

**HOMESTEAD INLAND
JOINT ZONING ORDINANCE
TABLE OF CONTENTS**

	PAGE
PREAMBLE.....	1
<u>ARTICLE I TITLE, PURPOSE AND LEGAL CLAUSES</u>	1
Section 1.1 – Title	1
Section 1.2 – Purpose	1
Section 1.3 – Scope	1
Section 1.4 – Validity.....	2
Section 1.5 – Codification.....	2
 <u>ARTICLE II DEFINITIONS</u>	 3
Section 2.1 – Purpose	3
Section 2.2 – Interpretation of Wording.....	3
Section 2.3 – Definitions – Alphabetic List	3
 <u>ARTICLE III GENERAL PROVISIONS</u>	 29
Section 3.1 – Scope of this Article	29
Section 3.2 – Prohibition	29
Section 3.3 – Nonconformities	29
Section 3.4 – Principal Uses.....	33
Section 3.5 – Accessory Buildings.....	33
Section 3.6 – Essential Services	33
Section 3.7 – Mobile Homes	33
Section 3.8 – Camping/Recreational Vehicles	34
Section 3.9 – Temporary Dwelling Occupancy during the Construction of a Dwelling.....	34
Section 3.10 – Second Dwelling on a Parcel.....	35
Section 3.11 – Greenbelt	36
Section 3.12 – Home Businesses.....	37
Section 3.13 – Short-Term Rentals	41
Section 3.14 – Yard Sales.....	43
Section 3.15 – Fences, Walls and Hedges.....	44
Section 3.16 – Water Supply and Sewage Disposal Facilities	44
Section 3.17 – Storm Water Retention	44
Section 3.18 – Hazardous Materials/Groundwater Protection	44
Section 3.19 – Junkyards, Salvage Yards and Sanitary Landfills	45
Section 3.20 – Outdoor Lighting	45
Section 3.21 – Outdoor Advertising Signs and Media	46
Section 3.22 – Topsoil Removal, Earth Removal, Quarrying, Gravel, Sand and Clay Extraction, Gravel Processing and all other Mineral Extraction and Processing Businesses	52
Section 3.23 – Provisions for Flea Markets, Open Air Markets.....	57
Section 3.24 – Natural Features and Open Space Protection	58
Section 3.25 – Private Roads.....	59
Section 3.26 – Open Space Preservation.....	65
Section 3.27 – Site Condominium and Subdivision Developments	67
Section 3.28 – Landscaping.....	67
Section 3.29 – Towers	68
Section 3.30 – Animals	69

Section 3.31 – Outdoor Storage.....	69
Section 3.32 – Private Community Sanitary Sewer Systems	70
Section 3.33 – Conditional Rezoning	70
Section 3.34 – Wind Energy Conversion Systems (WECS)	74
Section 3.35 – Clearing of Land – Permit Required.....	77
<u>ARTICLE IV ZONING DISTRICTS AND MAP</u>	78
Section 4.1 – Classification of Zoning Districts.....	78
Section 4.2 – Zoning Map	78
Section 4.3 – Boundaries of Districts	78
Section 4.4 – Zoning of Vacated Areas.....	79
Section 4.5 – Zoning of Filled Areas.....	79
Section 4.6 – Zoning District Changes.....	79
<u>ARTICLE V FOREST RESIDENTIAL DISTRICT</u>	80
Forest Residential District Summary Sheet.....	81
Section 5.0 – Forest Residential	82
Section 5.1 – Intent.....	82
Section 5.2 – Permitted Uses.....	82
Section 5.3 – Uses Permitted with Site Plan Approval	82
Section 5.4 – Uses Permitted Subject to Special Use Approval.....	83
Section 5.5 – Lot Size, Width, Setback and Access	83
<u>ARTICLE VI RURAL RESIDENTIAL DISTRICT</u>	85
Rural Residential District Summary Sheet.....	86
Section 6.0 – Rural Residential	87
Section 6.1 – Intent.....	87
Section 6.2 – Permitted Uses.....	87
Section 6.3 – Uses Permitted with Site Plan Approval	88
Section 6.4 – Uses Permitted Subject to Special Use Approval.....	88
Section 6.5 – Lot size, Width, Setbacks and Access	88
<u>ARTICLE VII SINGLE FAMILY RESIDENTIAL DISTRICT</u>	90
Single Family Residential Summary Sheet.....	91
Section 7.0 – Single Family Residential.....	92
Section 7.1 – Intent.....	92
Section 7.2 – Uses Permitted.....	92
Section 7.3 – Uses Permitted with Site Plan Approval	92
Section 7.4 – Uses Permitted with Special Use Approval.....	93
Section 7.5 – Lot Size, Width, Setback and Access	93
<u>ARTICLE VIII MIXED RESIDENTIAL DISTRICT</u>	95
Mixed Residential District Summary Sheet.....	96
Section 8.0 – Mixed Residential.....	97
Section 8.1 – Intent.....	97
Section 8.2 – Uses Permitted.....	97
Section 8.3 – Uses Permitted with Site Plan Approval	97
Section 8.4 – Uses Permitted with Special Use Approval.....	98
Section 8.5 – Lot Size, Width, Setback and Access	98

<u>ARTICLE IX MANUFACTURED HOUSING COMMUNITY DISTRICT</u>	100
Manufactured Housing Community District Summary Sheet.....	101
Section 9.0 – Manufactured Housing Community District	102
Section 9.1 – Intent.....	102
Section 9.2 – Rezoning Application.....	102
Section 9.3 – Uses Permitted.....	103
Section 9.4 – Uses Permitted with Site Plan Approval	103
Section 9.5 – Uses Permitted with Special Use Approval.....	103
Section 9.6 – Additional Standards	104
Section 9.7 – Lot Size, Width, Setback and Access	104
<u>ARTICLE X GENERAL COMMERCIAL DISTRICT</u>	105
General Commercial District Summary Sheet.....	106
Section 10.0 – General Commercial District.....	107
Section 10.1 – Intent.....	107
Section 10.2 – Permitted Uses.....	107
Section 10.3 – Uses Permitted with Site Plan Approval	107
Section 10.4 – Uses Permitted with Special Use Approval.....	108
Section 10.5 – Lot Size, Width, Setback and Access	109
<u>ARTICLE XI RESERVED FOR FUTURE USE</u>	110
ARTICLE XII SPECIAL LAND USES.....	111
Section 12.1 – General Requirements	111
Section 12.2 – Review and Approval	111
Section 12.3 – Permit Procedure	111
Section 12.4 – Standards for Decisions.....	112
Section 12.5 – Conditions of Approval.....	113
Section 12.6 – Minor and Major Amendments to a Special Use.....	114
Section 12.7 – Supplemental Site Development Standards.....	115
Sexually Oriented Businesses.....	115
Telecommunication Towers.....	118
Commercial Wind Energy Conversion Systems.....	123
<u>ARTICLE XIII SITE PLAN REVIEW</u>	127
Section 13.1 – Intent and Purpose	127
Section 13.2 – Minor and Major Site Plan	127
Section 13.3 – Review and Approval.....	127
Section 13.4 – Procedures	128
<u>ARTICLE XIV ADMINISTRATION AND ENFORCEMENT</u>	134
Section 14.1 – Administration.....	134
Section 14.2 – Zoning Administrator	134
Section 14.3 – Land Use Permits	135
Section 14.4 – Fees.....	136
Section 14.5 – Posting of Financial Guarantee.....	138
Section 14.6 – Moving Structures	138
Section 14.7 – On-Site Inspection	138
Section 14.8 – Lots of Record.....	139
Section 14.9 – Permit Effective Date	139
Section 14.10 – Violations and Penalties	139

Section 14.11 – Conflicting Regulations.....	140
Section 14.12 – Amendment to this Ordinance.....	140
Section 14.13 – Public Notification.....	141
Section 14.14 – Ordinance as Controlling.....	144
<u>ARTICLE XV BOARD OF APPEALS</u>	145
Section 15.1 – Creation and Membership	145
Section 15.2 – Meetings	146
Section 15.3 – Appeals.....	146
Section 15.4 – Limitations on Authority	147
Section 15.5 – Stay	147
Section 15.6 – Dimensional Variances.....	147
Section 15.7 – Conditions for a Dimensional Variance... ..	148
Section 15.8 – Zoning Board of Appeals Approval	149
Section 15.9 – Exercising Powers	149
Section 15.10 – Notice of Hearing	149
Section 15.11 – Miscellaneous	150
Section 15.12 – Denial and Re- Submittal.....	150
Section 15.13 – Unclassified Uses.....	150

PREAMBLE

An Ordinance to provide for the establish land use zoning districts and regulations in the Townships of Homestead and Inland, County of Benzie and State of Michigan, in accordance with the provisions of Act 226 of 2003, as amended, being the Joint Planning Act, and Act 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, MCL 125.3101 et seq.) hereinafter referred to as the “Zoning Act”; to regulate the use of land and encourage proper location of buildings and structures for residence, trade, industry, or other purposes, to regulate dimensions of yards and other spaces, to define certain terms used herein; to provide for regulations covering nonconforming uses and structures; to establish a board of appeals and define its duties and powers; to provide for the administration of this Ordinance; to provide for enforcement and to impose penalties for the violation of this Ordinance.

ARTICLE I TITLE, PURPOSE AND LEGAL CLAUSES

Section 1.1 Title

This Ordinance shall be known and may be cited as the “*Homestead Inland Joint Zoning Ordinance*” and will be referred to herein as “this Ordinance”.

Section 1.2 Purpose

The purposes of this Ordinance are to provide for the regulation of land development and the establishment of one or more districts within its zoning jurisdiction which regulate the use of land and structures to meet the needs of the state’s citizens for food, fiber, energy, and other natural resources, places of residence, recreation, industry, trade, service, and other uses of land to ensure that use of the land is situated in appropriate locations and relationships, to limit the inappropriate overcrowding of and congestion of population, transportation systems, and other public facilities, to facilitate adequate and efficient provision for transportation systems, sewage disposal, water , energy, education, recreation, and other public services and facility requirements, and to promote public health, safety and welfare.

Section 1.3 Scope

It is not intended by this Ordinance to repeal, abrogate, annul or in any way impair or interfere with existing provisions of law or ordinance, except as hereinafter specifically repealed, or with any rules, regulations for permits previously adopted or issued, or which shall be adopted or issued pursuant to law relating to the use of buildings or premises, or with any private restrictions placed upon property by covenant or deed; provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or premises than are imposed or required by such existing provisions of law or ordinance, or by such rules, regulations or permits, or by such private restrictions, the provisions of this Ordinance shall control.

Section 1.4 Validity

This Ordinance and its various parts, sections, subsections, sentences, phrases and clauses are declared to be severable. If any part, sentence, paragraph, section, subsection, phrase or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of this Ordinance shall not be affected. The Township Boards declares that it would have passed this Ordinance and each part, section, subsection, phrase, sentence and clause irrespective of the fact that any one or more parts, sections, subsections, phrases, sentences or clauses be declared invalid.

Section 1.5 Codification

This Ordinance is codified by use of articles and sections, and organized in the following manner. Section numbers and article numbers not used in this Ordinance, or skipped, are reserved for future use.

ARTICLE II DEFINITIONS

Section 2.1 Purpose

For the purposes of this Ordinance, certain terms are herein defined. Terms not defined herein shall have the meanings of their ordinary uses as defined in a standard dictionary.

Section 2.2 Interpretation of Wording

In order to clarify the intent of the provisions of this Ordinance, the following rules shall apply to certain words or terms, except when clearly indicated otherwise.

- A. The particular shall control the general.
- B. The word “shall” is always mandatory and never discretionary. The word “may” is permissive.
- C. Words used in the present tense shall include the future; words in the singular number shall also denote the plural and the plural shall also denote the singular.
- D. A “building” or “structure” includes any part thereof.
- E. The phrase “used for” includes “arranged for”, “designed for”, “intended for”, “maintained for”, and “occupied for”.
- F. Unless the context clearly indicates otherwise, where a regulation involves two (2) or more items, conditions, provisions, or events, the terms “and”, “or”, “either...or”, such conjunction shall be interpreted as follows:
 - 1. “And” denotes that all the connected items, conditions, provisions, or events apply in combination.
 - 2. “Or” indicates that the connected items, conditions, or provisions, or events may apply singly or in any combination.
- G. “Townships” shall refer specifically to Homestead and Inland Townships, Benzie County, Michigan.
- H. The term “person” shall mean an individual, firm, corporation, association, partnership, Limited Liability Company or other legal entity, or their agents.

Section 2.3 Definitions

Accessory Building or Structure: A building or structure occupied by or devoted exclusively to an accessory use deemed compatible with the occupied district, but not for

dwelling, lodging, or sleeping purposes. Where an accessory building is attached to a main building in a substantial manner, such as a wall or roof, the accessory building shall be considered a part of the main building.

Accessory Use: A use naturally and normally incidental and subordinate to the main use of the land or building.

Adult Arcade: Any place to which the public is permitted or invited wherein coin-operated or slug-operated electronically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time and where the images so displayed are distinguished or characterized by depicting or describing of Specified Sexual Activities or Specified Anatomical Areas.

