NUDITY: The appearance of a human bare buttock, anus, male genitals, female genitals, or female breast without a fully opaque complete covering or the breast below a point immediately above the top of the areola, or human male genitals in a discernible turgid state even if complete and opaquely covered.

- G. PERMIT: A Special Land Use Permit for the operation of a sexually oriented business and issued pursuant to Article XIV and this Article.
- H. PERMITTEE: A person in whose name a permit to operate a sexually oriented business has been issued as well as the individual listed as an applicant on the application for a permit.
- I. PERSON: An individual, proprietorship, partnership, limited liability company, corporation, association, or other legal entity.
- J. SEXUALLY ORIENTED BUSINESS: An adult book or video store, adult motion picture theater, adult mini-theater, adult novelty business, or adult entertainment establishment.
- K. SPECIFIED ANATOMICAL AREAS Includes:
1. Less than completely and opaquely covered human genitals, pubic regions, buttocks and female breasts below a point immediately above the top of the areola;
 2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- L. SPECIFIED SEXUAL ACTIVITIES Includes:
1. Acts of human masturbation, sexual intercourse, or sodomy;
 2. Fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts;
 3. Human genitals in a state of sexual stimulation or arousal.
- M. SUBSTANTIAL OR SIGNIFICANT PORTION: A business will be deemed to have a substantial or significant portion of its stock in trade or services if it meets at least one of the following criteria:
1. Thirty-five (35) percent or more of the stock, materials, or services provided describes or relates to specified sexual activities, specified anatomical

areas, or both.

2. Thirty-five (35) percent or more of the usable floor area of the building is used for the sale, display, or provision of services describing or relating to specified sexual activities, specified anatomical areas, or both.
3. The advertising (on signs, in publications, on television or radio and/or other media forms) associated with the business, describes or relates to specified sexual activities, specified anatomical areas, or both.

N. TRANSFER OF OWNERSHIP OR CONTROL: of a sexually oriented business means and includes any of the following:

1. The sale, lease, or sublease of the business;
2. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means;
3. The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

Sec. 25.4 PERMIT REQUIRED

A. It shall be unlawful for a person to operate a sexually oriented business without a valid permit issued by the Township Zoning Administrator.

B. An application for a permit must be made on a form provided by the Township. The application must be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.

C. An application for a permit shall be made and delivered to the Zoning Administrator by the intended operator of the establishment. The intended operator shall be required to give the

following information on the application form:

1.
 - a. The name and street address (and mailing address, if different) and driver's license number of the intended operator if he/she has such a driver's license.
 - b. The name and street address (and mailing address, if different) of the owner(s), if different.
 2. The name under which the establishment is to be operated and a general description of the services to be provided.
 3. The telephone number of the establishment or, if unavailable, the operator's.
 4. The address, tax parcel number, and legal description, of the tract of land on which the establishment is to be located.
- D. The fact that a person possesses other types of state, county or township permits and/or licenses does not exempt him from the requirement of obtaining a sexually oriented business permit from the Township.
- E. The application shall be accompanied by the following:
1. Payment of the application fee in full;
 2. Proof of current fee ownership of the tract of land on which the establishment is to be situated in the form of a copy of the recorded deed, land contract, or other instrument of conveyance;
 3. If the persons identified as the fee owner(s) of the tract of land in Item 2 above, are not also the owners of the establishment, then the lease, purchase contract, purchase option contract, lease option contract or other document(s) evidencing the legally enforceable right of the ownership or proposed owners of the establishment to have or obtain the use and possession of the tract or portion thereof that is to be used for the purpose of the operation of the establishment.

- F. The application shall contain a statement under oath that:
1. The applicant has personal knowledge of the information contained in the application and that the information contained therein and furnished therewith is true and correct; and
 2. The applicant has read the provisions of this article.

Sec. 25.5 ISSUANCE OF PERMIT

A. The Zoning Administrator or Planning Commission shall approve the issuance of a permit to an applicant within sixty (60) days after receipt of an application unless he/it finds one or more of the following to be true:

1. An applicant is under eighteen (18) years of age.
2. An applicant is overdue in his payment of taxes, fines, or penalties assessed against him or imposed upon him in relation to a sexually oriented business.
3. An applicant has failed to provide information reasonably necessary for issuance of the permit or has falsely answered a question or request for information on the application form.
4. An applicant who has been denied a permit by the Township to operate a sexually oriented business within the preceding twelve (12) months, or whose license to operate a sexually oriented business has been revoked within the preceding twelve (12) months.
5. The premises to be used for the sexually oriented business has not been approved by the health department for the use intended, if applicable.
6. The permit fee, as established by the Township Board of Trustees, has not been paid.
7. An applicant has been convicted of any of the following criminal offenses in any jurisdiction:

Prostitution, procuring a prostitute, or solicitation of a prostitute; sale, distribution or display of obscene material; soliciting, procuring or aiding and abetting an

unlawful sexual performance by a minor; possession, sale or distribution of child pornography; public lewdness; indecent exposure; indecent conduct with a child; sexual assault or rape; incest; or sexual solicitation of a child.

The applicant shall certify, as a part of the application, that he/she/it has not been convicted of any one or more of the foregoing criminal offenses.

B. The permit, if granted, shall state on its face the name of the person or persons to whom it is granted, and the address of the sexually oriented business. The permit shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time.

C. The Zoning Administrator may also take all steps necessary to revoke a permit if he determines that a permittee gave false or misleading information in the material submitted during the application process.

Sec. 25.6 INSPECTION

An applicant or permittee shall allow the Township Zoning Administrator or representatives of the Township Code Enforcement Office to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law at any time it is occupied or open for business.

Sec. 25.7 ACTION TO REVOKE PERMIT

The Zoning Administrator shall take enforcement action, including the commencement of suit seeking revocation of a permit, if any of the following occurs:

A. A permittee gave false or materially misleading information in the application process.

B. A permittee has been convicted of using and/or allowing the use of the controlled substances within the establishment.

C. A permittee has been convicted of prostitution or other activity fostering, promoting or otherwise facilitating prostitution, within the establishment or elsewhere.

D. A permittee or employee of the sexually oriented business

has been convicted of any crime of a sexual nature or involving sexual conduct or the solicitation thereof within the establishment or elsewhere.

- E. A permittee has been convicted of knowingly allowing a person under eighteen (18) years of age to enter the establishment.
- F. There has been a transfer of ownership or control of an establishment without the prior consent of the Zoning Administrator, as required herein.

Sec. 25.8 TRANSFER OF PERMIT

A permittee shall not transfer his permit to another, nor shall a permittee operate a sexually oriented business under the authority of a permit at any place other than the address designated in the application. Permittee must complete application.

Sec. 25.9 LOCATION RESTRICTIONS

- A. A sexually oriented business may not be operated within one thousand (1,000) feet of:
 - 1. A church, synagogue or regular place of religious worship;
 - 2. A public or private school; or
 - 3. Another sexually oriented business.
- B. A sexually oriented business may not be operated within seven hundred fifty (750) feet of:
 - 1. A boundary of any residential zoned district or any residential structure;
 - 2. A licensed day care center; or
 - 3. A public park.
- C. A sexually oriented business may not be operated in the same building, structure, or portion thereof, containing another sexually oriented business.
- D. For the purpose of this Article, measurement shall be made in a straight line, without regard to intervening structure or objects,

from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted to the nearest property line of the premises of a church, synagogue, regular place of worship, or public or private school, or to the nearest boundary of an affected public park, residential district, or residential structure, or licensed day-care center.

E. For purposes of Subsection D of this section, the distance between any two sexually oriented business uses shall be made from the closest exterior wall of the structure in which each business is located.

F. A sexually oriented business may only be operated in a commercial (C-1) zoning district as designated in the Township Zoning Ordinance.

Sec. 25.10 REGULATIONS PERTAINING TO ADULT ENTERTAINMENT ESTABLISHMENTS

A. A person who operates or causes to be operated an adult entertainment establishment which presents live entertainment for the enjoyment of an audience which has paid or promised to pay an admission fee and which depicts specified sexual activities or displays specified anatomical areas, shall comply with the following requirements:

1. Upon application for a sexually oriented business permit, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures (indicating the type of illumination intensity of each such fixture) and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty (30) square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. Unless it is for a new commercial structure to be built, professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises.

2. The application shall be sworn to be true and correct

by the applicant.

3. No alteration in the configuration or location of a manager's station may be made without the prior approval of the Zoning Administrator.

4. It is the duty of the owners and operator of the premises to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.

5. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

6. It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present in the premises to ensure that the view area specified in Subsection 5 remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to Subsection 1 of this section.

7. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one (1.0) foot-candle as measured at the floor level.