Adult Bookstore or Adult Video Store: A commercial establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration one or more of the following:

- A. Books, magazines, periodicals or other printed matter or photographs, films, motion picture, video cassettes or video reproductions, slides or other visual representations or media which depict or describe Specified Sexual Activities or Specified Anatomical Areas; or
- B. Instruments, devices, or paraphernalia that are designed for use in connection with Specified Sexual Activities.

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing Specified Sexual Activities or Specified Anatomical Areas and still be categorized as an Adult Bookstore or Adult Video Store. The sale of such material shall be deemed to constitute a principal business purpose of an establishment if it comprises 25% or more of annual sales volume or occupies 25% or more of the floor area or visible inventory within the establishment.

Adult Cabaret: A nightclub, bar restaurant, or similar commercial establishment that regularly features:

- A. Persons who appear in a state of nudity;
- B. Live performances that are characterized by the exposure of Specified Anatomical Areas or by Specified Sexual Activities;
- C. Films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas; or

- D. Persons who engage in lewd, lascivious or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

Adult Foster Care Home: A governmental or non-governmental establishment licensed by Act 218 of 1979, as amended, and having as its principal function the receiving of adults for foster care. A capacity of six (6) or less is considered a residential use subject to the spacing requirements of the Act. A capacity of seven (7) or more is considered a commercial use and is not permitted in a residential district.

Adult Motel: A hotel, motel or similar commercial establishment that:

- A. Offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas and has a sign visible from the public right of way that advertises the availability of any of the above;
- B. Offers a sleeping room for rent for a period of time that is less than twelve (12) hours; or
- C. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than twelve (12) hours.

Adult Motion Picture Theater: A commercial establishment which for any form of consideration, regularly and primarily shows films, motion pictures, video cassettes, slides, or other photographic reproductions or visual media that are characterized by depiction or description of Specified Sexual Activities or Specified Anatomical Areas.

Adult Theater: A theater, concert hall, auditorium, or similar commercial establishment that regularly features a person or persons who appear in a state of nudity or live performances that are characterized by exposure of Specified Anatomical Areas or by Specified Sexual Activities.

Agriculture: The use of contiguous, neighboring, or associated land operated as a single unit by the owner-operator, manager, or tenant-farmer by his own labor or with the assistance of members of his household or hired employees for the purpose of raising and harvesting trees, fruit or field crops, or animal husbandry for economic gain.

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

Alternative Tower Structure: Man-made trees, clock towers, bell steeples, light poles and other similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

Animal Hospital and Veterinary Clinic: An establishment where animals are treated for diseases and injuries, surgically or medically.

Antenna: Any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio signals or other communication signals.

Appearance Ticket: see Municipal Civil Infraction Citation.

Architectural Features: Architectural features of a building shall include cornices, eaves, gutters, courses, sills, lintels, bay windows, chimneys and decorative ornaments.

Assisted Living Establishment: A structure and its appurtenances, designed to provide housing for persons who live independently and may receive meals in a common area while staff is on duty on a twenty four (24) hour basis, direct/indirect care is provided and residents may care for themselves independently.

Automobile Repair: Any major activity involving the general repair, rebuilding, or reconditioning of motor vehicles or engines; collision repair, such as body, frame, or fender straightening and repair; overall painting and vehicle rust-proofing; refinishing or steam cleaning.

Automobile Sales Area: Any space used for display, sale or rental of motor vehicles, in new or used and operable condition.

Automobile Wash Establishment: A building, or portions thereof, the primary purpose of which is that of washing motor vehicles.

Average: An arithmetic mean.

Basement: That portion of a building which is partly or wholly below 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.

Bathroom: A room containing a water closet or urinal, a sink, and a bathtub or shower.

Bed and Breakfast Facility: An owner-occupied private home (dwelling unit) wherein up to and including three (3) bedrooms have been converted for guest use for compensation and by prearrangement. A Continental or American breakfast may be served.

Bedroom: A separate room or space used or intended to be used for sleeping purposes.

Billboard: A sign, whether placed individually or on a V-type, back-to-back, or double-faced display, which is located along a state or federal highway and which is intended or used to identify or communicate a noncommercial message such as an idea, belief, or opinion or a commercial message related to an activity conducted, a service rendered, or a commodity sold at a location different than the property on which the billboard is located. However, a billboard shall not include a tourist-oriented directional sign for which a permit has been issued by the Michigan Department of Transportation pursuant to Public Act 299 of the Public Acts of 1996, as amended.

Board of Appeals: As used in this Ordinance, this term means the Homestead Inland Townships Zoning Board of Appeals.

Boarding, Lodging, or Rooming House: A building other than a hotel or a bed and breakfast facility where, for compensation and by prearrangement for definite periods, lodging, meals, or both are offered to three (3) or more, but less than twenty-one (21) persons at a time.

Boat and/or Canoe Livery and Boat Yard: A place where boats and/or canoes are stored, rented, sold, repaired, decked and/or serviced.

Buffer Strip: A strip of land for the planting of shrubs and/or trees to serve as an obscuring screen to carry out the requirements of this Ordinance.

Building Envelope: The space remaining after the minimum setbacks, open space requirements and other sensitive areas requirements of this Ordinance have been met.

Building: Any structure having a roof supported by columns, or walls for the shelter or enclosure of persons, animals, or property of any kind.

Building Height: The building height is the vertical distance measured from the established grade to the highest point of the roof surface if a flat roof; to the deck of a mansard roof; and to the mean height level between eaves and ridge of gable, hip and gambrel roofs. When the terrain is sloping the height shall be computed using the average grade measured at the building wall on all four sides.

Campgrounds: Any parcel 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.

Church: A building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary

purpose, and which property falls within the constitutional exemption from taxation status.

Clearing of Land: The removal of vegetation from any site, parcel or lot except when land is cleared and cultivated for bona fide, forestry, agricultural or garden use in a district permitting such use. Mowing, trimming, pruning or removal of vegetation to maintain it in a healthy, viable condition is not considered clearing.

Clinic: A building or group of buildings where human patients are admitted for examination and treatment by one or more than one professional, such as a physician, dentist, or the like, except that human patients are not lodged therein overnight.

Club: Buildings and facilities owned or operated by a corporation, association, person or persons, for social, educational, or recreational purposes.

Club, Private: An association organized and operated not for profit for persons who are bona fide members paying annual dues, which owns, hires, or leases premises, the use of which premises is restricted to such members and their guests. The affairs and management of such association are conducted by a board of directors, executive committee, or similar body chosen by the members at their annual meeting. Food, meals and beverages may be served on such premises, provided adequate dining room space and kitchen facilities are available. Alcoholic beverages may be sold or served to members and their guests, provided such service is secondary and incidental to the promotion of some other common objective of the organization, and further provided that such sale or service of alcoholic beverages is in compliance with all applicable federal, state, county, and local laws.

Conditional Rezoning: A zoning process authorized by Act 110 of 2006, as amended, and as regulated under Article III of this Ordinance, whereby the owner of land may voluntarily offer conditions as part of a rezoning of land, and the Townships may, or may not accept such an offer.

Condominium Unit: That portion of a condominium development designed and intended for occupancy and use by the unit owner consistent with the provisions of the master deed.

Conservation Easement: That term as defined in Section 2140 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.2140.

Dedicated Open Space: Open space created under the provisions of Act 110 of 2006, as amended, to remain in an “undeveloped state”, which means a natural state, scenic or wooded condition, agricultural use, and open space as defined by said Act 110 of 2006, as amended.

Directional Sign: Signs limited to directional messages, principally for pedestrian or vehicular traffic such as “one way” and “exit”.

Decibel: A unit of measure for expressing the relative intensity of sounds.

District: A section or sections, or parts of sections of the Townships of Homestead and Inland for which zoning regulations governing land use are uniform.

Dock: A temporary or permanent structure, built on or over the water, supported by pillars, pilings, or other supporting devices.

Drive-Through/Drive-Up Business: Any restaurant, bank or business with an auto service window.

Dwelling Unit: A building or portion of a building, either site-built or pre-manufactured which has sleeping, living, cooking and sanitary facilities and can accommodate one family, either permanently or transiently. In the case of buildings which are occupied in part, the portion occupied shall be considered a dwelling unit. In no case shall a travel trailer, truck, bus, motor home, tent or other such portable structures be considered a dwelling unit.

Dwelling Unit, Efficiency: A dwelling unit that does not contain a separate bedroom(s) for sleeping.

Dwelling, Single-Family: A building containing not more than one dwelling unit designed for residential use, and complying with the following standards:

- A. It complies with the minimum square footage requirements of this Ordinance.
- B. It is firmly attached to a permanent foundation constructed on the site in accordance with the Michigan State Construction Code and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable building code for single family dwellings.
- C. The dwelling is connected to a public sewer and water supply or to such private facilities approved by the County Health Department.
- D. The dwelling contains a storage capability area in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure of standard construction similar to or of better quality than the principal dwelling, which storage area shall be equal to 20% of the square footage of the dwelling or 100 square feet, whichever shall be less.
- E. The dwelling contains no additions or rooms or other areas which are not constructed with similar quality workmanship as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.

- F. The dwelling complies with all pertinent building and fire codes. All construction and all plumbing, electrical apparatus and insulation within and connected to said dwelling shall be of a type and quality conforming among other requirements, to the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development, 24CFR 3280, adopted June 15, 1976, and as from time to time such standards may be amended.
- G. The foregoing standards shall not apply to a mobile home located in a licensed mobile home park except to the extent required by state or federal law or otherwise specifically required in this Ordinance.
- H. All construction required herein shall be commenced only after a building permit has been obtained in accordance with the applicable Michigan State Construction Code provisions and requirements.

Dwelling, Two-Family: A building containing two separate dwelling units designed for residential use.

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

- A. The structure is produced in a factory in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended; 42 U.S.C. 5401 to 5426; 24 CFR Parts 3280 and 3282, and
- B. The structure is designed to be transported to the site in nearly complete form, where it is placed on a foundation and connected to utilities; and
- C. The structure is designed to be used as either an independent building or as a module to be combined with other elements to form a complete building on the site.

Dwelling, Mobile: A factory-built, single-family structure that is transportable in one or more sections, is built on a permanent chassis, and is used as a place of human habitation; but which is not constructed with a permanent hitch or other device allowing transport of the unit other than for the purpose of delivery to a permanent site, which does not have wheels or axles permanently attached to its body or frame, and which is constructed according to the National Mobile Home Construction and Safety Standards Act of 1974, as amended; 42 U.S.C 5401 to 5426; 24 CFR, Parts 3280 and 3282.

Dwelling, Multiple-Family: A building containing three or more dwelling units designed for residential use.

Engineer, Township: A person or firm designated by the Township Boards to advise the Township administration, Township Board, and Planning Commission on drainage, grading, paving, storm water management, utilities and other related site engineering or

civil engineering issues. The Township Engineer may be a consultant or an employee of the Townships.

Erected: The act of building, constructing, reconstructing, extending, enlarging, moving upon, or any physical operation on the premises intended or required for a building or structure. Excavation, fill, drainage, and general land improvements which are not required for a building or structure, shall not be considered to fall within this definition.

Escort: A person who, for consideration, agrees or offers to act as a companion, guide or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

Escort Agency: A person or business association, who furnishes, offers to furnish or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

Essential Services: The erection, construction, alteration, or maintenance by public utilities or municipal department or commissions of underground, surface, or overhead gas, electrical, steam, water or sewer transmission, distribution, collection, supply or disposal systems, including poles, wires, mains, pipes, conduits, cables, hydrants and other similar equipment and appurtenances necessary for such systems to furnish an adequate level of service. Telecommunication towers or facilities, alternative tower structures, WECS, and wireless communication antenna are not included within this definition, nor are any buildings associated with any of these above listed services.

Excavating: Excavating shall be the removal or quarrying of sand, stone, gravel, or dirt.

Existing Building: A building existing or for which the foundations are in place or upon which there has been substantial work done, prior to the effective date of this Ordinance, or any amendment thereto.

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

Family: An individual, a collective number of individuals related by blood, marriage, adoption, or legally established relationships such as guardianship or foster care, or a collective number of unrelated individuals whose relationship is of a permanent and distinct domestic character who occupy a single dwelling and live as a single nonprofit housekeeping unit with single culinary facilities. A family, however, shall not include any society, club, fraternity, sorority, association, lodge, or group of individuals, whether related or not, whose association or living arrangement is temporary or resort-seasonal in character or nature.

Farm: See Agriculture.

Farm Product: Means those plants and animals useful to human beings and includes, but is not limited to forages and sod crops, grains and fee crops, dairy and dairy products, poultry and poultry products, livestock, including breeding and grazing, fruits, vegetables, flowers, seeds, grasses, trees, fish, apiaries, equine and other similar products or any other products which incorporates the use of food, feed, fiber or fur on a commercial basis.

Fence: Any permanent or temporary means, partition, structure or gate erected as a dividing structure, barrier, or enclosure, and not part of a structure requiring a building permit.

Flea Market, Open Air Market: The commercial sale of new or used general merchandise, including antiques and produce, on a temporary or year-round basis in open stalls or within partially enclosed or totally enclosed spaces.

Floor Area: See ground floor area.

Freestanding Sign: A sign attached to a permanent foundation supported from the ground by one or more poles, posts, or similar uprights, with or without braces, upon which announcements, declarations, displays, etc., may be placed.

Garage: A building used primarily for the storage of motor vehicles for the use of the occupants of a lot or parcel on which such building is located.

Gasoline Service Station: Any land, building or structure used for retail sale of motor vehicle fuels, oils, or accessories, or installing or repairing parts and accessories, but not including repairing or replacing of motors, doors, or fenders, or painting motor vehicles or collision repair.

Glare: Excessive brightness caused by an unshielded, high intensity light source.

Government Building: A building provided by or for the purpose of a government or municipality to care for a specified need or function essential to its existence, or which would serve or benefit the public at large.

Government Parks: A tract of land or area within the Townships set apart for the recreation of the public and owned or operated by the municipality.

Grade: The ground elevation established for the purpose of regulating the number of stories and the height of buildings. The building grade shall be the level of the ground adjacent to the walls of the building if the finished grade is level. If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building.

Greenbelt: A natural vegetation strip abutting any waterfront to serve as a filtration buffer in carrying out the requirements of this Ordinance.

Greenhouse: A building or enclosure constructed chiefly of glass, plastic, or other translucent materials used for the cultivation or protection of tender plants.

Ground Floor Area: The square footage of ground floor space measured from exterior wall to exterior wall, but not including enclosed and unenclosed porches, breezeways, garages, attic, basement and cellar area.

Gun and Skeet Clubs, Rifle Range: Any facility, whether operated for profit or not and whether public or private, which is designed for the use of firearms which are aimed at targets: skeet or trap, or clay pigeons.

Habitable Space: Space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces, and similar areas are not considered habitable spaces.

Hazardous Materials: Those chemicals or substances which are physical or health hazards. Hazardous materials categories include explosives and blasting agents, compressed gases, flammable and combustible liquids, flammable solids, organic peroxides, oxidizers, pyrophoric materials, unstable materials, water-reactive solids and liquids, cryogenic fluids, highly toxic and toxic materials, radioactive materials, corrosives, carcinogens, irritants, sensitizers and other health hazards. Each category is defined separately in the Code of Federal Regulations Title 29 and other nationally recognized standards.

High Water Mark: See Water Mark, Ordinary High

Home Business: A profession, occupation, or trade that is accessory to a principal residential use conducted within a dwelling or residential accessory building. Home businesses fall into one of the classifications defined below:

- A. **Home Occupation:** Occupations engaged in within a dwelling or garage by the resident or residents of the same complying with the following conditions and limitations:
 1. Are operated in their entirety within the dwelling, garage or an accessory building located upon the premises, the space to be used therefore limited to 35 percent (35%) of the square footage of the main dwelling and garage.
 2. Are only conducted by the person or persons occupying the premises as their principal residence.

3. The premises have no exterior evidence, other than a permitted sign, to indicate that the same is being utilized for any purpose other than that of a dwelling or garage.

4. The occupation conducted therein is clearly incidental and subordinate to the principal use of the premises for residential purposes and the use does not materially or visually alter the character of the property as residential in character.

5. No goods are sold from the premises which are not strictly incidental to the principal home occupation conducted therein.

6. No occupation shall be conducted upon or from the premises which would constitute a nuisance or annoyance to adjoining residents by reason of noise, smoke, odor, electrical disturbance, night lighting, or traffic to the premises. Noise, smoke, odor, electrical disturbance or the source of lighting shall not be discernible beyond the boundaries of the property from which the occupation is conducted.

B. Home Based Business: Any activity conducted on the premises and accessory buildings and/or the premises serves as a base of operation from which to conduct the activity off-site, except a home occupation and a business conducting primarily retail sales, which is clearly secondary to a residential use, carried out for economic gain.

Home Business Sign: A sign containing only the name and occupation of a permitted home occupation.

Hotel: A building, other than a bed and breakfast facility and a boarding, lodging, or rooming house, occupied or used as a predominantly temporary abiding place by individuals or groups of individuals, with or without meals, and in which building there are more than five (5) sleeping rooms and in which rooms there is no provision for cooking.

Impervious Surface: A surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water.

Industry: A use engaged in manufacturing, fabricating, and/or assembly activities.

Junkyard: The use of premises or buildings, excluding recycling operations, for the storage, abandonment or bailment of inoperable automobiles, trucks, tractors and other such vehicles and parts thereof, scrap building materials, scrap contractor's equipment, appliances, tanks, cases, barrels, boxes, piping, bottles, drums, glass, rags, machinery, scrap iron, paper, and any other kind of scrap or waste material.

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

Lake: Any body of water, of considerable size, occupying a natural basin or depression below the natural drainage area of the region and serving to drain the surrounding area.

Land Use Permit: See Zoning Permit.

Licensed Family Day Care Facility: A state-licensed facility for the care of six (6) or less preschool and/or school-aged children or disabled adults.

Licensed Group Day Care Facility: A state licensed facility for the care of seven (7) and not more than twelve (12) preschool and/or school aged children or disabled adults.

Loading Space: An off-street space on the same lot with a building or group of buildings, for temporary parking of a commercial vehicle while loading or unloading merchandise or materials. Off-street loading space is not to be included as an off-street parking space in computation of required off-street parking.

Lot: A parcel of land, either described by metes and bounds or by reference to a recorded plat, or a site condominium unit created in a recorded master deed, occupied or to be occupied by a use or building and its accessory buildings or structures together with such open space, minimum area, and width as required by this Ordinance for the zoning district in which it is located.

Lot, Corner: A parcel of land located at the intersection of two public or private streets or a lot bounded on two sides by a curving street. A corner lot has two front yards and two side yards. Front yard setback is required from all road frontages.

Lot Coverage: The part or percent of the lot occupied by buildings or structures, including accessory buildings, structures or other impervious structures.

Lot Depth: The horizontal distance between the front and rear lot lines, measured along the median between the side lot lines.

Lot, Double Frontage: A lot other than a corner lot, such as a through lot having frontage on two (2) more or less parallel public or private streets. In case of a row of double frontage lots, one street will be designated by the developer as the front street for all lots in the request for a zoning permit. If there are existing structures in the same block fronting on one (1) or both of the streets, the required front yard setback shall be observed on those streets where such structures presently front.

Lot, Interior: A lot other than a corner lot with only one (1) lot line fronting on a street.

Lot Lines: The property lines bounding the lot.

Lot Line, Front: In the case of an interior lot, the front lot line shall be the line separating the lot from the right-of-way of the abutting public or private street. In the case of a corner lot or double frontage lot, the front lot line shall be the line separating the lot from the abutting public or private street right-of-way designated as the front street in the first zoning permit issued for that lot. In the case of a waterfront lot, the front lot line shall be the ordinary high water line on the lot.

Lot Line, Rear: The lot line being opposite the front lot line. In the case of a lot irregularly shaped at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten (10) feet long lying farthest from the front lot line and wholly within the lot.

Lot Line, Side: Any lot line not a front lot line or a 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.

Lot of Record: A tract of land which is part of a recorded plat or subdivision shown on a plat or map which has been recorded in the Office of the Register of Deeds from Benzie County, Michigan; or a tract of land described by metes and bounds, which is the subject of a deed or land contract, which is likewise recorded in the Office of the Register of Deeds.

Lot, Waterfront: A lot having frontage directly upon a lake, stream or watercourse. The portion adjacent to the water is considered the water frontage.

Lot Width: The horizontal distance between the side lot lines, measured at the two (2) points where the front set back line intersects the side lot line. On a curved street, the lot width is measured along the curve of the setback line.

Lot, Zoning: A contiguous tract of land which at the time of filing for a zoning permit is designated by its owner or developer as a tract to be used, developed, or built upon as a unit, under single ownership.

Manufactured Home: see Dwelling, Manufactured.

Master Plan or Comprehensive Plan: The statement of policy by the Homestead Inland Joint Planning Commission relative to the agreed-upon desirable physical pattern of future community development. It consists of a series of maps, charts, and written material representing in summary form the community's conception of how it should grow in order to bring about the very best community living conditions.

Mini-Storage Facility: A building, group of buildings or portions of buildings, divided and offered to the public for a fee on a monthly or yearly basis for the storage of goods. Persons have joint access to the facility and individual access to a specific storage unit.

Mobile Home: see Dwelling, Mobile.

Mobile Home Park: A parcel of land which has been planned and improved for the placement of three (3) or more mobile homes designed or intended to be used as living facilities for one (1) or more families, on a continual or non-recreational basis, and which is licensable under Act 96 of the Public Act of 1987, as amended.

Mobile Home Site: A plot of ground within a licensed mobile home park designed for the accommodation of one mobile home.

Motel: A series of attached, semi-detached or detached rental units providing overnight lodging for transients, open to the traveling public for compensation.

Municipal Civil Infraction Citation: A written complaint or notice prepared by an authorized Township official, directing a person to appear in court regarding the occurrence or existence of a municipal civil infraction violation by the person cited.

Nonconforming Lot of Record: A lot of record that legally existed on or before the effective date of this Ordinance or amendments thereto and does not meet dimensional requirements of this ordinance.

Nonconforming Structure: A building, structure, or portion thereof that lawfully existed before the effective date of this Ordinance or amendments thereto and that does not meet the floor area, setback, parking or other dimensional regulations for the zoning district in which such building or structure is located.

Nonconforming Use: A use which lawfully occupied a building or land at the effective date of this Ordinance or Amendments thereto that does not conform to the use regulations of the Zoning District in which it is located.

Normal Grade: Shall be construed to be the lower of (1) the existing grade prior to construction, or (2) the newly established grade after construction, exclusive of any filling, berming, mounding or excavating solely for the purpose of locating the sign.

Nude Model Studio: Any place where a person who displays Specified Anatomical Areas is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration, but does not include an educational institution funded, chartered, or recognized by the State of Michigan.

Nudity or a State of Nudity: Knowingly or intentionally displaying in a public place, or for payment or promise of payment by any person including, but not limited to payment of an admission fee, any individual's genitals or anus with less than a fully opaque covering, or a female individual's breast with less than a fully opaque covering of the nipple and areola. Public nudity does not include any of the following:

- A. A woman's breastfeeding of a baby whether or not the nipple or areola is exposed during or incidental to the feeding.

- B. Material as defined in section 2 of Act No. 343 of the Public Acts of 1984, being section 752.362 of the Michigan Compiled Laws.
- C. Sexually explicit visual material as defined in section 3 of Act No. 33 of Public Acts of 1978, being section 722.673 of the Michigan Compiled Laws.

Nursery, Plant Materials: A space, building or structure, or combination thereof, for the growing and storage of live trees, shrubs, or plants as stock for budding and grafting, or offered for retail sale on the premises, including products used for gardening or landscaping. The definition of nursery does not include space used for the sale of fruits or vegetables.

Occupancy: The purpose for which a dwelling unit or portion thereof is utilized or occupied.

Occupant: Any individual living or sleeping in a dwelling unit, or having possession of a space within a dwelling unit.

Offices: Refers to offices of private firms and organizations and government agencies which are primarily used for the execution of professional, executive, management or administrative services. These have relatively few on-premise customers and are relatively low traffic generators. Typical uses include legal, bookkeeping, architectural, engineering, medical and psychiatric offices.

Off Street Parking Lot: A facility providing vehicular parking spaces, along with adequate drives and aisles. Adequate maneuvering space shall also be included to allow unrestricted ingress and egress to at least two (2) vehicles.

Open Air Businesses: Businesses operated for profit, substantially in the open air, including but not limited to the following:

- A. Bicycle, utility truck or trailer, motor vehicle, boats, or home equipment sale, repair or rental services.
- B. Outdoor display and sale of garages, motor homes, mobile home, snowmobiles, farm implements, swimming pools and similar activities.
- C. Retail sale of trees, fruit, vegetables, shrubbery, plants, seeds, top-soil, humus, fertilizer, trellises, lawn furniture, playground equipment, and other home garden supplies and equipment.
- D. Tennis courts, archery courts, shuffleboard, horseshoe courts, rifle ranges, miniature golf, golf driving ranges, children's amusement park or similar recreation uses.

Open Space: Land upon which no structures, parking, rights-of-way, easements, sewage disposal systems (including backup areas for sewage disposal) or other improvements have or will be made that commit land for future use other than outdoor recreational use. Land proposed for outdoor recreational usage that will result in the development of impervious surfaces shall not be included as open space.

Open Space Preservation: A land development technique outlined in Act 177 of 2001, that allows a landowner to develop the same number of dwelling units on 50% or less of the land area of a parcel as would be allowed on the entire parcel under conventional development regulations.

Operator: Any person who owns or has charge, care or control of a dwelling unit which is offered for rent.

Outdoor Storage: The keeping of any goods, material, merchandise or vehicles in an open and unsheltered area for more than twenty four (24) hours.

Parking Space: An area of definite length and width exclusive of drives, aisles, or entrances, giving access thereto, and fully accessible for the storage or parking of permitted vehicles.

Person: An individual, firm, corporation, association, partnership, Limited Liability Company or other legal entity, or their agents.

Pervious Surface: A surface that permits full or partial absorption of storm water.

Place of Worship: A building wherein people regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such principal purpose.

Planning Commission: For the purpose of this Ordinance the term Planning Commission is deemed to mean the Homestead Inland Joint Planning Commission.

Playground: Properties and facilities owned and operated by any governmental agency, or owned and operated by any private agency, including day care centers, which are open to the general public for recreation or day care purposes.

Pick-up Camper: See Recreational Vehicle.