8. It shall be the duty of the owners and operator and it shall also be the duty of any agents and employees present in the premises to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

9. The premises shall meet all barrier free requirements and building code requirements imposed by the County Building and Inspections Department.
10. Hours of operation shall be limited to 8:00 a.m. to 10:00 p.m.
11. When live performers are involved in the sexually oriented business, privacy dressing rooms are to be provided, and an aisle between the performance area and the dressing room shall be kept clear and unobstructed so the performers can pass through without contact with patrons.
12. Parking layouts shall not adversely affect the flow of traffic within the site, or to and from the adjacent streets.
13. All off street parking areas shall be sufficient for all vehicles patronizing the establishment, shall be illuminated during all hours of operation with down shining lighting, and shall be open to view from the adjacent street.
14. Grounds maintenance shall include routine clearing of rubbish and trash from the grounds, and hauling away of same at least once-per-week.
15. No person shall reside in or permit any person to reside in the premises of an adult oriented business.
16. All performers shall be salaried by the operators/owners of the sexually oriented business.
17. No person shall become the lessee or sublessee of any property for the purpose of using said property for a sexually oriented business without the express written permission of the owner of the property.
18. The maximum number of persons, including patrons, performers and operators, allowed in a structure at any one time shall be as established by the current Building Officials and Code Administration, Inc. (BOCA) Code, however, the number of patrons allowed on premises at any one time shall be limited to the amount of seating available, but shall not exceed one person for each fifteen (15) square feet of public net floor space, exclusive of restrooms, dance floor, administrative areas, hallways, etc.

Sec. 25.11 EXTERIOR PORTIONS OF SEXUALLY ORIENTED BUSINESS

A. It shall be unlawful for an owner or operator of a sexually oriented business to allow the merchandise or activities of the establishment to be visible from a point outside the establishment.

B. It shall be unlawful for the owner or operator of a sexually oriented business to allow the exterior portion of the sexually oriented business to have any words, lettering, photographs, silhouettes, drawings, or pictorial representations of a sexual or explicit manner except to the extent otherwise permitted by the provisions of this Ordinance.

C. Signs shall contain no photographs, silhouettes, drawings or pictorial representations of any manner, and may contain only the name of the enterprise.

Sec. 25.12 PERSONS YOUNGER THAN EIGHTEEN PROHIBITED FROM ENTRY; ATTENDANT REQUIRED

A. It shall be unlawful to allow a person who is younger than eighteen (18) years of age to enter or be on the premises of a sexually oriented business at any time that the sexually oriented business is open for business.

B. It shall be the duty of the operator of each sexually oriented business to ensure that an attendant is stationed at each public entrance to the sexually oriented business at all times during such sexually oriented business's regular business hours. It shall be the duty of the attendant to not allow any person under the age of eighteen (18) years to enter the sexually oriented business. It shall be presumed that an attendant knew a person was under the age of eighteen (18) unless such attendant asked for and was furnished:

1. A valid operator's, commercial operator's, or chauffeur's license; or
2. A valid personal identification certificate reflecting that such person is eighteen (18) years of age or older.

Sec. 25.13 EXEMPTION

It is a defense to prosecution under this Ordinance that a person appearing in a state of nudity did so in a modeling class operated:

A. By a proprietary school, licensed by the State of Michigan, a college, junior college, or university supported entirely or partly by taxation;

B. By a private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.

Sec. 25.14 NOTICES

A. Any notice required or permitted to be given by the Township or other agency under this Ordinance to any applicant, operator or owner of an establishment may be given either by personal delivery or by certified United States mail, postage prepaid, return receipt requested, addressed to the most recent address as specified in the application for the permit, or transfer application that has been received by the Township, or any notice of address change that has been received by the Township. Notices mailed as above shall be deemed given upon their deposit in the United States mail. In the event that any notice given by mail is returned by the postal service, the Township shall cause it or a replica thereof to be posted at the principal entrance to the establishment.

B. Any notice required or permitted to be given to the Township by any person under this Ordinance shall not be deemed given until and unless it is received in the principal office of the Township Planning Department.

C. It shall be the duty of each owner who is designated on the permit application and each operator to furnish notice to the Township, in writing, of any change of residence or mailing address.

Sec. 25.15 NON-CONFORMING USES

Any business lawfully operating on the effective date of this Ordinance that is in violation of the location or structural configuration requirements of this Ordinance shall be deemed a non-conforming use. The non-conforming use will be permitted to continue for a period not to exceed one (1) year, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. If two or more sexually oriented businesses are within one thousand (1,000) feet of one another and otherwise in a permissible location, the sexually oriented business

which was first established and continually operating at a particular location is the conforming use and the later-established business(es) is non-conforming.

A sexually oriented business lawfully operating as a conforming use is not rendered a non-conforming use by the subsequent location of a church, synagogue, or regular place of religious worship, or public or private school, within one thousand (1,000) feet, or the location of a boundary of any residential zoned district or any residential structure, a licensed day care center or a public park, within seven hundred fifty (750) feet. This provision applies only to the renewal of a valid permit and does not apply when an application for a permit is submitted after a permit has expired or has been revoked.

Sec. 25.16 INJUNCTION

A person who operates or causes to be operated a sexually oriented business without a valid permit or otherwise violates this Ordinance shall be subject to a suit for injunctive relief and/or revocation of the sexually oriented business permit, as well as fines or other penalties as provided by this Zoning Ordinance.

Sec. 25.17 VARIANCES AND LIMITATION ON REAPPLICATION

Relief from any dimensional requirement of this Ordinance may be granted by the Zoning Board of Appeals in accordance with Article XXIX. Any evidence and any guarantee may be required as proof that the conditions stipulated in connection therewith will be fulfilled.

No application for a waiver of a spacing requirement or other Zoning Board of Appeals approval for a Regulated Use which has been denied wholly or in part, or granted with conditions shall be resubmitted for a period of one (1) year from the date of said order, except on the grounds of new evidence not previously available or proof of changed conditions.

Sec. 25.18 EXPANSION AND DISCONTINUANCE

A. Once established, a sexually oriented business may not be expanded in any manner without first applying for and receiving the approval of the Zoning Administrator.

B. If the regulated use is voluntarily discontinued, the use may not be re-established without first applying for and receiving the approval of the Zoning Administrator.

C. Nothing herein shall prevent the reconstruction, repairing, or rebuilding and continued use of any building or structure under the regulation of this Ordinance, which is damaged by fire, collapse, explosion, or any other involuntary cause.

**ARTICLE XXVI
WIRELESS COMMUNICATIONS TOWERS**

Sec. 26.1 PURPOSE

The purpose of this Article is to establish general guidelines for the siting of wireless communications towers and antennas. The goals of the article are to:

- (1) protect residential zoning districts from potential adverse impacts of towers and antennas;
- (2) encourage the location of towers in non-residential areas;
- (3) minimize the total number of towers throughout the community;
- (4) strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers;
- (5) encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on aesthetics in this tourism based community is minimal;
- (6) encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques;
- (7) enhance the ability of the providers of telecommunication services to provide such services to the community quickly, effectively, and efficiently;
- (8) consider the public health and safety of communication towers; and
- (9) avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures. In furtherance of these goals, due consideration shall be given to the Benzie County master plan, zoning map, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas.

Sec. 26.2 DEFINITIONS

As used in this ordinance, the following terms shall have the meanings set forth below:

- A. Alternative tower structure means man-made trees, clock towers, water towers, bell steeples, light poles and similar alternative - design mounting structures that camouflage or conceal the presence of antennas or towers.
- B. Antenna means 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

telecommunications signals or other communication signals.

C. Backhaul network means the lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.

D. FAA means the Federal Aviation Administration.

E. FCC means the Federal Communications Commission.

F. Height means, when referring to a tower or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.

G. Preexisting towers and preexisting antennas means any tower or antenna for which a permit has been properly issued prior to the effective date of this ordinance, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.

H. Tower means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.

I. Tower Park means an area where multiple towers may be approved, by the Planning Commission, to be clustered, subject to engineering limitations.

Sec. 26.3 APPLICABILITY

A. New Towers and Antennas. All new towers or antennas in the Townships shall be subject to these regulations, except as provided in Sec. 26.3 B through D inclusive.

B. Amateur Radio Station Operators/Receive Only Antennas. This ordinance shall not govern any tower, or the installation of any antenna, that is under seventy (70) feet in height and is owned and operated by a federally-licensed amateur radio station operator or is use exclusively for receive only antennas.

C. Preexisting Towers or Antennas. Preexisting towers and preexisting antennas shall not be required to meet the requirements of this ordinance, other than the requirements of Secs. 26.4F and G.

D. AM Array. For purposes of implementing this ordinance, an AM array, consisting of one or more tower units and supporting ground system which functions as one AM broadcasting antenna, shall be considered one tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.

Sec. 26.4 GENERAL REQUIREMENTS

A. Principal or Accessory Use. Antennas and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.

B. Lot Size. For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including but not limited to setback requirements, lot-coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even through the antennas or towers may be located on leased parcels within such lot.

C. Inventory of Existing Sites. Each applicant for an antenna and/or tower shall provide to the Zoning Administrator an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are either within the Townships, or within one mile of the border thereof, including specific information about the location, height, design, and occupancy of each tower. The Zoning Administrator may share such information with other applicants applying for administrative approvals or special use permits under this ordinance or other organizations seeking to locate antennas within the Township, provided, however that the Zoning Administrator is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

D. Aesthetics. Towers and antennas shall meet the following requirements:

1. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
2. At a tower site, the design of the buildings and related structures shall, to the extent possible, use conventional materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.

3. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

4. Wherever possible, towers shall be located away from, and out of view from, arterial roads to preserve the fragile aesthetics of the tourism based economy of the Townships.

E. Lighting. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views. Lighting required for maintenance must be shielded and directed downward, and only used when necessary.

F. State or Federal Requirements. All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this ordinance shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

G. Building Codes; Safety Standards. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the original standards under which the tower was designed in Compliance with the Electronic Industries Association (EIA), as amended from time to time. If, upon inspection, the Township concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said thirty (30) days shall constitute grounds for the removal of the tower and antenna at the owner's expense.

H. Measurement. For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located anywhere in the Township irrespective of jurisdictional boundaries.

- I. Not Essential Services. Towers and antennas shall be regulated and permitted pursuant to this Article and shall not be regulated or permitted as essential services, public utilities, or private utilities.
- J. Franchises. Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in the Township have been obtained and shall file a copy of all required franchises with the Zoning Administrator.
- K. Public Notice. For purposes of this Article, any special land use request, variance request, or appeal of an administrative decision shall require public notice to all property owners within three hundred (300) feet of the subject property in accordance with Articles XIV and XXIII.
- L. Signs. No signs shall be allowed on an antenna or tower.
- M. Buildings and Support Equipment. Buildings and support equipment associated with antennas or towers shall comply with the requirements of Sec. 26.8.
- N. Multiple Antenna/Tower Plan. The Township encourages the users of towers and antennas to submit a single application for approval of multiple towers or tower parks and/or antenna sites. Applications for approval of multiple sites or tower parks shall be given priority in the review process.
- O. Grounding. Antennas and metal towers shall be grounded for protection against a direct strike by lightning according to EIA standards.

Sec. 26.5 PERMITTED USES

- A. General. The uses listed in this Section are deemed to be permitted uses and may be installed without formal approval.
- B. Permitted Uses. Antennas located on public property provided a license or lease authorizing such antenna has been approved by the Township and/or the legislative body having jurisdiction over the location.

Sec. 26.6 ADMINISTRATIVELY APPROVED USES

- A. General. The following provisions shall govern the issuance of administrative approvals for towers and antennas:
 - 1. The Zoning Administrator, after an administrative hearing in

accordance with the Minor Special Land Use provisions of Article XIV of this Ordinance, may approve the uses listed in this section.

2. Each applicant for administrative approval shall apply to the Zoning Administrator providing the information set forth in Secs. 26.7B1 and 26.7B3 of this ordinance and a nonrefundable fee as established by the Board of Trustees to reimburse the Township for the costs of reviewing the application.

3. The Zoning Administrator shall review the application for administrative approval and determine if the proposed use complies with Secs. 26.4, 26.7B4 and 5.

4. The Zoning Administrator shall respond to each such application within sixty (60) days after receiving it by either approving or denying the application. If the Zoning Administrator fails to respond to the applicant within said sixty (60) days, then the applications shall be deemed to be approved.

5. In connection with any such administrative approval, the Zoning Administrator may, in order to encourage shared use, administratively waive any zoning district setback requirements in Sec. 26.7B4 or separation distances between towers in Sec. 26.7B5 by up to fifty (50) percent.

6. In connection with any such administrative approval, the Zoning Administrator may, in order to encourage the use of monopoles, administratively allow the reconstruction of an existing tower to monopole construction.

7. If an administrative approval is denied, the applicant shall file an application for a special land use permit hearing by the Planning Commission, pursuant to Sec. 26.7, prior to filing any other appeal that may be available under the Zoning Ordinance.

B. List of Administratively Approved Uses. The following uses may be administratively approved by the Zoning Administrator after conducting an administrative hearing:

1. Locating a tower or antenna, including the placement of additional buildings or other supporting equipment used in connection with said tower or antenna, in the light industrial(LI) or commercial (C-1) zoning district.

2. Locating antennas on existing structures or towers consistent with the terms of subsections "a." and "b." below.

a. Antennas On Existing Structures. Any antenna which is not attached to a tower may be approved by the Zoning Administrator as an accessory use to any commercial, industrial or institutional structure, provided:

- (1) The antenna does not extend more than thirty (30) feet above the highest point of the structure;
- (2) The antenna complies with all applicable FCC and FAA regulations; and
- (3) The antenna complies with all applicable building codes.

b. Antennas On Existing Towers. An antenna which is to be attached to an existing tower may be administratively approved by the Zoning Administrator. Collocation of antennas by more than one carrier on existing towers shall take precedence over the construction of new towers, provided such collocation is accomplished in a manner consistent with the following:

- (1) A tower which is modified or reconstructed to accommodate the collocation of an additional antenna shall be of the same tower type as the existing tower, unless the Zoning Administrator allows reconstruction as a monopole.
- (2) Height
 - (a) An existing tower may be modified or rebuilt to accommodate the collocation of an additional antenna to a taller height, not to exceed thirty (30) feet over the tower's existing height and not to exceed a total height of one hundred ninety-nine (199) feet.
 - (b) The height change referred to in subsection (2a.) may only occur one time per communication tower.
 - (c) The additional height referred to in subsection (2a.) shall not require an additional distance separation as set forth in Sec. 26.7. The tower's pre-modification height shall be

used to calculate such distance separations.

(3) Onsite location

(a) A tower which is being rebuilt to accommodate the collocation of an additional antenna may be moved onsite within fifty (50) feet of its existing location.

(b) After the tower is rebuilt to accommodate collocation only one tower may remain on the site.

(c) A relocated onsite tower shall continue to be measured from the original tower location for purposes of calculating separation distances between towers pursuant to Sec. 26.7B5. The relocation of a tower hereunder shall in no way be deemed to cause a violation of Sec. 26.7B5.

(d) The onsite relocation of a tower which comes within the separation distances to residential structures or residentially zoned districts as established in Sec. 26.7B5 shall only be permitted when approved by the Zoning Administrator.

3. New Towers In Non-residential Zoning Districts. Locating any new tower in a non-residential zoning district other than industrial or commercial, provided a licensed professional engineer certifies the tower can structurally accommodate the number of shared users proposed by the applicant; the Zoning Administrator concludes the tower is in conformity with the goals set forth in Sec. 26.1 and the requirements of Sec. 26.4; the tower meets the setback requirements in Sec. 26.7B4 and separation distances in Sec. 26.7B5, and the tower meets the following height and usage criteria:

- a. for a single user, up to ninety (90) feet in height;
- b. for two users, up to one hundred twenty (120) feet in height; and
- c. for three or more users, up to one hundred fifty (150) feet in height.

4. Locating any alternative tower structure in a zoning district other than industrial or commercial that in the judgment of the Zoning Administrator is in conformity with the goals set forth in Sec. 26.1 of this ordinance.

5. Installing a cable microcell network through the use of multiple low-powered transmitters/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.

Sec. 26.7 SPECIAL LAND USE PERMITS

A. General. The following provisions shall govern the issuance of special land use permits for towers or antennas by the Planning Commission:

1. If the tower or antenna is not a permitted use under Sec. 26.5 of this ordinance or permitted to be approved administratively pursuant to Sec. 26.6 of this ordinance, then a special land use permit shall be required for the construction of a tower or the placement of an antenna in all zoning districts.

2. Applications for special land use permits under this Section shall be subject to the procedures and requirements of Major Special Land Use Permits in accordance with Article XIV of this Ordinance, except as modified in this Section.

3. In granting a special land use permit, the Planning Commission may impose conditions to the extent the Planning Commission concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties.

4. Information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer.

5. An applicant for a special land use permit shall submit the information described in this Section and a non-refundable fee as established by the Board of Trustees to reimburse the Township for the costs of reviewing the application.

B. Towers.

1. Information Required. In addition to any information required for applications for special land use permits pursuant to Article XIV

of this Ordinance, applicants for a special land use permit for a tower shall submit the following information:

- a. A scaled site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), all properties within the applicable separation distances set forth in Sec. 26.7B5, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking, and other information deemed by the Zoning Administrator to be necessary to assess compliance with this Ordinance.
- b. Legal description and parcel number of the parent tract and leased parcel (if applicable).
- c. The setback distance between the proposed tower and the nearest residential structure or platted or unplatted residentially zoned properties.
- d. The separation distance from other towers described in the inventory of existing sites submitted pursuant to Sec. 26.4C shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator and occupancy of the existing tower(s), if known.
- e. A landscape plan showing specific landscape materials.
- f. Method of fencing, finished color and, if applicable, the method of camouflage and/or illumination.
- g. Description of compliance with Secs. 26.4C, D, E, F, G, J, L, and M, and 26.7B4 and 5.
- h. A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future users.
- i. Identification of the entities providing the backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the Township or within one (1) mile of the border thereof.

j. A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.

k. A description of the feasible location(s) of future towers or antennas within the Township based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.