Porch, Enclosed: A covered entrance to a building or structure which is totally enclosed, and projects out from the main wall of said building or structure and has a separate roof or an integral roof with the principal building or structure to which it is attached.

Porch, Open: A covered entrance to a building or structure which is unenclosed except for columns supporting the porch roof, and projects out from the main wall of said building or structure and has a separate roof or integral roof with principal building or structure to which it is attached.

Political Sign: A temporary sign announcing or supporting political candidates or issues in connection with any national, state or local election.

Principal Use: The main use to which the premise is devoted and the principal purpose for which the premise exists.

Private Driveway: A portion of a lot or site condominium unit or a permanent private easement used for vehicular ingress and egress to not more than two (2) lots or site condominium units.

Private Drive: A permanent way or easement that is not maintained by public authorities and that provides the principle means of access to not less than three (3), but not more than nine (9) existing or proposed lots or site condominium units.

Private Street, Highway, or Road: A permanent way or easement that is not maintained by public authorities and that provides the principle means of access to ten (10) or more existing or proposed lots or site condominium units.

Public Sewer Systems: A central or community sanitary sewage and collection system of pipes and structures including pipes, conduits, manholes, pumping stations, sewage and waste water treatment works, diversion and regulatory devices, and outfall structures, collectively or singularly, actually used or intended for use by the general public or a segment thereof, for the purpose of collecting, conveying, transporting, treating or otherwise handling sanitary sewage or industrial liquid waste of such a nature as to be capable of adversely affecting the public health operated and maintained by the general public.

Public Utility: Any person, firm, corporation, municipal department board, or commission fully authorized to furnish and furnishing, under Federal, State or municipal regulations, to the public, electricity, gas, steam, communications, cable television, telegraph, transportation, water services, or sewage disposal.

Real Estate Sign: A sign pertaining to the sale or lease of the premises, or a portion of the premises on which the sign is located.

Recreational Unit or Vehicle: A vehicle-type structure designed to be used primarily for recreational purposes, including temporary sleeping quarters and/or cooking facilities, or a unit designed to be attached to a vehicle and used for such purposes, including self-propelled motor homes, pickup campers, fifth wheel trailers, travel trailers, and tent trailers; PROVIDED, however, that any such vehicle or unit which is forty (40) feet or

more in overall length shall be considered a mobile home and shall be subject to all regulations of this Ordinance applicable to a mobile home.

Recycling Facility or Operation: A facility and the operations to collect and process solid waste as defined in the Solid Waste Management Act.

Resort: A recreational lodge, camp or facility operated for gain, and which provides overnight lodging and one or more of the following: golf, skiing, dude ranching, recreational farming, snowmobiling, pack trains, bike trails, boating, swimming, hunting and fishing and related or similar uses normally associated with recreational resorts.

Restaurants: Establishments where food and drink are prepared, served and consumed either within the principal building or on a take-out or drive-through basis.

Roadside Stand: An accessory and temporary farm structure operated for the purpose of selling local agricultural products, part of which are raised or produced on the same farm premises.

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

School: A public or private educational institution offering students a conventional academic curriculum, including kindergartens, elementary schools, middle schools, and high schools. Such term shall also include all adjacent properties owned by and used by such schools for educational, research, and recreational purposes.

Seasonal Use: Any use or activity that can not be conducted or should not be conducted each month of the year.

Setback: The minimum required horizontal distance from the applicable lot lines within which no buildings or structures may be placed.

Setback Line(s): Line(s) established parallel to a lot line and along a highway or waters edge for the purpose of defining limits within which no building or structure or any part thereof shall be erected or permanently maintained.

Sexual Encounter Center: A business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

- A. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
- B. Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity.

Sexually Oriented Business: A business or commercial enterprise engaging in any of the following: (1) adult arcade; (2) adult bookstore or adult video store; (3) adult cabaret; (4) adult motel; (5) adult motion picture theater; (6) adult theater; (7) escort agency; (8) nude model studio; and (9) sexual encounter center.

Short-term Rental: A residential dwelling unit lawfully established under the Townships Zoning Ordinance and meeting all requirements of the Zoning Ordinance, which is non-owner occupied, renting to the transient public for compensation for a period of less than thirty (30) days, when not a hotel, motel, resort, boarding house, bed & breakfast, multiple family dwelling, or lodging or rooming house pursuant to a written or unwritten lease or agreement.

Sign: A structure, including its base, foundation and erection supports upon which is displayed any words, letters, figures, emblems, symbols, designs, or trademarks by which any message or image is afforded public visibility from out of doors on behalf of and for the benefit of any product, place, activity, individual, firm, corporation, institution, profession, association, business or organization.

Sign, Animated: Any sign having a conspicuous and intermittent variation in the illumination or the physical position of any part of the sign.

Sign, Freestanding or Ground: A sign supported by permanent uprights or braces in the ground.

Sign Height: The distance from the base of the sign at normal grade to the top of the highest attached component of the sign. In cases of severe topography in which the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public or private road.

Sign, Off Premise: An outdoor sign advertising services or products, activities, persons, or events which are not made, produced, assembled, stored, distributed, leased, sold, or conducted upon the premises upon which the sign is located. Tourist oriented directional signs, as provided by the Michigan Department of Transportation, are excluded from this definition.

Sign, On Premise: An advertising sign relating in its subject matter to the premises on which it is located, or to products, accommodations, service, or activities on the premises.

Sign, Outdoor Business or Informational: A freestanding, overhanging or wall mounted sign located outside a structure on which is displayed information pertaining to a product, use, occupancy, function, service or activity located within that structure on the same property as the sign, or at a location different than the property on which the sign is located.

Sign, Overhanging: A sign that extends beyond any structure wall and is affixed to the structure so that its sign surface is perpendicular to the structure wall.

Sign, Portable: A sign that is designed to be transported, including but not limited to signs:

- With wheels removed;
- With chassis or support constructed without wheels;
- Designed to be transported by trailer or wheels;
- Converted A- or T- frame signs;
- Attached temporarily to the ground, a structure, or other signs;
- Mounted on a vehicle for advertising purposes, parked and visible from the public right-of-way, except signs identifying the related business when the vehicle is being used in normal day-to-day operations of that business;
- Menu and Sandwich boards;
- Searchlight stand; and
- Hot-air or gas-filled balloons or umbrellas used for advertising.

Sign Surface: That portion of a sign excluding its base, foundation and erection supports on which information pertaining to an idea, a product, use, occupancy, function, service, or activity is displayed.

Sign, Wall mounted: Any sign attached parallel to or painted on the exterior surface of a building or structure wall in such a manner that the sign does not extend beyond the surface of the wall to which it is attached.

Site Plan: The drawings and documents depicting and explaining all salient features of a proposed development so that it may be evaluated according to the procedures set forth in this Ordinance, to determine if the proposed development meets the requirements of this Zoning Ordinance.

Specified Anatomical Areas: are defined as:

- A. Less than completely and opaquely covered human genitals, pubic regions, buttocks, anus and female breast below a point immediately above the top of the areola; and
- B. Human male genitals in a discernibly turgid state even if completely and opaquely covered.

Specified Sexual Activities: means and includes any of the following:

- A. The fondling or other erotic touching of human genitals, pubic regions, buttocks or female breast;

- B. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
- C. Masturbation, actual or simulated; or
- D. Excretory functions as part of or in connection with any of the activities set forth in (a) through (c) above.

Special Uses: Those uses of land which are not essentially incompatible with the permitted uses in a zoning district, but possess characteristics of locational qualities which require individual review and restriction in order to avoid incompatibility with the character of the surrounding area, public services, facilities and adjacent uses of land.

Stable: A structure used to house horses, either for the property owner's private use or for hire.

Story: That portion of a building, other than a basement or mezzanine, included between the surface of any floor and the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it.

- A. A "mezzanine" floor shall be deemed a full story only when it covers more than fifty (50%) percent of the area of the story underneath said mezzanine, or if the vertical distance from the floor next below it to the next above it is twenty-four (24) feet or more.
- B. For the purpose of this Ordinance, a basement or cellar shall be counted as a story only if it is used for business purposes.

Stream: See Watercourse.

Structural Change or Alteration: See Alterations.

Structure: Anything constructed or erected, the use of which requires location on the ground or attachment to something having permanent location on the ground excluding driveways, fences and similar structures.

Telecommunication Towers and Facilities or Towers: All structures and accessory facilities, including Alternative Tower Structures, relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals; including, but not limited to, radio towers, television towers, telephone devices and exchanges, microwave relay facilities, telephone transmission equipment buildings, private and commercial mobile radio service facilities, personal communication services towers (PCS), and cellular telephone towers. Not included in this definition are: citizen band radio facilities; short wave receiving facilities; radio and television broadcast reception facilities; satellite dishes; federally licensed amateur (HAM) radio facilities; and

governmental facilities which are subject to state or federal law or regulations which preempt municipal regulatory authority.

Temporary Building and Use: A structure or use permitted by this Zoning Ordinance to exist during periods of construction of the main building or for special events.

Temporary Sign: A sign, banner or other advertising device constructed of cloth, canvas, fabric, plastic or other light temporary material with or without a structural frame, or any other sign intended for a limited period of display.

Tenant: A person who is not the legal owner of record and who is occupying a dwelling unit pursuant to a written or unwritten rental lease or agreement.

Toilet Room: A room containing a water closet or urinal and a sink, but not a bathtub or shower.

Trailer Coach: See Recreational Vehicle definition.

Travel Trailer: See Recreational Vehicle definition.

Undevelopable Land: Land which has soil types or a high water table condition which present severe limitations on septic tanks and tile fields and on which no septic tank and tile field, or Health Department approved holding tanks can be legally constructed and to which no public, community or off-site sewer is extended.

Undeveloped State: A natural state preserving natural resources, natural features, or scenic or wooded conditions; open space; or similar use or condition. Land in an undeveloped state does not include a golf course but may include a recreational trail, picnic area, children's play area, green way, or linear park. Land in an undeveloped state may be, but is not required, to be dedicated to the public.

Use: The lawful purpose of which land or premises, or a building thereon, is designed, arranged, or intended, or for which it is occupied, or maintained, let, or leased, according to this Ordinance.

Variance: A variance granted upon a finding of practical difficulty by a zoning board of appeals other than for use, and typically from dimensional or numerical standards of the ordinance such as from setback or yard requirements, and where such a variance would not have the effect of permitting a use of land or a structure that is not otherwise permitted in the zoning district.

Wall Sign: A sign which is attached directly to a building wall with the horizontal sign surface parallel to the building wall, including signs painted on any building wall.

Warehousing: A building used primarily for the storage of goods and materials.

- A. Public Warehouse – A building used primarily for the storage of goods and materials and available to the general public for a fee.
- B. Private Warehouse – A building used primarily for the storage of goods and materials by the owner of the goods, or operated for a specific commercial establishment or group of establishments in a particular industrial or economic field.

Watercourse: Any waterway or other body of water having well defined banks, including rivers, streams, creeks, lakes, ponds, and brooks, whether continually or intermittently flowing.

Waterfront Property: See Lot, Waterfront.

Water Mark, Ordinary High: The line between upland and bottomland that 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. On an inland lake that has a level established by law, it means the high established level. Where water returns to its natural level as a result of the permanent removal or abandonment of a dam, it means the natural ordinary high water mark.

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, that is commonly referred to as a bog, swamp, or marsh.

Wind Energy Conversion System “WECS”: The approved form of abbreviation of “wind energy conversion system”, and WECS shall consist of the combination of:

- A. A surface area, either variable or fixed, for utilizing the wind for electrical power; and
- B. 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 electrical-producing device; and
- C. A generator, alternator, or other device to convert the mechanical energy of the surface area into electrical energy; and
- D. The tower, pylon or other structure upon which any, all or some combination of the above are mounted.
- E. “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.

- F. “Household WECS”. A WECS which supplies electricity to a single parcel with a design output of less than 20 KW per day, and does not generally flow electric energy to the utility system. Such a system supplements the electrical energy used at the dwelling and is connected to specific circuits which may have automatic transfer to the electrical utility to maintain a constant source of electric energy to the designated circuit. A household WECS may be allowed with a Land Use Permit in all zoning districts provided it complies with the applicable regulations and standards.
- G. “Commercial WECS”. A WECS that has a design output rated at 20 KW per day or greater, and is allowed in all zoning districts by Special Use Permit and as regulated.
- H. “Survival Wind Speed”. The maximum wind speed as designated by the WECS manufacturer at which a WECS in unattended operation but not necessarily producing power, is designed to survive without damage to any structural equipment or loss of the ability to function normally.
- I. “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 the blades.
 - 2. Vertical Axis Wind Turbine: The distance between the ground and the highest point of the WECS.

Yard: An open space between a building and the lot lines of the parcel which is unoccupied or unobstructed by an encroachment or structure except as otherwise provided by this Ordinance.

Yard, Front: A yard across the full width of the lot extending from the front line of the principal building to the front lot line.

Yard, Rear: A yard extending across the full width of the lot from the rear line of the building to the rear lot line.

Yard, Side: A yard between the side lot line and the nearest side of the building extending between the front yard and the rear yard.

Yield Plan: A plan showing layout and density as allowed under conventional zoning regulations to be used to determine overall density and number of buildable parcels, lots or condominium units under the Open Space Preservation provisions of this Ordinance as required by Act 110 of 2006, as amended.

Zoning Permit: A zoning permit is written authority as issued by the Zoning Administrator on behalf of the Townships permitting the construction, moving, exterior alteration or use of a building or property in conformity with the provisions of this Ordinance.

ARTICLE III

GENERAL PROVISIONS

Section 3.1 Scope of this Article

The provisions, restrictions and limitations contained in this Article III, shall be applicable to all land use districts in the Townships of Homestead and Inland.

Section 3.2 Prohibition

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, reconstructed, altered or used for purposes other than in conformity with the provisions of this Ordinance.

Section 3.3 Nonconformities

In the event that any lawful use, activity, building or structure which exists or is under construction at the time of the adoption of this Ordinance and is not in conformance with the provisions of the zoning district in which it is located, such use, activity, building or structure shall be considered a legal nonconforming use and be allowed to remain as such.

A. Nonconforming Lots of Record

A nonconforming lot of record which does not meet the dimensional requirements of the district in which it is located may be used for any purpose authorized within that district, provided that an adequate potable water supply and safe sewage disposal facilities can be provided. Any required variances may be requested pursuant to the procedures and standards of this Ordinance.

B. Classification of nonconformities

1. Classification of Nonconforming Uses and Structures

All nonconforming uses and structures shall be designated either a Class A or Class B nonconforming use or structure. Unless designated a Class A nonconforming use or structure under Section 3.3.B.2, the nonconforming use or structure shall be deemed a Class B nonconforming use or structure. If a Class B nonconforming use or structure is damaged or destroyed, the property owner may seek a Class A designation under Section 3.3.B.2 after such damage or destruction.

2. Procedures for Designation as a Class A Nonconforming Use or Structure

A property owner who desires that his or her property be designated a Class A nonconforming use or structure shall file an application with the Zoning Administrator requesting the designation. The application shall include the names and addresses of all people and legal entities with an interest in the property, the legal description of the property, the facts in support of the designation, and the fee established by resolution of the township board. After the Zoning Administrator receives a completed application, he or she shall forward the application to the Planning Commission for consideration. The Planning Commission shall then hold at least one (1) public hearing on the application. The notice of the public hearing shall be the same as for a variance before the Zoning Board of Appeals. The Planning Commission's decision whether to grant the Class A designation shall be made pursuant to the standards contained in Section 3.3.B.3 and shall be in writing. The Planning Commission may attach reasonable conditions to the Class A designation to assure compatibility of the nonconforming use or structure with surrounding property uses. The property owner shall receive no vested interest in the Class A designation, since that designation may be revoked by the Planning Commission under Section 3.3.B.4.

3. Standards for Class A Designation

The Planning Commission shall grant a Class A designation for a nonconforming use or structure if it finds that all of the following standards are met:

- a. The nonconforming use or structure was lawful at the time of its inception.
- b. The continuation of the nonconforming use or structure will not adversely affect surrounding properties and will not significantly depress property values in the immediate area.
- c. The nonconforming use or structure is of economic benefit to the township.

4. Revocation of Class A Designation

Upon the filing of a request by the Zoning Administrator or by the Planning Commission's own action, a Class A designation shall be revoked by the Planning Commission following the same procedures required for the initial designation upon a finding that as a result of any change of conditions or circumstances the nonconforming use or structure no longer qualifies for a Class A designation under Section 3.3.B.2.

5. Regulations Concerning Class A Nonconforming Uses and Structures

- a. The Planning Commission, after a public hearing held following the procedures of a variance hearing before the Zoning Board of Appeals, may permit a Class A nonconforming use to be restored, improved, modernized, or expanded if it finds that after such improvement, modernization, or expansion the nonconforming use will continue to qualify for a Class A designation under Section 3.3.B.2.
- b. The Planning Commission, after a public hearing held following the procedures of a variance hearing before the Zoning Board of Appeals, may permit a Class A nonconforming structure to be repaired, reconstructed, or enlarged if it finds that the repairs, reconstruction, or enlargement will not increase the nonconformity and that after such repairs, reconstruction, or enlargement the nonconforming structure will continue to qualify for a Class A designation under Section 3.3.B.2. For purposes of this subsection, in those cases where the setback of a structure is nonconforming by fifty percent (50%) or less of the distance required by this Ordinance, the structure may be enlarged up to the distance of the nonconforming setback without being considered an increase in the nonconformity, provided that the overall nonconforming setback is not further reduced. If a Class A nonconforming structure is completely destroyed or removed by the property owner, the Planning Commission shall require that the structure be rebuilt or replaced in greater conformance or even in complete conformance with the requirements of this Ordinance, unless the Planning Commission finds the cost of building a conforming structure or a structure in greater conformance exceeds one hundred fifty percent (150%) of the cost of rebuilding the destroyed or removed structure with the same nonconformity. The Planning Commission may require the property owner to provide site plans and construction cost estimates when deciding whether to require either complete or greater conformity for the new structure.
- c. A Class A nonconforming use may be replaced by another nonconforming use if the Planning Commission, after a public hearing held following the procedures of a variance hearing before the Zoning Board of Appeals, finds that all of the following standards are met:
 - i. The new nonconforming use will be similar to the existing nonconforming use.

- ii. The new nonconforming use qualifies for a Class A designation under Section 3.3.B.2.
 - iii. The new nonconforming use will not increase the extent or intensity of the nonconforming use on the property.
- d. The Planning Commission may attach reasonable conditions to any approval granted under this subsection to assure compatibility of the nonconforming use or structure with surrounding property uses.
- e. The public hearing required by Section 3.3.B.2 for designation as a Class A nonconforming use or structure may be held at the same time as any public hearing required in this section.

6. Regulations Concerning Class B Nonconforming Uses and Structures

- a. The expansion of a Class B nonconforming use or structure shall not be permitted.
- b. The Planning Commission, after a public hearing held following the procedures of a variance hearing before the Zoning Board of Appeals, may permit a Class B nonconforming structure to be repaired if the planning commission finds that such repairs are necessary to maintain the structure in a safe condition.
- c. If a Class B nonconforming structure is completely destroyed or removed by the property owner, the structure shall not be rebuilt or replaced, except in complete conformance with the requirements of this Ordinance.
- d. A Class B nonconforming use may not be replaced by another Class B nonconforming use. However, a Class B nonconforming use may be replaced with a Class A nonconforming use if the Planning Commission, after a public hearing held following the procedures of a variance hearing before the Zoning Board of Appeals, finds that the new nonconforming use will not increase the extent or intensity of the nonconforming use on the property.
- e. If a mineral extraction operation is a Class B nonconforming use, the holes or shafts existing on the parcel at the time the use became nonconforming may be worked or enlarged, but no new holes or shafts shall be established on that parcel or on any other contiguous parcels.

7. Variance Petition Permitted

Nothing in this Section shall prevent the owner of a nonconforming use or structure from submitting a variance petition as provided in Article XV, Section 15.6.

Section 3.4 Principal Uses

Except as otherwise specifically permitted, no lot may contain more than one (1) principal (main) structure or use, excepting groups of apartment buildings, offices, retail business buildings, agricultural structures, or other similar related groups of buildings.

Section 3.5 Accessory Buildings

- A. Authorized accessory buildings may be erected as part of the principal building or may be connected to the principal building by a roofed porch, patio, breezeway or similar structure or may be completely detached from the principal building.
- B. Where any accessory building is attached to the side or front of a principal building, such accessory building shall be considered part of the principal building for purposes of determining setback requirements.
- C. A detached accessory building shall be located no closer to a front, side or rear lot line than the permitted distance for the principal structure on the same lot.
- D. An accessory building may be constructed prior to the principal building, provided the use within the building would be an accessory use to any permitted use within that zoning district excluding a home business.

Section 3.6 Essential Services

The erection, construction, alteration and maintenance of essential services such as drains, sewers, pipes and conduits, but not including buildings and substations, shall be exempt from the regulations set forth in this Ordinance and shall be permitted in any district. Telecommunication towers, alternative tower structures, WECS, and antennas shall be regulated and permitted pursuant to this Ordinance and shall not be permitted as essential services, whether public utilities or private utilities.

Section 3.7 Mobile Homes

Mobile homes located in licensed mobile home parks shall comply with the requirements of Act 96 of 1987, as amended. Mobile homes located outside of licensed mobile home parks shall be considered single-family dwellings as defined in this Ordinance and shall comply with all regulations applicable to single family dwellings.

Section 3.8 Camping / Recreational Vehicles

Private non-commercial camping shall be allowed on vacant or improved land. Such camping may consist of multiple tents and/or travel trailers, motor homes or similar vehicles. Camping on any property shall not exceed a total of one hundred eighty (180) days in any calendar year. The temporary occupancy of multiple tents, travel trailers, motor homes and other similar vehicles used for camping shall have access to sanitary facilities and all waste disposals shall meet health department requirements.

Storage of recreational vehicles owned by the property owner shall be allowed in the side and rear yards of properties, but not within the required setbacks.

Section 3.9 Temporary Dwelling Occupancy during the Construction of a Dwelling

For the express purpose of promoting the health, safety and general welfare of the inhabitants of the Townships, and of reducing hazards to health, life and property, no basement-dwelling, cellar-dwelling, garage-house, tent, camper, travel trailer, recreational vehicle, mobile home not installed according to the requirements of this Ordinance, or other temporary structure shall hereafter be erected or moved upon any premises and used for dwelling purposes except under the following applicable conditions:

- A. The location shall conform to the provisions governing yard requirements of standard dwellings in the district where located.
- B. The use shall be for the sole purpose of providing dwelling facilities for the owner of the premises during the period in which a dwelling conforming to the provisions of this Ordinance is in process of erection and completion, but not to exceed twelve (12) months. One (1) additional twelve (12) month extension may be obtained from the Zoning Administrator beginning with the date of issuance of the zoning permit. The temporary dwelling shall be removed upon completion of construction of a dwelling complying with the requirements of this Ordinance.
- C. Installation of septic system and water well shall be constructed and maintained in accordance with the standards of materials and installation recommended by District Health Department, and shall precede occupancy of the temporary dwelling.
- D. Application for the erection and use of a temporary dwelling shall be made at the time of zoning permit application for the permanent dwelling. On approval and delivery of the zoning permit, the applicant shall certify in a space allotted for that purpose, and on the copy retained for filing by the township, that he has full knowledge of the limitations of the permit and the penalty pertaining thereto. No such permit shall be transferable to any other person.
- E. No annexes shall be added to temporary dwellings.

Section 3.10 Second Dwelling on Parcel

- A. This Ordinance does not permit a second dwelling on a residential parcel where the principal use is a dwelling; however under the circumstances specified herein, this Section shall allow for placement of a second dwelling on a parcel when circumstances require extended members of the family to take residence nearby but in separate living quarters due to age, illness or handicap such that they cannot care for themselves; while at the same time maintaining the character of the single family neighborhood.
- B. A second dwelling may be placed on the same parcel where a dwelling already exists if the following conditions are met:
1. The application for a zoning permit includes a site plan which meets the requirements of Article XIII, Section 13.4 B, Formal Site Plan Review.
 2. The second dwelling shall comply with all applicable construction, height, yard and setback regulations of this Ordinance. The Board of appeals shall not grant variances to construction, height, yard or setback regulations of the Ordinance to the primary or secondary dwellings when both are located on the same parcel.
 3. The minimum distance between the principal and second dwelling shall be equal to twice the side yard setback required in the respective zoning district, AND the design of the second dwelling shall be a movable structure and shall be temporary, to be removed when no longer occupied by a qualified resident. Before a permit is issued, the applicant shall provide assurance by way of a security deposit or bond to cover removal costs.
 4. The second dwelling shall be located in the side or rear yard.
 5. The dwelling is on a parcel with frontage on either a public or private road, with a driveway adequate to provide off-road parking for two (2) dwellings (at least, but not limited to three (3) parking spaces), which has access to a public or private road or alley.
 6. Occupancy of either dwelling shall be only by family member(s) or an extended family that require daily supervision or care from a family member residing in the other dwelling located on the parcel.
 7. The application shall include written recommendation from a medical doctor, community mental health professional or judge, stating that the family member requires daily supervision or care from a family member residing in either dwelling on the parcel.

- C. The permit, when issued, shall indicate it is a temporary permit and not transferable to another individual. This permit is to be renewed annually at no cost to the applicant.

Section 3.11 Greenbelt

- A. To preserve and protect natural resources, water quality, and community scenic and recreational values, a greenbelt shall be established and maintained on all waterfront property. (The purpose of the greenbelt is to maintain a vegetative strip, which is to stabilize banks and shorelines, prevent erosion, absorb nutrients in water runoff from adjacent lands, structures, and impervious surfaces, and provide shading for the water to maintain cool temperatures.) The greenbelt shall include all the land area located within twenty five (25) feet of the ordinary high water mark of any watercourse abutting or traversing the property. Within the greenbelt, the following development and use restrictions shall apply:
 - 1. No structures or impervious surfaces shall be allowed within the greenbelt. Pervious walkways may be allowed when located and designed so as not to unreasonably interfere with, degrade or decrease the effectiveness of the greenbelt.
 - 2. No dredging or filling shall be allowed except for reasonable sanding of beaches where permitted by county, state and federal law. Existing soil and organic matter shall not be altered or disturbed within the greenbelt, except as is necessary in the management of the greenbelt.
 - 3. The use, storage and application of pesticides, herbicides, fertilizers, biosolids, and any product containing phosphates and nitrates are prohibited within the greenbelt.
 - 4. Unsightly, offensive or potentially polluting or hazardous material, including but not limited to; garbage, trash, refuse, petroleum products, or toxic chemicals shall not be dumped, burned, or stored within the greenbelt and must meet any requirements of county, state and federal law.
 - 5. Shorelines composed of naturally occurring sand, gravel, cobblestone or rock shall be left in their natural state.
 - 6. Natural shrubbery, trees, or other vegetation shall be preserved as far as practicable, and where removed it shall be replaced with other vegetation that is equally or more effective in retarding and filtering runoff, preventing erosion and preserving natural beauty. Management of natural

vegetation within a greenbelt to enhance wildlife habitat, views and to maximize the effectiveness and beauty of the greenbelt may be allowed.