2. Factors Considered in Granting Special Land Use Permits for Towers. In addition to any standards for consideration of special land use permit applications pursuant to Article XIV of this Ordinance, the Planning Commission shall consider the following factors in determining whether to issue a special land use permit, although the Planning Commission may waive or reduce the burden on the applicant of one or more of these criteria if the Planning Commission concludes that the goals of this ordinance are better served thereby:

a. Height of the proposed tower;

b. Proximity of the tower to residential structures and residential district boundaries;

c. Nature of uses on adjacent and nearby properties;

d. Surrounding topography;

e. Surrounding tree coverage and foliage;

f. Design of the tower, with particular reference to design characteristics that have the effect to reducing or eliminating visual obtrusiveness;

g. Proposed ingress and egress; and

h. Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of roof towers or structures, as discussed in Sec. 26.7B3 of this Ordinance.

3. Availability of Suitable Existing Towers, Other Structures, or Alternative Technology. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the

Planning Commission that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the Planning Commission related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:

- a. No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.
 - b. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
 - c. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
 - d. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
 - e. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
 - f. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
 - g. The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.
4. Setbacks. The following setback requirements shall apply to

all towers for which a special land use permit is required; provided, however, that the Planning Commission may reduce the standard setback requirements if the goals of this ordinance would be better served thereby:

- a. Towers must be set back a distance equal to at least the height of the tower from any adjoining lot line.
- b. Guys and accessory buildings must satisfy the minimum zoning district setback requirements.

5. Separation. The following separation requirements shall apply to all towers and antennas for which a special land use permit is required; provided, however, that the Planning Commission may reduce the standard separation requirements if the goals of this Ordinance would be better served thereby.

- a. Separation from off-site uses/designated areas. Tower separation shall be measured from the base of the tower to the nearest off-site residential structure and/or designated areas as specified in Table 1.

Table 1:
Off-site Use/Designated Area Separation Distance:

Single-family or two(2) family residential units ¹	200 feet or 300% height of tower	whichever is greater
Vacant single-family or two(2) family residentially zoned land which is either platted or has preliminary subdivision plan approval which is not expired ²	200 feet or 300% height of tower whichever is greater	
Vacant unplatted residentially zoned lands ³	100 feet or 100% height of tower plus the required setback of the district of location, whichever is greater	
Existing multi-family residential units.	200 feet or 300% height of tower, whichever is greater	
Non-residentially zoned lands or non-residential uses	None; only setbacks apply	

¹Includes modular homes and mobile homes used for living purposes.

²Separation measured from base of tower to the nearest lot line.

³Includes any unplatted residential use properties without a valid preliminary

subdivision plan or valid development plan approval and any multi-family residentially zoned land.

b. Except as provided for in Sec. 26.2I and Sec. 26.4N separation distances between towers shall be applicable for and measured between the proposed tower and preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower. The separation distances (listed in linear feet) shall be as shown in Table 2, except where engineering studies show incompatibility.

Table 2: Existing Towers - Types

Lattice	5,000'	5,000'	1,500'	750'
Guyed	5,000'	5,000'	1,500'	750'
Monopole 75 Ft in Height or Greater	1,500'	1,500'	1,500'	750'
Monopole Less Than 75 Ft in Height	750'	750'	750'	750'

6. Security Fencing. Towers shall be enclosed by security fencing not less than six (6) feet in height and shall also be equipped with an appropriate anti-climbing device; provided however, that the Planning Commission may waive such requirements, as it deems appropriate.

7. Landscaping. The following requirements shall govern the landscaping surrounding towers for which a special land use permit is required; provided, however, that the Planning Commission may waive such requirements if the goals of this ordinance would be better served thereby.

a. Tower facilities shall be landscaped with a buffer strip of plant materials at least ten (10) feet wide and of sufficient height to effectively screen the view of the tower compound from property used for residences.

b. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be

reduced or waived.

c. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.

Sec. 26.8. BUILDINGS OR OTHER EQUIPMENT STORAGE

A. Antennas Mounted on Structures or Rooftops. The equipment cabinet or structure used in association with antennas shall comply with the following:

1. The cabinet or structure shall not contain more than two hundred (200) square feet of gross floor area or be more than ten (10) feet in height. In addition, for buildings and structures which are less than forty (40) feet in height, the related unmanned equipment structure, if over one hundred (100) square feet of gross floor area or nine (9) feet in height, shall be located on the ground and shall not be located on the roof of the structure. Where antennas are collocated on a single tower, the size of the structure may be increased by fifty (50) percent of the basic size allowed for each additional antenna.

2. If the equipment structure is located on the roof of a building, the area of the equipment structure and other equipment and structures shall not occupy more than twenty five (25) percent of the roof area.

3. Equipment storage buildings or cabinets shall comply with all applicable building codes.

B. Antennas Mounted on Utility Poles or Light Poles. The equipment cabinet or structure used in association with antennas shall be located in accordance with the following:

1. In residential districts, the equipment cabinet or structure may be located:

a. In a front or side yard provided the cabinet or structure is no greater than nine (9) feet in height or two hundred (200) square feet of gross floor area and the cabinet/structure meets minimum setback requirements from all lot lines. The cabinet/structure

shall be screened by an evergreen hedge with an ultimate height of at least six (6) feet and a planted height of at least three (3) feet.

b. In a rear yard, provided the cabinet or structure is no greater than ten (10) feet in height or three hundred (300) square feet in gross floor area. The cabinet\structure shall be screened by an evergreen hedge with an ultimate height of eight (8) feet and a planted height of at least three (3) feet.

2. In commercial or industrial districts the equipment cabinet or structure shall be no greater than ten (10) feet in height or four hundred (400) square feet in gross floor area. The structure or cabinet shall be screened by an evergreen hedge with an ultimate height of eight (8) feet and a planted height of at least three (3) feet. In all other instances, structures or cabinets shall be screened from view of all residential properties which abut or are directly across the street from the structure or cabinet by a solid fence six (6) feet in height or an evergreen hedge with an ultimate height of eight (8) feet and a planted height of at least three (3) feet.

C. Antennas Located on Towers. The related unmanned equipment structure shall not contain more than three hundred (300) square feet of gross floor area or be more than ten (10) feet in height, and shall be located in accordance with the minimum yard requirements of the zoning district in which located.

D. Modification of Building Size Requirements. The requirements of Secs. 26.8A through C may be modified by the Zoning Administrator in the case of administratively approved uses or by the Planning Commission in the case of uses permitted by special land use to encourage collocation.

Sec. 26.9 REMOVAL OF ABANDONED ANTENNAS AND TOWERS

Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within ninety (90) days of receipt of notice from the Township notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said ninety (90) days shall be grounds to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

Sec. 26.10 NONCONFORMING USES

- A. Not Expansion of Nonconforming Use. Towers that are constructed, and antennas that are installed, in accordance with the provisions of this ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure.
- B. Preexisting Towers. Preexisting towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this ordinance.
- C. Rebuilding Damaged or Destroyed Nonconforming Towers or Antennas. Notwithstanding Sec. 26.9, bona fide nonconforming towers or antennas that are damaged or destroyed may be rebuilt without having to first obtain administrative approval or a special land use permit and without having to meet the separation requirements specified in Secs. 26.7B4 and 5. The type, height, and location of the tower onsite shall be of the same type and intensity as the original facility approval. Building permits to rebuild the facility shall comply with the then applicable building codes and shall be obtained within one hundred eighty (180) days from the date the facility is damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned as specified in Sec. 26.9.

**ARTICLE XXVII
BETSIE VALLEY TRAIL OVERLAY DISTRICT**

Sec. 27.1 INTENT AND PURPOSE

Add a Betsie Valley Trail Corridor Overlay District in which a Special Land Use Permit requiring Site Plan Review by the Planning Commission will be required where any structure that is closer than 39 feet on the interior portion of a curve from the center line of the 10-foot Trail Easement or Trail requiring a Site Plan Review process by the Planning Commission. This applies to the entire Betsie Valley Trail Corridor under the jurisdiction of the Benzie County Planning Commission identified as that part of the former Ann Arbor Railroad Right-of-Way identified as per the MDOT Right-of-Way maps contained in the Planning Department.

To provide for and protect the public health, safety, and welfare of adjacent landowners, citizens, visitors and users and non users of the Betsie Valley Trail by ensuring that "Reasonable Trail Design Standards" are applied to proposals for either new construction or additions to existing structures located adjacent and contiguous to the Trail along the entire Betsie Valley Trail Corridor including but not limited to the segment hereafter known as the Crystal Lake Segment.

There are four situations which this Article is intended to address where the placement of a structure may cause a safety hazard: 1)the Corridor outside the Crystal Lake Segment, (2)the Corridor with a reduction in width of easements along the Crystal Lake Segment under the terms of the Settlement Agreement, (3)those areas with historical encroachment on the Trail, and (4)instances where the Trail or Future Rail/Utility Easements have been moved with approval by the MDNR/MDOT.

Sec. 27.2 DEFINITIONS

A. Structure - any obstruction defined as a structure in Article II of the West Benzie Joint Zoning Ordinance.

B. Settlement Agreement or Agreement - refers to the 19th Circuit Court Case, Bigelow, et al. vs. MDOT, et al. and the resulting Consent Agreement.

C. Betsie Valley Trail Corridor - That portion of the former Ann Arbor Railroad Right-of-Way from Thompsonville to Frankfort/Elberta via Benzonia and Beulah formerly owned by the MDOT and sold to the MDNR for use as a Trail Corridor as identified on the Right-of-Way Maps. Only those portions of this Corridor are affected which are under Township Zoning jurisdiction.

D. Crystal Lake Segment - That portion of the Betsie Valley Trail Corridor located along the South Shore of Crystal Lake from Spring Street in Beulah to the Mollineaux Road subject to the Settlement Agreement which was reduced to two easements - one, 10 feet with an 8-foot Trail and the other, a 30-foot future rail/utility easement. Either easement may be relocated in or out of the original right-of-way subject to approval of the property owner, adjacent property owners, and the MDNR and/or MDOT.

E. Reasonable Trail Design Guidelines - as referred to in Section 4.1.1 of the Settlement Agreement, incorporated herein by reference (See Attachment A to this Article).

Sec. 27.3 LOCATION AND SIZE OF STRUCTURES

The Zoning Administrator shall require a Special Use Permit Application and process in all Districts when structures or additions to structures are proposed within 39 feet of the center of the interior portion of a curve of the trail corridor of the Betsie Valley Trail Corridor. All regulations of the West Benzie Joint Zoning Ordinance, its Overlay Districts, and underlying Zoning Districts will continue to apply.

Sec. 27.4 REASONABLE TRAIL DESIGN GUIDELINES

Reasonable Trail Design Guidelines shall apply to the location of all structures within the overlay district of the Betsie Valley Trail Corridor and not meeting these setback standards.

A. Structure Setback - Prior to approval of the proposed structure location the applicant will supply a letter or permit from the MDNR Trail Coordinator indicating the structure meets minimum "Reasonable" setback standards.

No Structure, proposed or existing, will be constructed or added to so as to create unsafe conditions not meeting "Reasonable Trail Design Guidelines". It is intended that these guidelines will attempt to prevent as many trail use conflicts as possible. Accidents may still occur, but these standards are an attempt to prevent as many as possible.

Sec. 27.5 SITE PLAN

The Site plan shall contain all those requirements as per Article XIV, Sec. 14.17 and Sec. 14.18, of the West Benzie Joint Zoning Ordinance. In addition, within the Betsie Valley Trail Corridor, including the Crystal Lake Segment, the Trail, Trail easement, any crossings of the trail, and Future Rail/Utility Easement, shall be located on the Site Plan.

Sec. 27.6 TRAIL CROSSINGS

Where vehicular access to a structure requires crossing the Trail, the applicant shall provide the following:

- A. Documentation of ownership of the property in question where the structure is proposed.
- B. Documentation that the owner is a party or within the Class of those bound and gaining access by the Settlement Agreement.
- C. A letter or permit approving the access or crossing of the trail from the MDNR Trail Coordinator.
- D. Property owners not a part of the Class bound by the Settlement Agreement or in the Crystal Lake Segment will require a letter or permit indicating approval of the access to and from the structure, where applicable.

Sec. 27.7 SPECIAL LAND USE PERMIT REQUIRED

Any portion of proposed structures or additions to structures which would lie within 15 feet of the center line of the Trail, or which would potentially either impede vision a distance of 125 feet down the Trail or impose a safety hazard to Trail users or pedestrians crossing the Trail, shall be required to acquire authorization or approval from the MDNR Trail Coordinator prior to review by the West Benzie Joint Planning Commission.

Sec. 27.8 MDOT 30 FOOT FUTURE RAIL/UTILITY EASEMENT

Structures built on the MDOT Rail/Utility 30 foot Easement will be done so according to the Settlement Agreement and at the sole risk of the property owner(s) without a liability to any other party. Either the MDNR or MDOT may require removal of these structures with a new railroad or utility installation.

Sec. 27.9 TRAIL DESIGN GUIDELINES

A permit for any proposed Structure shall not be approved until the applicant has proven to the Planning Commission the structure meets Reasonable Trail Design Guidelines, incorporated herein by reference (see Attachment B to this Article).

**ARTICLE XXVIII
NON-CONFORMING USES AND STRUCTURES**

Section 28.1 PURPOSE & SCOPE

A. While it is the intent of this Ordinance to prevent the establishment of new non-conforming situations within the Township, reality dictates that compatible non-conforming uses and structures, which were lawfully established prior to the adoption of this Ordinance, that do not and are likely not to significantly depress the value of nearby property, and which do not pose a threat to public health, safety and welfare of the Township, be allowed to continue under the provisions of this Article.

B. It is also the purpose of this Article to encourage over time, non-conforming uses to conform to this Ordinance. To that end, this Article establishes provisions limiting the expansion, reconstruction, discontinuation, and elimination of non-conforming uses. It also permits the use of non-conforming lots under certain circumstances.

Section 28.2 LIMITATIONS ON EXPANDING NON-CONFORMING SITUATIONS

Any structure with a non-conforming dimension or a structure devoted to a non-conforming use may be expanded horizontally provided all the conditions of Section 3.2 are met, and also may be expanded vertically up to the allowable height of the District (see Section 3.12), provided the addition does not extend outside the existing footprint of the structure, and all other requirements of this Ordinance are met.

Section 28.3 INVOLUNTARY DESTRUCTION

Any structure with a non-conforming dimension or any structure devoted to a non-conforming use which is involuntarily destroyed by an act of God, natural disaster, or action by a government or person other than the landowners, may be restored or reconstructed within the same footprint, provided the same is commenced within one (1) year and completed within the time period the permits are valid.

Section 28.4 VOLUNTARY DISCONTINUANCE

If a non-conforming use is voluntarily discontinued for one (1) year or more, it shall be deemed abandoned, and any further use must be in conformity with permitted uses in the district in which the property is located.

Section 28.5 RESTRICTION OF CHANGE

Whenever a non-conforming use has been changed to a use which is in greater conformity with the provisions of the district in which it is located, and has remained as such for one (1) year, such use shall not thereafter be changed back to the former non-conforming use or to a use less in conformity with the provisions of this Ordinance.

Section 28.6 VOLUNTARY DEMOLITION

On a lot of record, when a dimensional non-conforming structure is voluntarily demolished for purposes of rebuilding another structure on the premises, all setback requirements for the zoning district shall be met, whenever possible, however, if all such setbacks cannot be met, the provisions of Sec. 3.2 may be applied.

Section 28.7 NON-CONFORMING PARCELS OR LOTS – ASSEMBLAGE

Whenever contiguous, non-platted, undersized, non-conforming lots, whether developed or undeveloped, are under common ownership in the C-1, C/R, R-1, R-2, R-3 and RP-2.5 zoning districts, the lots shall be combined into one lot until the minimum lot size for the zoning district where located is achieved, or at least achieves a lesser degree of non-conformity.

In said zoning districts, if a developed or undeveloped lot is non-conforming due to size or width, a structure or use shall not be permitted unless contiguous land is added to make the parcel conforming except when:

1. The applicant submits documented evidence that sufficient contiguous land is not available; and
2. The parcel is large enough to accommodate a well and on-site sewage disposal system (not holding tanks) with proper isolation, as determined by the Health Department; and
3. If the parcel was created by a division which complies with the zoning ordinance in effect at the time of division, the Land Division Act, and
4. A variance is granted by the Zoning Board of Appeals.

Section 28.8 REPAIRS AND MAINTENANCE

On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs or on repair or replacement of nonbearing walls, fixtures, wiring, or plumbing to an extent not exceeding fifty percent (50%) of the assessed value of the building, provided that the cubic content of the building as it existed at the time of passage of this Ordinance or an amendment to it shall not be increased. Nothing in this article shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof

declared to be unsafe by any official charged with protecting the public safety upon order of such official.

Section 28.9 CHANGE OF TENANCY OR OWNERSHIP

A nonconforming building, structure, use or lot may be sold or a tenant may change with the nonconforming use right intact, provided that the physical dimensions of the nonconforming lot, or the use of the nonconforming structure or lot do not result in a change contrary to the requirements of this Article.

Section 28.10 DISTRICT CHANGES

Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of another classification, the provisions of this Section shall also apply to any existing uses that become nonconforming as a result of the boundary changes.

Section 28.11 HARDSHIP CASES

Nonconforming buildings or structures may be structurally changed, altered or enlarged with the approval of the Board of Appeals when the Board finds that the request is a case of exceptional hardship in which failure to grant the relief requested would unreasonably restrict continued use of the property or would restrict valuable benefits that the public currently derives from the property as used in its nonconforming status, except that any approval for structural changes, alterations, or enlargements may be granted only with a finding by the Board of Appeals that approval will not have an adverse affect on surrounding property and that it will be the minimum necessary to relieve the hardship.