7. Dead, diseased, or dying trees or trees in danger of falling and causing damage or stream blockage may be removed: however, the root structure shall be left undisturbed in order to reduce the risk of erosion and disturbance of the greenbelt, unless the root structure is diseased and represents a danger to surrounding vegetation.
 8. The greenbelt shall be shown on any plot plan or site plan submitted for approval during the process of developing a waterfront parcel.
- B. Above and below ground commercial petroleum facilities, gas stations, auto repair shops, auto washes, oil change establishments, slaughterhouses, industrial uses involved in the manufacturing, compounding, processing, or treating of products, solid waste landfills, junkyards, confined animal feedlots, and subsurface discharges from a wastewater treatment plant shall meet all standards of all applicable county, state, and federal laws and shall not be located within three hundred (300) feet of a greenbelt.

Section 3.12 Home Businesses

While the Townships recognize that many residents feel the necessity to work at home, the Townships also recognizes the right of all residents to be free from actual or potential nuisance which may be caused by non-residential activities conducted in a residential zone. The intent of this section is to provide standards to ensure Home Occupations, Home Based Businesses, and Bed & Breakfast Establishments are compatible with other allowed uses in residential zones, and thus to maintain and preserve the residential character of the surrounding zone. The following regulations shall apply to all Home Businesses:

- Home Businesses shall be incidental and subordinate to the principal use of the lot or parcel for residential purposes, except for a Short-term Rental.
- The use shall not detract from the residential nature or character of the premises or surrounding zone and shall be compatible with surrounding properties and dwelling units.
- Home Businesses shall not result in the creation of conditions that would constitute a nuisance to neighboring properties, surrounding zoning districts, or the Townships as a whole; including, but not limited to noise, traffic, lighting or parking.
- There shall be no exterior evidence of the Home Business other than an unlighted nameplate not to exceed four (4) square feet in area.

A. Inspections, Revisions, Termination, and Extensions

1. Any home occupation, home based business, short-term rental, or bed and breakfast establishment may be subject to periodic review by the Zoning Administrator.
2. Revisions or additions to a Short-term Rental and Bed & Breakfast shall constitute a change of use and shall be subject to Formal Site Plan Review and revised approval by the Planning Commission. The revised Site Plan shall indicate the change.
3. Revisions or additions to a Home Based Business shall constitute a change of use and shall be subject to Formal Site Plan Review and revised approval by the Planning Commission. The revised Site Plan shall indicate the change.
4. In the event that a Home Business is not being conducted in a manner consistent with a residential use or Home Business; and/or is not in compliance with this Ordinance the Zoning Administrator shall have the authority to initiate enforcement action against the owner/operator of the Home Business in accordance with this Ordinance.

B. Home Occupations

Any activity which is clearly secondary to a residential use, carried out for economic gain, and which meets all of the following requirements:

1. Home Occupations are permitted in all zoning districts in which single-family dwellings are permitted as a matter of right.
2. Home Occupations shall be operated in their entirety within the dwelling or within an attached or detached garage or accessory building.
3. Home Occupations shall be conducted only by the person or persons occupying the premises as their principal residence.
4. Additions to a dwelling or accessory structure for the purpose of conducting a Home Occupation shall be of an architectural style that is compatible with the architecture of the dwelling or accessory building and shall be designed so that the addition can be used for residential purposes if the home occupation is discontinued.
5. Home Occupations shall be incidental and subordinate to the principal use of the lot or parcel for residential purposes and shall not detract from the residential character of the premises or neighborhood.

6. Home Occupations shall not result in the creation of conditions that would constitute a nuisance to neighboring property owners and the Townships as a whole. Any machinery, mechanical devices, or equipment employed in the conduct of a Home Occupation shall not generate noise, vibration, radiation, odor, glare, smoke, steam, electrical interference at a volume greater than 60 decibels at the property boundary, or create other conditions not typically associated with the use of the lot or parcel for residential purposes.
7. Traffic and delivery or pickup of goods shall not exceed that normally created by residential uses.
8. The outdoor storage of goods and/or materials associated with the home occupation is prohibited.
9. Adequate off-street parking shall be provided for patrons and clients.
10. No process, chemicals, or hazardous materials shall be used or stored on sites which are contrary to any applicable State or Federal laws.
11. There shall be no exterior evidence of the Home Occupation other than an unlighted nameplate not to exceed four (4) square feet in area.

C. Home Based Business

Any activity conducted on the premises and/or the premises serves as a base of operation from which to conduct the activity off-site, except a home occupation and a business conducting primarily retail sales, which is clearly secondary to a residential use, carried out for economic gain, and meets all of the following requirements:

1. Home Based Businesses may be permitted in any zoning district in which single-family dwellings are permitted, subject to Site Plan Review as specified in Article XIII of this Ordinance. Home Based Businesses shall be allowed on the basis of individual merit. A periodic review of each such business may be performed to ensure the conditions of approval are adhered to. If a premise is sold, leased, or rented to a party other than the applicant, the use shall be reviewed for compliance with the original permit by the Zoning Administrator. If any changes are necessary, the request will be reheard by the Planning Commission subject to Article XIII.
2. Home Based Businesses shall be incidental and subordinate to the use of the premises for residential purposes and shall not detract from the residential character of the premises or neighborhood. There shall be no exterior evidence of such industry other than an unlighted nameplate not exceeding

four (4) square feet in area.

3. A Home Based Business shall occupy not more than one building. The floor area of such buildings shall not exceed twenty four hundred (2400) square feet.
4. The outdoor storage of vehicles, goods, and/or materials of any kind is prohibited unless screened from view by a tight-board wood fence, landscaped buffer, landscaped berm, etc. which shall retain the residential character of the neighborhood.
5. Home Based Businesses shall not result in the creation of conditions that constitute a nuisance to neighboring property owners and surrounding zoning district. Any machinery, mechanical devices or equipment employed in the conduct of a Home Based Business shall not generate noise, vibration, radiation, odor, glare, smoke, steam, electrical interference or other condition not typically associated with the use of the premises for residential purposes.
6. Traffic and delivery or pickup of goods shall not exceed that normally created by residential uses.
7. Home Based Businesses shall be conducted only by the person or persons residing on the premises.
8. To ensure that the Home Based Business is compatible with surrounding residential use, a "not-to-exceed" number of vehicles that may be parked at any given time during business operations shall be established by the Planning Commission during the review and approval process.
9. Hours of operation shall be approved by the Planning Commission.
10. Adequate off-street parking shall be provided for patrons, clients and off-site employees.
11. No process, chemicals, or hazardous materials shall be used or stored on sites which are contrary to any applicable State or Federal laws.

D. Bed & Breakfast Establishments

1. Bed & Breakfast facilities shall be permitted in any zoning district in which single-family dwellings are permitted, subject to Planning Commission approval per Article XIII, Site Plan Review.
2. Off-street parking shall be provided for all clients.

Section 3.13 Short-Term Rentals

Short-term rentals shall be permitted in any zoning district in which single-family dwellings are permitted, subject to Planning Commission approval per Article XIII, Site Plan Review.

A. Application and Fee Requirements

An operator seeking a zoning permit under this Ordinance shall submit a complete application to the Zoning Administrator and pay the required fee, which shall be determined from time to time by resolution of the Township Boards. The application shall include proof of ownership of, or the legal right to rent, a dwelling unit or efficiency dwelling unit, and all information reasonably necessary for the Zoning Administrator to determine whether the applicable standards for approval provided in part B have been met.

B. Standards for Approval

The Zoning Administrator shall approve, or approve with conditions, an application for a short term rental only upon a finding that the application complies with all of the following applicable standards:

1. A dwelling unit, other than an efficiency dwelling unit, shall comply with all of the following requirements:
 - a. A room that constitutes habitable space as defined in the Ordinance, other than a kitchen, shall not be less than 7 feet in any plan dimension. Kitchens shall have a clear passageway of not less than 3 feet between the front of countertops and appliances and/or between the front of countertops and walls.
 - b. Except as provided herein, habitable spaces, hallways, corridors, laundry areas, bathrooms, toilet rooms and habitable basement areas shall have a clear ceiling height or not less than 7 feet. Provided, however, (1) beams or girders spaced not less than 4 feet on center and projecting not more than 6 inches below the required ceiling height may be installed, and (2) bedrooms having a sloped ceiling over all or part of the bedroom shall have a clear ceiling height of at least 7 feet over not less than one-third of the required minimum floor area.
 - c. All bedrooms within a dwelling unit shall comply with the following requirements:
 - i. Every bedroom occupied by one person shall contain at least 70 square feet of floor area, and every bedroom occupied by more

than one person shall contain at least 50 square feet of floor area for each occupant thereof. In calculating the floor area of a bedroom having a sloped ceiling over all or part of the bedroom, only that portion of the bedroom with a clear ceiling height of 5 feet or more shall be included.

- ii. Except in dwelling units having only one (1) bedroom, the bedrooms shall not constitute the only means of access to other bedrooms or habitable space and shall not serve as the only means of ingress or egress from other habitable spaces.
 - iii. Every bedroom shall have access to at least one bathroom and one toilet room on the same story as the bedroom or on an adjacent story without passing through another bedroom.
 - iv. A kitchen and space not defined as habitable space in this Ordinance shall not be used for sleeping purposes.
 - v. If habitable space other than a kitchen is to be used for sleeping purposes, then that habitable space shall have a minimum square footage equal to the minimum area required for that habitable space plus the area required for a bedroom with the number of occupants intending to sleep in the habitable space.
- d. All spaces to be occupied for food preparation purposes shall contain suitable space and equipment to store, prepare and serve foods in a sanitary manner. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage.
- e. A dwelling unit to be occupied by 3-5 tenants shall comply with both of the following additional requirements:
- i. The dwelling unit shall have a living room no less than 120 square feet and a dining room of no less than 80 square feet. A dwelling unit with combined living room and dining room spaces shall have no less than 200 square feet and shall be located within the dwelling unit so as to function as a combination living room / dining room.
 - ii. The operator shall provide no less than two (2) off-street parking spaces on the same property as the dwelling unit.
- f. A dwelling unit to be occupied by 6 or more tenants shall comply with both of the following additional requirements:

- i. The dwelling unit shall have a living room no less than 150 square feet and a dining room of no less than 100 square feet. A dwelling unit with combined living room and dining room spaces shall have no less than 250 square feet and shall be located within the dwelling unit so as to function as a combination living room / dining room.
 - ii. The operator shall provide no less than two (2) off-street parking spaces for the first 6 occupants, and one (1) additional off-street parking space for each 4 additional occupants. All off-street parking spaces shall be located on the same property as the dwelling unit.
2. An efficiency dwelling unit shall comply with all of the following requirements:
 - a. No more than two (2) tenants shall occupy the dwelling.
 - b. The dwelling shall have habitable space of no less than 220 square feet.
 - c. The dwelling shall contain a kitchen that includes a sink, cooking appliance, and refrigeration appliance each having a clear working space of not less than 30 inches in front.
 - d. The dwelling unit shall contain no less than one (1) bathroom.

3. Conditions.

The Zoning Administrator may impose reasonable conditions which are reasonably necessary to ensure compliance with the standards for approval provided in part B, above.

4. Nuisance

A violation of these provisions is hereby declared to be a public nuisance, a nuisance per se and is hereby further declared to be offensive to the public health, safety and welfare.

Section 3.14 Yard Sales

Yard sales or garage sales may be permitted, provided such sales are not conducted on the same lot for not more than seven (7) consecutive days during any ninety (90) day period. and provided further, that such sales are conducted only on a lot upon which a principal use is located. Items displayed for sale, signs, banners and all items associated with the sale are to be removed after seven (7) days.

Section 3.15 Fences, Walls and Hedges

- A. Notwithstanding other provisions in this Ordinance, fences, walls or hedges may be permitted on any property in any District, provided that no fence or wall shall exceed six (6) feet in height. Such fences, walls or hedges shall not obstruct sight distances needed for safe vehicular traffic, nor create a hazard to traffic or pedestrians. Agricultural fences used to confine or restrict animals may exceed the height limits of this section, but must comply with MDNR requirements. All such fences, walls or structural screens shall be maintained in good repair and safe condition and shall be constructed of material which will not be detrimental to the health, safety and welfare of adjacent residents.
- B. Buffering or screening shall be required for the development of commercial or light industrially zoned property located adjacent to residentially used or zoned property. The required screening may consist of a landscape buffer, fence or wall. The buffering or screening shall be shown on the required site plan. A fence or wall used to provide such screening shall be a minimum of six (6) feet in height, or evergreen plant materials used to create a landscape buffer shall be at least six to eight (6-8) feet in height at time of planting and maintained in a living condition.
- C. Where a lot borders a watercourse, fences or walls shall not be constructed within the required twenty five (25) foot greenbelt.

Section 3.16 Water Supply and Sewage Disposal Facilities

All water supply and sanitary sewage disposal systems either public or private, for any building hereafter erected, altered or moved upon any premises shall comply with the Benzie-Leelanau District Health Department sanitary code requirements. Plans must be submitted to and approved by the responsible agencies. The written approval of such facilities by District Health Department shall be filed with application for a Zoning Permit.

Section 3.17 Storm Water Retention

Storm water drainage in excess of natural conditions shall be retained on site. This provision may require storm water retention ponds where appropriate. An exception may be made for water leaving the site via an adequately sized existing storm water ditch, storm water pipe or through other storm water facilities that will be developed at the same time as the proposed new use.

Section 3.18 Hazardous Materials/Groundwater Protection

All business or industries that store, use or generate hazardous or polluting materials as defined in this Ordinance, shall meet all county, state and federal requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of said hazardous materials. No discharge to groundwater, including direct and indirect discharges, shall be allowed without required permits and approvals.

- A. Sites at which hazardous materials are stored, used or generated shall be designed to prevent spills and discharges to the air, surface of the ground, groundwater, surface water and wetlands.
- B. Secondary containment for below and above ground areas where hazardous and polluting materials are stored, used, or generated shall be provided and maintained. Secondary containment shall be sufficient to store the material for the maximum anticipated period of time necessary for the recovery of any released material.
- C. General purpose floor drains shall be allowed only if they are connected to a public sewer system, an on-site holding tank, or a system authorized through a State groundwater discharge permit.
- D. The Planning Commission may require a performance bond or similar assurance for safeguards prior to approval. The Planning Commission may require site plan review at five-year intervals.

Section 3.19 Junkyards, Salvage Yards, and Sanitary Landfills

The location of a junkyard, salvage yard or sanitary landfill shall be not less than one hundred twenty-five (125) feet from any public highway. All uses of such facilities shall be completely screened from sight by natural terrain, or by a neatly finished and maintained wooden or masonry fence, or by well maintained evergreens. Glare from any process, such as arc welding, conducted at a junkyard, salvage yard or sanitary landfill, which emits harmful rays, shall be screened so as not to constitute a hazard or nuisance to adjacent properties.

Section 3.20 Outdoor Lighting

- A. In order to preserve dark night skies, all outdoor lighting, in all districts whether for illuminating sites, parking areas, buildings, docks, signs and/or other structures shall be shielded, shaded, designed and/or directed away from all adjacent properties, districts and uses; and further shall not glare upon or interfere with persons and vehicles using private or public streets and roads. Lighting fixtures are to be of the full cut-off design with horizontally aligned flush mounted (non-protruding) lens, directing light on-site only, and no more than twenty (20) feet in height.
- B. Except for commercial outdoor displays, lighting for commercially used properties shall be limited to the hours of operation, plus one (1) hour before and one (1) hour after. Additionally, motion sensor type of security lighting shall be allowed.
- C. The Planning Commission may permit taller or require shorter fixtures only when the Commission determines that unique conditions exist and where a waiver would reduce the number or size of light fixtures; not adversely impact neighboring properties and permit fixtures in proportion to height and bulk of nearby buildings

and other fixtures. Site lighting shall not exceed twenty (20) foot candelas as measured three (3) feet above the ground surface, directly under the fixture.

- D. Billboard or Highway advertising sign luminance shall not be greater than 4,200 candelas per meter squared beginning one hour after sunrise and continuing until one hour before sunset, and not greater than 200 candelas per meter squared at all other times.

Section 3.21 Outdoor Advertising Signs and Media

The economic health and well being of the Townships, Benzie County and the region depends upon the area's natural scenic beauty and environmental quality. The region's highway corridors are subject to the highest visual exposure of any areas within the Townships and region. Therefore, it is deemed necessary within these corridors to protect the area's natural landscapes and community character from visual pollution. Such protection is deemed essential to the community health, safety and welfare.

The purpose of this section is to preserve the desirable character of the Townships, as well as to recognize the need for and privilege of advertising, so that people unfamiliar with the area, such as tourists and transients, may avail themselves of the goods and services afforded by the local business places. At the same time, the Townships recognize the right of residents to be free of advertising that could adversely affect property values and create an unpleasant or less than desirable atmosphere. The use and erection of all outdoor signs and media shall be subject to all state and local codes and statutes, in addition to the provisions of this ordinance. All such signs shall be maintained in good repair and safe condition and shall be constructed of material which will not be detrimental to the health, safety and welfare of Townships residents.

A. Signs Not Requiring a Sign Permit

The following signs may be placed in any zoning district without a sign permit, provided such signs comply with any applicable federal or state law or regulation and are located so as not to cause a nuisance or safety hazard:

1. One (1) non-illuminated identification sign per use, not exceeding four (4) square feet of sign surface.
2. Street name signs, route markers and other traffic control signs erected or approved by state, or county agencies when necessary to give proper directions or to otherwise safeguard the public.
3. Non-advertising signs erected by any organization, person, firm or corporation that is needed to warn the public of dangerous conditions and unusual hazards including but not limited to: road hazards, high voltage, fire danger, explosives, severe visibility, etc.

4. Non-advertising signs exclusively devoted to controlling property access (no trespassing, private property, keep out, no hunting, hiking trail, day use only, and similar instructional messages), provided the sign surface does not exceed the maximum size limitations of subsection B. below.
5. Non-advertising signs marking a historically significant place, building or area when sanctioned by a national, state or local historic organization recognized by the Planning Commission, provided the sign surface does not exceed the maximum size limitations of subsection B. below.
6. Signs that have been approved in conjunction with a valid site plan or zoning permit for any principal or accessory use, and signs required by federal or state agencies in connection with federal or state grant programs.
7. Temporary real estate signs, not exceeding ten (10) square feet, on individual lots advertising a premise for sale or rent.
8. Signs advertising sales such as garage, estate, auction, moving, and yard sales, which last no more than seven (7) consecutive days, provided the sign surface does not exceed the maximum size limitations of subsection B below.
9. Political and noncommercial signs, provided the sign surface does not exceed the maximum size limitations of subsection B below.
10. All real estate signs, both on-premise and off-premise, shall be removed seven (7) within days of the sale or rental of the property.

B. Signs Requiring a Permit

The size of any publicly displayed sign, symbol or notice on a premises to indicate the name of the occupant, to advertise the business transacted there, to express political or other non-commercial political views, or directing to some other locale, shall be regulated as follows:

<u>Use District</u>	<u>Maximum Size of Sign per Side</u>
FR, RR. R-1	Four (4) square feet
MR, MH	Thirty Two (32) square feet
C-1	On premise thirty two (32) square feet Off premise two hundred thirty (230) square feet

Residential subdivisions and developments shall be limited to one (1) sign per entrance of not more than sixteen (16) square feet per sign.

1. In addition to the size limitations stated in Subsection 3.21.B above, the following conditions shall apply to all signs erected in any use district:
 - a. No sign, except non-illuminated residential name plates and political and non-commercial signs shall be erected or altered until approved by the Zoning Administrator (ZA) or authorized by the Planning Commission (PC) as part of an approved site plan. Approval shall be based on compliance with setbacks, size dimensions and other dimensional regulations of the zoning ordinance. After approval, the required sign permit shall be issued by the ZA.
 - b. No signs shall be located on any street corner which would obscure the vision of drivers using said streets, or conflict with traffic control signals at the intersection of any streets. No signs shall obstruct the vision of drivers at any driveway, parking lot or other route providing ingress or egress to any premises.
 - c. Illumination of signs shall be directed, shaded or designed so as not to interfere with the vision of persons on the adjacent highway, streets or properties. The projected light shall not emanate beyond the sign nor illuminate the night sky.
 - d. Electronic sign surfaces shall comply with all of the following requirements:
 - i. The electronic sign surface shall only be within a freestanding sign or a wall sign.
 - ii. The area of the electronic sign surface shall not exceed 75% of the total sign surface.
 - iii. The message or image shall be static during its display and shall not move or be animated in any way.
 - iv. The message or image displayed shall remain static for no less than three (3) seconds before changing.
 - v. Any change of message or image shall be completed simultaneously throughout the entire electronic sign surface so that no portion of the new message or image is visible in the electronic sign surface at the same time as the old message or image.
 - vi. Any light emitting diodes (LED's), fiber optics, light bulbs, or other illumination devices used to display the message or image within the electronic sign surface shall automatically dim to a light level no

greater than 1500 NITS (candelas per square meter) at or before one-half hour following sunset.

- e. In those instances where a business use or tourist service facility is not located directly on a major route, but is dependent upon passer-by traffic for support, not more than two (2) off-premises directory signs per business shall be permitted, subject to review and approval of location by the Zoning Administrator. Not more than one (1) freestanding sign per three hundred (300) feet of road frontage or per lot may be allowed, except if the signs are directional signs as provided by the Michigan Department of Transportation and approved by the Zoning Administrator. No off-premises sign shall be permitted in FR, RR or R-1 Zoning Districts.
- f. Freestanding signs may be permitted in a front yard provided the sign is located at least ten (10) feet behind the front property line. No freestanding sign shall exceed a maximum of twenty (20) feet in height, measured from the ground to the top of the sign, regardless of the zoning district.
- g. Both sides of any freestanding or overhanging sign may be used for display.
- h. All directional signs required for the purpose of orientation, when established by the Townships, County, State, or Federal governments, shall be permitted in all districts.
- i. No sign shall project beyond or overhang the wall, roof or any architectural feature by more than five (5) feet and shall be no less than fourteen (14) feet above the right-of-way. However, prior to the erection or overhanging of a sign in a public right-of-way, the sponsor of such sign shall receive the approval of the proper governmental agency having jurisdiction over such right of-way.
- j. Roof position signs are specifically prohibited.
- k. The number of signs allowed will be decided by the Planning Commission at the time of site plan review. Factors considered will include building size, location and length of street frontage and lot size, and the cumulative total sign area for on-site signs shall not exceed that allowed in the district as per Subsection 3.21.B above.
- l. In no case shall a sign or signs exceed a total of ten (10) percent of the building face to which they are attached.
- m. Portable signs, meeting the standards of this Section, shall be allowed for

a maximum of thirty (30) days with the issuance of a sign permit.

- n. Except as provided in subsections o and p below, advertising devices such as banners, balloons, flags, pennants, pinwheels, searchlights or other devices with similar characteristics are prohibited, except when used temporarily for period not to exceed thirty (30) days to announce the opening of a new type of business or new owner.
- o. In the case of special events, which occur no more than once every six (6) months, advertising devices such as banners, balloons, flags, pennants, pinwheels, searchlights or other devices with similar characteristics, are permitted with Zoning Administrator's approval, for a period of not more than fourteen (14) days prior to the event and shall be removed within one (1) day of the completion of the event.
- p. In the case of seasonal recurring events, advertising devices such as banners, balloons, flags, pennants, pinwheels, searchlights or other devices with similar characteristics, are permitted with Zoning Administrator's approval, such advertising devices shall not be permitted more than two weeks in advance of the event and shall be removed immediately following the event.
- q. Non-business related signs shall be permitted.
- r. Political signs shall be removed within five days after the election or ballot issue.
- s. The use of any lawful outdoor business or informational sign erected prior to this ordinance and in use at the date this ordinance is enacted, which does not meet these standards, may be continued. Such signs shall be designated as "Nonconforming signs". The maintenance, reconstruction, alteration, discontinuation and change in the nonconforming nature of a nonconforming sign shall be governed by this ordinance.

C. Provisions for Billboards

Billboards may be established upon the issuance of a land use permit by the Zoning Administrator, provided they meet the following conditions:

- 1. Not more than two (2) billboards may be located for each linear mile of highway regardless of the fact that such billboards may be located on different sides of the highway. The linear mile measurement shall not be limited to the boundaries of the Townships where the highway extends beyond such boundaries. Double-faced billboard structures (i.e., structures having back-to-back billboard faces) and V- type billboard structures having only one face visible to traffic proceeding from any given direction on a

highway shall be considered as one billboard. Otherwise, including billboard structures with tandem (side by side) or stacked (one above the other) billboard faces, shall be considered as two billboards and shall be prohibited in accordance with the minimum spacing requirement set for in 2. below.

2. No billboard shall be located within three thousand (3,000) feet of another billboard abutting either side of the same highway.
3. No billboard shall be located within three hundred (300) feet of a residential zone and/or existing residence. If the billboard is illuminated, this required distance shall be four hundred (400) feet.
4. No billboard shall be located closer than the required setback requirement from a property line adjoining a public right-of-way or a setback requirement from any interior boundary line of the premises on which the billboard is located.
5. The surface display area of any side of a billboard may not exceed six hundred (600) square feet. Billboards may be double-faced but not stacked or in tandem.
6. The height of a billboard shall not exceed twenty five (25) feet above the natural grade of the ground on which the billboard sits.
7. No billboard shall be on top of, cantilevered or otherwise suspended above the roof of any building.
8. A billboard may be illuminated, provided such illumination is concentrated on the surface of the sign and is so located as to avoid glare, upward light or reflection onto any portion of an adjacent street or highway, property, landscaping, etc., the path of oncoming vehicles, or any adjacent premises. In no event shall any billboard have flashing or intermittent lights, nor shall the lights be permitted to rotate or oscillate.
9. A billboard must be constructed in such a fashion that it will withstand all wind and vibration forces which can normally be expected to occur in the vicinity. A billboard must be maintained so as to assure proper alignment of structure, continued structural soundness, and continued readability of message.
10. A billboard established within a business, commercial or industrial area, as defined in the "Highway Advertising Act of 1972" being Act 106 of PA 1972, bordering interstate highways, freeways or primary highways as defined in said Act shall, in addition to complying with the above conditions,

also comply with all applicable provisions of said Act and the regulations promulgated thereunder, as such from time to time may be amended.