Section 28.12 ILLEGAL NONCONFORMING USES

Nonconforming uses of structures or land existing at the effective date of this Ordinance that were established without approval of zoning compliance or without a valid building permit or those nonconforming uses which cannot be proved conclusively as existing prior to the effective date of this Ordinance shall be declared illegal nonconforming uses and are not entitled to the status and rights accorded legally established nonconforming uses.

**ARTICLE XXIX
ZONING BOARD OF APPEALS**

Section 29.1 PURPOSE & SCOPE

It is the purpose of this Article to create a Zoning Board of Appeals, to establish its responsibilities and to establish standards for its operation.

Section 29.2 CREATION OF BOARD OF APPEALS

- A. Establishment: There is hereby established a Board of Appeals in accordance with the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended. The Board of Appeals shall perform its duties and exercise its powers so that the health, safety and welfare of the public may be secured; and that substantial justice be done.
- B. Membership, term of office of the Board of Appeals:
1. The Board of Appeals shall consist of not less than three (3) and not more than seven (7) members who shall be appointed and shall serve in accordance with the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended.
 2. The membership of the Board of Appeals shall be as representative as possible, geographically, to include as many Townships or areas under the administration of the Township Zoning Ordinance, as possible, and also, to include the greatest and most varied available expertise. One member of the Board of Appeals shall be a member of the Township Planning Commission.
- C. Attendance: Since regular attendance is required for optimal function of the Board of Appeals, members of said Board are appointed subject to the following attendance criteria:
1. Member(s) shall be expected to notify the chairperson or his/her designee of his/her expected absence prior to a meeting.
 2. Member(s), unless excused by the chairperson, shall not be absent for more than three (3) consecutive meetings, irrespective of calendar year.
 - a. The Board of Appeals Secretary shall be responsible to report the non-compliance of attendance criteria of any Board of Appeals member to the Appeals Board chairperson.
 - b. The Chair of the Appeals Board shall notify the Township Board of any non-compliance of attendance criteria of any Appeals Board member by letter, recommending removal of said member from the Appeals Board.
 - c. Under extenuating circumstances, the Appeals Board may, by motion and majority vote, defer the action specified above. Said member is exempt from voting privileges in the action.

D. Removal of members-conflict of interest: Members of the Board of Appeals shall be removable by the Township Board for nonfeasance, including nonperformance of duty, or misfeasance, including misconduct in office upon written charges and after public hearing. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure to do so shall constitute misconduct in office.

E. Powers: The Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as in its opinion ought to be made in the premises, and to that end, shall have all the powers of the office or body from whom the appeal was taken, and may issue or direct the issuance of a permit. The Board of Appeals shall have the power to make final determinations, within its jurisdiction and duties herein prescribed, in such a way that the objectives of this Ordinance may be equitably achieved in order there shall be uniform interpretation and flexibility in the enforcement of this Ordinance or to fulfill any other responsibilities bestowed upon the Board of Appeals by this Ordinance.

Section 29.3 RULES, LIMITS ON AUTHORITY OF THE BOARD OF APPEALS, AND USE VARIANCES

A. The Board of Appeals shall fix rules of procedure or by-laws to govern its procedures. The Board shall choose its own chairman, and in his or her absence, an acting chairman who may administer oaths and compel the attendance of witnesses.

B. The concurring vote of a majority of the members of the Board of Appeals shall be necessary to reverse an order, requirement, decision or determination of the administrative official or body, or to decide in favor of the applicant any matter upon which they are required to pass or to effect any variation under this Ordinance.

C. The Township Board of Appeals shall not have the power to alter or change the zoning district classification of any property, nor to make any change in the terms or intent of this Ordinance; these powers are reserved to the governing body.

D. The proper procedure to follow for an individual desiring a use variance, is to file an application for amendment of the text of this Ordinance or the Zoning Map as provided for in this Ordinance. If an allegation is made that the application of the Zoning Ordinance to a particular property amounts to an unconstitutional taking, then the allegation shall be processed as a Hardship PUD under the procedures in Article XVII and no use variance shall be considered.

Section 29.4 ZONING APPEALS

The Board of Appeals shall hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by the Zoning Administrator or by any other official in administering or enforcing any provisions

of this Ordinance. The procedure for appealing to the Zoning Board of Appeals, or requesting a variance, ordinance interpretation or filing any other request is as follows:

- A. The appeal shall be taken within such time as prescribed by the rules or by-laws of the Zoning Board of Appeals.
- B. A fee, prescribed by the Township Board, shall be submitted to the Zoning Administrator at the time of the filing of the application form.
- C. Appeals to the Zoning Board of Appeals may be taken by any person aggrieved or by an officer, department, board, agency, or bureau of the township, county, state, federal, or other legally constituted form of government.
- D. The person, firm, agent, or attorney thereof making the appeal shall file by completing and signing the application form provided by the Township.
- E. All persons, not licensed to practice law in the State of Michigan, shall file a written statement signed by the principal stating the agent's right to act upon their behalf.
- F. A completed application form shall be submitted to the Zoning Administrator. The application shall state the reasons for the appeal and the order or ruling appealed from. When applicable, the legal description of the property involved shall be stated in the notice of appeal. Before the appeal is processed, the fees shall be collected. An application that does not fully comply with the submittal requirements shall be returned to the applicant. The Zoning Administrator shall forthwith transmit to the recording secretary for the Zoning Board of Appeals the application and all papers constituting the record from which the appeal was taken.
- G. An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the Board of Appeals after the application of appeal shall have been filed, that by reason of facts stated in the appeal application, a stay would in his or her opinion cause imminent peril to life and property.
- H. When a properly executed application form has been filed, the recording secretary, upon consultation with the chairman for the Zoning Board of Appeals, shall schedule the matter for a public hearing.
- I. Notice of the public hearing shall be published in a newspaper having a general circulation in the Township not less than fifteen (15) days before the hearing date. The notice shall include the contents in Section 14.16.1.A.
- J. The notice shall be provided to individuals per the requirements of Section 14.16.1.C.

K. Once all the necessary information has been received, the Board of Appeals shall return a decision on a case in a timely manner, or if time frames are included within its rules of procedure, then within the time specified in the rules of procedure.

L. Appeal fees shall be established from time to time by the Township Board of Trustees sufficient to cover all costs incurred by the Township pursuant to the processing of any appeal, including but not limited to the costs of advertisements, investigations and Appeal Board member attendance fees.

M. No Zoning Permit shall be issued by the Zoning Administrator based on a decision of the Board of Appeals before eight (8) days have expired.

Section 29.5 VARIANCES

The Board of Appeals shall have the power to authorize, upon appeal, a dimensional non-use variance from requirements of the Zoning Ordinance, provided the applicant has proven a "practical difficulty", by demonstrating as follows:

A. That strict compliance with the Ordinance would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity with such restrictions unnecessarily burdensome;

B. That the problem is due to a unique circumstance of the property;

C. That the specific conditions relating to the property are not so general or recurrent in nature, in the zoning district, so as to require an amendment to the zoning ordinance, instead of a variance;

D. The property problem was not created by the action of the applicant;

E. That the granting of the variance will not cause a substantial adverse effect upon property values in the immediate vicinity, or in the district in which the property of the applicant is located;

F. That the requested variance will relate only to the property under the control of the applicant;

G. That the non-conforming dimensions of other lands, structures, or buildings in the same zoning district shall not be considered grounds for the issuance of a variance;

H. That the variance is the minimum variance that will make possible the reasonable use of the land, building or structure in the zoning district in which it is located;

I. That the proposed use of the premises is in accord with the Zoning Ordinance;

J. That the variance would do substantial justice to the applicant as well as to other

property owners in the district;

K. That the granting of the variance will ensure that the spirit of the ordinance is observed, public safety secured and substantial justice applied;

L. That the requested variance shall not amend the permitted uses of the zoning district in which it is located.

Section 29.6 RULES FOR GRANTING VARIANCES

The following rules shall be applied in the granting of a variance:

A. The Zoning Board of Appeals shall specify, in writing, such conditions regarding the character, location, and other features which will, in its judgment, secure the objectives and intent of this Ordinance, provided there is an applicable standard in this Ordinance to serve as the basis for such condition. The breach of such condition shall automatically invalidate the permit granted.

B. Each variance granted under the provisions of this Ordinance shall become null and void unless the construction authorized has been commenced within one (1) year after the hearing date when the variance was granted.

Section 29.7 INTERPRETATION AND OTHER POWERS

The Board of Appeals shall have the power to:

A. Interpret, upon request, the provisions of this Ordinance in such a way as to carry out the intent and purpose of this Ordinance.

B. Determine the precise location of the boundary lines between zoning districts.

C. Classify a use which is not specifically mentioned as part of the use regulations of any zoning district so that it conforms to a comparable permitted or prohibited use, in accordance with the purpose and intent of each district. The classification of the unmentioned use does not automatically permit the use, it only identifies the district in which it may be located and the zoning regulations with which it must conform.

D. Determine the signage, landscaping, buffering, off-street parking and loading space requirements of any use not specifically mentioned in this Ordinance, by applying the most comparable provisions for other similar uses.