11. No person, firm or corporation shall erect a billboard within the Townships without first obtaining a permit thereof from the Zoning Administrator, which permit shall be granted upon a showing of compliance with the provisions of this Ordinance, payment of a fee thereof, and the contractual agreement allowing for the installation of said billboard. Permits shall be issued for a period of one (1) year, but shall be renewable annually upon inspection of the billboard by the Zoning Administrator, confirming continued compliance with this Ordinance and payment of the billboard permit fee. The amount of the billboard permit fee required hereunder shall be established by resolution of the Township Boards and shall bear a reasonable relationship to the cost and expenses of administering this permit requirement. The Township Boards shall further have the right to amend the aforementioned resolution from time to time within the forgoing limits of reasonableness.
12. Billboards with static messages and/or so called LED signs, that change are permitted, provided the rate of change between messages is not less the twelve (12) seconds. The change sequence shall be accomplished by means of instantaneous re-pixelization and shall be configured to default to a static display in the event of mechanical or electronic failure.

Section 3.22 Topsoil Removal, Earth Removal, Quarrying, Gravel, Sand and Clay Extraction, Gravel Processing and all other Mineral Extraction and Processing Businesses

Earth Removal, Quarrying, Gravel Processing, Mining and Related Mineral Extraction Businesses may be considered in any zoning district as a Special Use, following the requirements of Article III, Section 3.22, and Article XII, Special Land Uses.

In addition to the Standards for Decisions specified in Article XII, Sections 12.4 and Article XIII, Section 13.4, part D, Criteria for Review, the following conditions and limitations are, or shall be, strictly complied with, in addition to any other requirements contained in the Zoning Ordinance or in any other ordinance controlling such operations.

A. Location

1. All such operations shall be located on a primary road, as defined by Benzie County, for ingress and egress thereto, or on a road which does not create traffic through an area developed primarily for residential purposes. Where necessary, the Planning Commission may require the applicant to construct and/or improve a road to accommodate the truck travel necessitated by the operations as a condition to such operations, and for the purpose of routing traffic around residential areas and preventing the breaking up of existing

roads which are not "all weather" roads.

2. No such excavation operation shall be permitted closer than 150 feet to interior boundary lines of the property or such larger setback as may be required by the Planning Commission to adequately protect adjoining properties. However, if the adjoining property is also used for such mining and excavation operation, then the Planning Commission may reduce or eliminate the required setback from that interior boundary line. In addition, such setback may be temporarily reduced to 50 feet if reclamation of the land is promptly affected to increase the setback to at least 150 feet in accordance with the reclamation plan approved by the commission and adequate lateral support as set forth at all times maintained.
3. No excavation operation shall be permitted within 50 feet of adjoining public and private roads except for the lowering of land adjoining said rights-of-way to the grade level of said rights-of-way, or topsoil removal. Such excavation businesses shall at no time be permitted where adequate lateral support for the maintenance of adjoining lands is not maintained.
4. The permanent processing plant and its accessory structures shall not be located closer that 250 feet from the interior property lines and adjoining public or private rights-of-ways and shall, where practicable, be located at a lower level than the surrounding terrain to lessen visual and noise impact. In addition, the foregoing shall apply to the digging or excavating apparatus and to the stockpiling or loading of materials . and to the location of transportation equipment.
5. No such excavation operation shall be located within 100 feet of the banks of any stream or waterway unless previously approved, in writing, by the Michigan Water Resources Commission, or such other state commission having jurisdiction thereof. No such mining operations shall interfere with the natural established flow of surface waters to the detriment or damage of adjoining public or private properties. Greenbelt provisions shall be complied with as provided in Article III, Section 3.11.

B. Site Barriers

Site barriers shall be provided along all boundaries of the site where quarrying gravel processing, mining and related mineral extraction is proposed, which lack natural screening conditions through existing contours or evergreen growth. Such barriers shall consist of one or more of the following:

1. Earth berms constructed to a height of six feet above the mean elevation of the centerline of the adjacent public highway or six feet

above the general level of terrain along interior property lines, as the case may be. Such berms shall have slopes that are not in excess of one foot vertical to three feet horizontal and shall be planted with grass, trees or shrubs.

2. Plantings of evergreen trees or shrubbery in rows parallel to the boundaries of the property, not less than four feet in height at the time of planting and which grow to not less than six feet in height at maturity sufficiently spaced to provide effective sight barriers when six feet in height.
3. Masonry walls or attractive solid fences made of uniform new materials constructed to a height of not less than six feet and maintained in good repair.

C. Nuisance Abatement

1. Noise and vibration shall be minimized in their effect upon adjacent properties by the utilization of modern equipment designed to accomplish such minimization and by the proper use of berms, walls, and natural planting screens. All equipment shall be maintained and operated in such a manner so as to eliminate, as far as practicable, excessive noise and vibrations which are not necessary in the operation of such equipment.
2. Air pollution in the form of dust and dirt shall be kept to a minimum and comply with current MDEQ standards.
3. Hours. The hours of operation shall be as established during the site plan review process according to Article VII to minimize any adverse impacts on adjoining properties.
4. Fencing. All dangerous excavations, pits and pond areas, banks or slopes shall be fenced with a minimum height of six (6) feet, and posted with signs around the perimeter thereof a maintained to prevent injury to children or others, and such excavations shall be eliminated as expeditiously as possible.

D. Reclamation of Mined Areas or Excavated Areas

1. Reclamation and rehabilitation of mined areas shall be accomplished as soon as practicable following the mining or excavation of an area. Rehabilitation and reclamation shall be commenced immediately upon the termination of the mining or excavation operations in any area consisting of one acre or more. Substantial completion of reclamation and rehabilitation shall be

effected within one year after termination of mining or excavation activity. Inactivity for a 12-month consecutive period shall constitute, for this purpose, termination of mining activity.

2. The following standards shall control reclamation and rehabilitation:
 - a. All excavation shall be either to a water-producing depth of not less than five feet below the average summer level of water in the excavation, or shall be graded or backfilled with non-noxious, non-inflammable and non-combustible solids to insure:
 - i. That the excavated areas shall not collect stagnant water and not permit the same to remain therein; or,
 - ii. That the surface of such area which is not permanently submerged is graded or backfilled as necessary to produce a gently rolling surface that will minimize wind and water erosion, and which will be generally compatible with the adjoining land area.
 - b. The banks of all excavations shall be sloped to the waterline in a water-producing excavation, and to the pit floor in a dry operation at a slope that shall not be steeper than one foot vertical to three feet horizontal.
 - c. Top soil of a quality equal to that occurring naturally in the area shall be replaced on excavated areas not covered by water, except where streets, beaches, or other planned improvements are to be completed within a one-year period. Where used, top soil shall be applied to a minimum depth of four inches sufficient to support vegetation.
 - d. Vegetation shall be restored by the appropriate seeding of grasses or the planting of trees and shrubs to establish a permanent vegetative cover on the land surface and to minimize erosion.
 - e. Upon cessation of mining operations by abandonment or otherwise, the operating company, within a reasonable period of time not to exceed 12 months thereafter, shall remove all plant structures, foundations, buildings, stockpiles and equipment, provided that buildings and structures which have a function under the reclamation plan and which can be lawfully used under the requirements of the zoning district in which they will be located under such plan may be retained.
 - f. A performance bond or cash shall be furnished the township clerk insuring the proper rehabilitation and reclamation of the mined and excavated areas prior to the commencement of any such mining or excavating operations. The amount of guarantee shall be not less than \$4,000 per acre proposed to be mined or excavated in the following 12 months' period and which has previously been mined or excavated

during any preceding period and not reclaimed and rehabilitated in accordance with this ordinance and the applicant's filed plan.

- g. Submission of Operational and Reclamation Plans
- h. No earth removal, quarrying, gravel processing, mining and related mineral extraction businesses shall be allowed or commenced until a plan has been submitted to the Planning Commission disclosing compliance with all of the provisions of this ordinance, or the manner in which compliance will be secured by the applicant. Such plans shall include, among other things, the following:
 - aa. A contour map of the tract of land involved in the operations, including dimensions of the same, access thereto abutting public streets, and whether or not the same are "all weather" roads, additional roads, if any, to be constructed, and the location and nature of abutting improvements on adjoining property.
 - bb. The number of acres and the location of the same proposed to be operated upon within the following 12-months' period after commencement of operations.
 - cc. The type of mining or processing proposed to be conducted and the nature of the equipment to be used.
 - cc. The location of the principal processing plant and the distance of any proposed excavation or mining from the boundaries of the site.
 - ee. Soil boring tests shall be made around the perimeter of the excavation site in the event excavation or activities are to be conducted closer than 150 feet from the boundaries of the site, said boring tests shall disclose conditions satisfactory for lateral support of adjacent premises as determined by the township engineer. The written consent of the owners of adjoining premises and of the Planning Commission shall be required if mining operations shall be closer than specified in the within ordinance to the boundaries of the site.
 - ff. A map or plan disclosing the final grades and elevations to be established following the completion of the mining operations, including the proposed uses then contemplated for the land, future lakes and roads and such other matters as may evidence the bona fide nature of the reclamation and rehabilitation plans and the fact that the land will not be devastated and rendered unusable by the proposed mining activities. Such plan shall be submitted to the County Cooperative Extension Office and to

the Soil Conservation District for recommendation to the Planning Commission.

- gg. Soil boring tests shall be submitted to provide the depth of the groundwater table of the proposed site.
- hh. An environmental impact statement, concerning the existing environmental conditions in the proposed area to be excavated, which should include statements concerning, but not limited to: land, vegetation, water, etc.
- ii. A soil erosion and drainage plan shall be submitted as provided by the Soil Erosion and Sedimentation Act, part 91 of Act 451 of 1994, as amended.

i. Hearing

After receiving a complete application for the a special use permit for an earth removal, quarrying, gravel processing, mining, and related mineral extraction business accompanied by the required plans and specifications and permit fees, the Planning Commission shall hold a public hearing as specified in Article XII, Section 12.1.

Section 3.23 Provisions for Flea Markets, Open Air Markets

Flea markets and open air markets shall comply with all of the following requirements:

- A. Access is from a State Highway or County Primary Highway. Access must be approved by MDOT and/or the Benzie County Road Commission prior to approval by the Townships.
- B. Sanitary facilities shall be approved by the County Health Department prior to approval of the use by the Townships.
- C. Storage of merchandise and/or other items shall be screened from view of adjacent property.
- D. Trash and waste paper shall not be allowed to accumulate and blow onto adjacent property and adequate facilities and/or services for the removal of trash, junk and other items shall be shown at the time of application.
- E. Signs shall be as regulated in Article III, Section 3.21.
- F. Parking shall be provided outside of a public or private road on the basis of three spaces for each stall or vendor and shall be a dust free, durable surface graded and sloped to provide drainage. No parking shall be permitted on the public road. A detailed site plan shall be provided with the application.

- G. Adequate provision shall be made for access by emergency vehicles, and loading and unloading areas.
- H. Lighting shall be non-flashing and shall be directed only downward and into the property and in compliance with Article III, Section 3.20.
- I. Minimum lot size shall be two and one half (2 ½) acres.
- J. Noise levels shall not be greater than normal street noise at the property boundary of 65 decibels.
- K. Hour of operation shall not be after 11:00 p.m. or before 7:00 a.m. unless different hours are approved with site plan approval upon a finding that due to the remote location of the property extended hours of operation will not cause any substantial adverse effects on adjoining properties or upon a finding that lesser hours of operation are necessary to minimize substantial adverse effects on adjoining properties.

Section 3.24 Natural Features and Open Space Protection

The following shall apply to all development proposals for which a site plan is required:

- A. A twenty-five (25) foot filtration buffer along streams and tributary swales shall be established to inhibit erosion and sedimentation and preserve their natural character; the standards of Article III, Section 3.11 Greenbelts, shall apply.
- B. Existing grades and topography are to be retained; mass grading or extensive filling and land balancing shall be limited to the minimum extent necessary for the proposed use of the land.
- C. Slopes over twenty percent (20%) and unique wildlife habitats shall be preserved to the maximum extent possible.
- A. The proposed development shall be planned to avoid, to the maximum extent feasible the cutting, trimming, or clearing of trees and other natural vegetation, within twenty five (25) feet of any watercourse.
- B. Dedication of lands and facilities for passive and active outdoor recreational activities shall be contiguous to or link with current and planned townships open spaces to the extent practical, providing that such lands provide for the recreational needs of the residents and/or preserve significant natural features.

Section 3.25 Private Roads

A. Purpose

The Townships have determined that as tracts and parcels of land are divided, sold, transferred, and developed, private