E. When making an interpretation, the Board of Appeals shall carefully consider the definitions in Article II, the meaning of all the relevant sections in the Ordinance, past decisions of the Board of Appeals on similar matters, research and any conclusions by the Zoning Administrator, consultant or attorney paid by the Township, and shall make a

decision on the narrowest grounds feasible so as not to upset the meaning and application of this Ordinance.

Section 29.8 DETERMINATION OF A LOT OF RECORD

The Board of Appeals shall have the power to make "Lot of Record" determinations in accordance with the following procedure:

A. Upon application of any person claiming to be the owner of the legal or equitable title to a parcel of land which was the subject to a deed or land contract, not recorded in the Office of the Register of Deeds on the effective date of this Ordinance, the Board of Appeals is authorized to conduct a hearing to determine whether a variance should be granted to such owner entitling him to have the parcel treated as a "lot of record" as provided for in this Ordinance.

B. The Board shall grant said variance when it finds by a preponderance of the evidence that the instrument purporting to transfer title to the parcel of said owner was executed prior to the effective date of this Ordinance. In making its determination, the Board is authorized to consider all matters it deems relevant, including but not limited to, the tax roll of the Township, the relationship of the parties to the purported transfer, the degree of formality of the purported document of transfer, and the testimony of the applicant and his witnesses.

C. Such a determination shall have only the effect of equating such an owner with the owner of a lot of record and shall not relieve such owner from complying with the other requirements set forth in this Ordinance.

Section 29.9 NONCONFORMITY APPEALS

Nonconforming buildings or structures may be structurally changed, altered, or enlarged upon appeal in cases of hardship or other extenuating circumstances, and when approval of said appeal will not have an adverse effect on surrounding property, and when consistent with the requirements of this Ordinance.

Section 29.10 APPEAL CONCERNING SITE PLAN REVIEW, SPECIAL LAND USE OR PUD

A. Any applicant for Site Plan Review Article XIV, Part IV, that feels aggrieved by the decision of the Zoning Administrator or Site Plan Review Committee may appeal the decision to the Zoning Board of Appeals within twenty-one (21) calendar days of receipt of the decision. The Zoning Board of Appeals shall review the decision of the Zoning Administrator or Site Plan Review Committee to ensure that it is consistent with the standards contained in this Ordinance and rules established by agencies responsible for site plan review. The Zoning Board of Appeals shall give written justification for their decision. The Zoning Board of Appeals may not grant a variance to any element of a

site plan unless an application for a variance has been filed therefore; any such variance request shall be reviewed relative to the requirements of Article XXIV, and the standards of Section 29.5.

B. An applicant for a special land use or PUD may not appeal a decision to approve, approve with conditions, or deny the decision thereon to the Board of Appeals. Such an appeal may only be taken to Circuit Court. The determination on the number of permitted lots, dwelling units, or building sites in a PUD pursuant to Section 17.1.7 may be appealed to the Zoning Board of Appeals pursuant to the procedures in Section 29.4.

Section 29.11 ESSENTIAL SERVICES

The Board of Appeals shall have the power to permit the erection and use of a building, or an addition to an existing building, or a public service corporation for essential services, in any permitted district to a greater height or of larger or smaller area than the district requirements herein established, and permit the location in any use district of a public utility building, structure or use if the Board shall find such use, height, area, building or structure reasonably necessary for the public convenience and service. The Board of Appeals may also impose setbacks, fences, landscaping requirements or buffers as a condition of approval pursuant to standards in Article XXII as may be reasonably necessary to protect abutting property from the potential nuisance effects of such essential services.

Section 29.12 FINDINGS OF FACT

A. The Board of Appeals shall grant no variance or make any determination on an appeal, ordinance interpretation or other issue requested of it unless the Board records specific findings of fact based directly on the particular evidence presented to it. These findings of fact must support conclusions that the standards imposed by the requirements of this Ordinance have been met.

- B. Said findings of fact shall include, but not be limited to the following information:
1. How the application of the Zoning Ordinance creates unnecessary hardship or practical difficulty in the use of petitioner's property.
 2. Identify the unique physical circumstances or conditions or exceptional topography that create practical difficulties.
 3. Specific findings (characteristics of the land) showing that because of physical circumstances or conditions there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance. That the authorization of a variance is, therefore, necessary to enable the reasonable use of the property and that the condition is specific to this property and not general to other properties in the area.
 4. Finding that the practical difficulty was not created by the appellant and is related only to property that is owned or occupied by the appellant.
 5. A statement of the impacts of the variance if authorized, the property

values, use and enjoyment of the property in the neighborhood or district, and on the public, health, safety and welfare.

6. The proposed variance does not permit the establishment of any use which is not permitted by right within the district or any use or dimensional variance for which a Special Use Permit is necessary.

7. Findings on whether the proposed development complies with the requirements, standards or procedures given in the Zoning Ordinance or an interpretation of the disputed ordinance provisions, if applicable.

8. Findings on any error in judgment or procedure in the administration of the relevant zoning provisions.

9. The possible precedents or affects which might result from the approval or denial or the appeal.

10. Findings on the impact if the appeal is approved, on the ability of the Township or other governmental agency to provide adequate public services and facilities and/or programs that might reasonably require in the future if the appeal is approved.

Section 29.13 BURDEN OF PROOF IN APPEALS AND VARIANCES

When an appeal is taken to the Board of Appeals, the applicant shall have the burden of presenting to the Board sufficient evidence and argument to justify the requested order or decision.

Section 29.14 RE-APPLICATIONS AND REHEARINGS

A. Any request for reapplication or rehearing shall be made pursuant to the requirements of Section 14.16.6. If the Board of Appeals votes to consider a reapplication or to grant a rehearing, the Board shall then, at the same hearing, proceed with the appeal, variance or interpretation without charging the applicant a second fee.

B. A request for rehearing shall be made within eight (8) days from the meeting at which the original decision was made.

Section 29.15 BOND AUTHORIZED

In authorizing any variance, the Board of Appeals may require that a bond or other performance guarantee pursuant to Section 14.13 be furnished to insure compliance with the requirements, specifications and conditions imposed with the granting of a variance.

Section 29.16 RECORDS

A. Minutes of all meetings shall be recorded and shall contain the grounds of every determination made by the Board of Appeals including all evidence and data

considered, all findings of fact and conclusions drawn by the Board for every case together with the votes of the members and final disposition of each case. Such minutes shall be filed in the Office of the Township Clerk and shall be available to the public.

B. The record of proceedings shall be contained in a file with the following information:

1. The application (for a permit, variance, interpretation, exception).
2. Any reports, plans, surveys, or photos.
3. Notice of Public Hearing to affected parties in newspaper.
4. Letter from Zoning Administrator granting or denying the application or referring it to the Board of Appeals and all other relevant records related to the case.
5. Affidavit of publication of Notice of Hearing.
6. Record of testimony heard and evidence presented.
7. A copy of the zoning Article(s) and Section(s) in question.
8. Briefs, correspondence or other communications made to the Board of Appeals.
9. Statement of facts found by Board of its knowledge regarding the request including any information gained from personal inspection.
10. Decision of the Board as specifically related to the Findings of Fact.
11. A copy of any other correspondence to the appellant regarding the request.

C. The Board of Appeals may file its decision relative a particular property with the Register of Deeds to run as a permanent record with the property which was the subject of the decision by the Board of Appeals.

Section 29.17 LEGAL COUNSEL

Legal counsel may be retained by the Board of Appeals for any purpose deemed necessary provided that such appointment or retainer shall be approved in advance by the Township Board of Trustees.

Section 29.18 REVIEW BY CIRCUIT COURT

A. The decision of the Board of Appeals shall be final. However, any party having an interest affected by an order, determination or decision of the Board of Appeals may obtain a review thereof both on the facts and the law, in the Circuit Court; provided that application is made to the Court within thirty days after the delivery of a final decision.

B. The Circuit Court shall review the record and decision of the Board of Appeals to insure that the decision:

1. Complies with the constitution and laws of the State.
2. Is based upon proper procedure
3. Is supported by competent, material, and substantial evidence on the

- record.
4. Represents the reasonable exercise of discretion granted by the Board of Appeals.

C. If the Court finds the record of the Zoning Board of Appeals inadequate to make the review required, or that additional evidence exists which is material and with good reason was not presented to the Board of Appeals, the Court shall order further proceedings before the Board of Appeals on conditions which the Court considers proper. The Board of Appeals may modify its findings and decision as a result of the new proceedings, or may affirm its original decision. Any supplementary record and decision shall be filed with the Court.

D. As a result of the review required by this section, the Court may affirm, reverse, or modify the decision of the Board of Appeals.

**ARTICLE XXX
TABLE OF DIMENSIONAL REQUIREMENTS**

Sec 30.1 TABLE OF DIMENSIONAL REQUIREMENTS

ZONING DISTRICT	SETBACKS (2,3)			WIDTH REAR	AREA	PERCENT (4) COVER
	FRONT	SIDE				
R-1 Lakeshore Res.	25 (58)	10 15	100'	(1)	12,000 SF	30
R-2 Single Family Res.	25 (58)	10 25	100'	(1)	15,000 SF	30
R-3 Rural Res.	40 (73)	15 40	125'	(1)	One Acre	20
R-4 Multi Family	40 (73)	15 25	100'	(1)	20,000 SF	50
R-5 Recreat. Res.	40 (73)	10 15	100'	(1)	1/2 Acre	30
RP 2.5 Rural Pres.	40 (73)	25 50	150'	(1)	2.5 Acres	--
RP 5 Rural Pres.	40 (73)	25 50	300'		5 Acres	--
RP 10 Rural Pres.	40 (73)	25 50	300'		10 Acres	--
RP 20 Rural Pres.	40 (73)	25 50	660'		20 Acres	--
C-1 Commercial	40 (73)	25 50	150'		One Acre	30
C/R Comm. Resort	40 (73)	25 50	150'		One Acre	30
LI Light Indus.	50 (83)	25 50	330'		2.5 Acres	40

At the Building Line
 25' When Abutting Most Waters and Trailways
 35' When Abutting Crystal Lake
 See Article XXIV in Crystal Lake Watershed

ARTICLE XXXI AMENDMENTS

Section 31.1 PURPOSE & SCOPE

It is the purpose of this Article to establish the procedures and standards for amendment of this Ordinance.

Section 31.2 INITIATION OF AMENDMENTS

- A. The regulations and provisions stated in the text of this Ordinance and the boundaries of zoning districts shown on the Zoning Districts Maps of Benzonia and Platte Townships may be amended pursuant to the Michigan Zoning Enabling Act, Public Act 110 of 2006 [MCL 125.3101 et seq] (MZEA), as amended.
- B. Amendments may be initiated by the Board of Trustees, the Planning Commission, or by petition of one or more persons having an interest in the property to be affected by the proposed amendment. Each petition for amendment shall be submitted to the Zoning Administrator who shall refer it for recommended action to the Planning Commission.

Section 31.3 FEES

- A. The Township Boards of Trustees shall establish, by resolution, fees for zoning amendment petitions.
- B. Such fee shall be paid in full at the time of application, and no part of such fee shall be returnable to the petitioner.
- C. Fees shall not be required for amendments proposed or requested by the Board of Trustees or the Township Planning Commission.

Section 31.4 AMENDMENT PROCEDURES

All petitions for amendment shall be submitted as provided herein:

- A. The petitioner shall cause to be delivered to the Zoning Administrator not less than forty-five (45) days before any regular meeting of the Planning Commission:
1. Twelve (12) copies of the petition for amendment accompanied by twelve (12) copies of such documents as prescribed therein.
 2. A petition shall be made for each parcel of land which is not contiguous to any adjacent parcel of land being proposed for the same type amendment.
- B. The Zoning Administrator shall review each petition to insure it is complete and in compliance with the provisions of this Ordinance.

1. Any petition not complete or not in compliance with this Ordinance shall be returned to the petitioner.
2. Any petition returned as not complete or not in compliance with this Ordinance shall not constitute filing to commence the running of time for processing the petition.
3. Any petition meeting the requirements of this Ordinance shall be scheduled for public hearing by the Zoning Administrator, within forty-five (45) days of acceptance of the petition, pursuant to a. and b. above.

C. Any person having an interest in any amendment may reasonably present testimony or evidence in support of or opposition thereto.

Section 31.5 PETITION REFERRAL

- A. On a petition for rezoning, the Planning Commission may solicit information and testimony from officials in other public offices including, but not limited to, the following agencies:
1. Benzie-Leelanau District Health Department
 2. County Road Commission
 3. County Drain Commissioner
 4. Any school district affected
 5. Any City or Village agency affected
 6. Any State or Federal agency or office with an interest in the proposed change
 7. Any firm hired by the Township to provide a review or comments on the proposed amendment.
 8. The County Sheriff's Department and the local Fire Chief.
 9. The County Soil Erosion, Sedimentation and Storm Water Control agent
 10. Any others the Township believes should be notified.

Section 31.6 PUBLIC HEARING

- A. The Planning Commission shall conduct at least one public hearing on each petition for amendment; notice of which shall be given in the manner provided for in the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended (MZEA).
- B. The Zoning Administrator shall maintain a file of each affidavit of mailing for each mailing under this Section.
- C. If an individual property or several adjacent properties are proposed for rezoning; notice shall be given pursuant to the requirements of the MZEA.
- D. The Planning Commission shall conduct the public hearing consistent with the hearing procedures in the MZEA.

Section 31.7 FINDINGS OF FACT REQUIRED

A. In reviewing any petition for a zoning amendment, the Planning Commission shall identify and evaluate all factors relevant to the petition and shall report its findings in full along with its resulting recommendations for the proper disposition of the petition to the Townships Boards of Trustees.

B. The facts to be expressly considered by the Planning Commission shall include, but shall not be limited to the following:

1. What, if any, identifiable conditions related to the petition have changed which justify the petitioned change in zoning?
2. What, if any, error in judgment, procedure, or administration was made in the original Ordinance which justifies the petitioned change in zoning?
3. What are the precedents and the possible effects of precedent which might result from the approval or denial of the petition?
4. What is the impact of the amendment on the ability of the Township and other governmental agencies to provide adequate public services and facilities and/or programs that might reasonably be required in the future if the petition is approved?
5. Does the petitioned zoning change adversely affect the environmental conditions or value of the surrounding property?
6. Are there any significant negative environmental impacts which would reasonably occur if the petitioned zoning change and resulting allowed structures were built such as:
 - a. Surface water drainage problems
 - b. Waste water disposal problems
 - c. Adverse effect on surface or subsurface water quality
 - d. The loss of valuable natural resources such as forest, wetland, historic sites, wildlife, mineral deposits, or valuable agricultural land?
7. Does the petitioned zoning change generally comply with the adopted Comprehensive Plan of Benzie County? If not, and if the proposed zoning change is reasonable, in light of all other relevant factors, then the Plan should be amended before the requested zoning amendment is approved.
8. If a specific property is involved, can the property in question be put to a reasonable economic use in the zoning district in which it is presently located (after considering all of the uses permitted by right, by special permit or as conditional uses)?
9. Is another procedure, such as a variance, special land use or planned unit development procedure a more appropriate alternative than a rezoning?
10. What are the precedents and the possible effects of such precedent which might result from the approval or denial of the petition?

Section 31.8 PLANNING COMMISSION RECOMMENDATIONS

All findings of fact shall be made a part of the public records of the meeting of the Planning Commission and the Board of Trustees. The Planning Commission shall not forward a recommendation to the Township Board of Trustees unless all of the findings in Section 31.7 and other factors identified by the Ordinance are affirmatively resolved. After the hearing, the Planning Commission shall submit a summary of the comments received at the public hearing its findings of fact and the proposed amendment (including any zoning maps and other related material) to the Township Board of Trustees.

Section 31.9 CONSIDERATION BY THE BOARD OF TRUSTEES

A. After receiving the recommendations of the Planning Commission, the Board of Trustees, at any regular meeting or at any special meeting called for that purpose, shall consider said findings of fact and recommendations and vote upon the adoption of the petitioned amendment. Such action shall be by a roll call vote. The amendment shall be approved by a majority vote of the members of the Township Board of Trustees. The Township Board of Trustees may hold additional public hearings if it considers it necessary. Notice of a public hearing held by the Township Board of Trustees shall be published in a newspaper which circulates in the Township. The notice shall be given in the manner required by the MZEA.

B. Further, it is understood pursuant to the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, that the Board of Trustees shall make no change in the proposed amendment without first referring the petition back to the Planning Commission which shall have thirty (30) days from and after such referral in which to make a further recommendation to the Board of Trustees, after which the Board of Trustees shall take such action as it determines necessary. In the event that a petition is referred back to the Planning Commission, the Board of Trustees shall make specific mention of their objections to the Planning Commission's findings and recommendations.

Section 31.10 NOTICE OF ORDINANCE ADOPTION

A. Following the adoption of an amendment by the Township Board of Trustees, filing and notice of such adoption shall comply with the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended.

- B. The notice of adoption shall include the following information:
1. A summary of the regulatory effect of the amendment (including the geographic area affected) or the text of the amendment.
 2. The effective date of the amendment.
 3. The place and time where a copy of the Ordinance may be purchased or inspected.

Section 31.11 RESUBMITTAL

No application for a rezoning which has been denied by the Township Board of Trustees shall be resubmitted for a period of one (1) year from the date of the last denial, except on grounds of newly-discovered evidence or proof of changed conditions found upon inspection by the Township Board to be valid.

Section 31.12 COMPREHENSIVE REVIEW OF ZONING ORDINANCE

The Planning Commission shall at least once per year examine all the provisions of this Ordinance and the location of zoning district boundary lines and shall submit a report to the Township Boards of Trustees recommending changes and amendments, if any, which are deemed to be desirable in the interest of public health, safety and general welfare, pursuant to Section 308.(2) of the provisions of the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended.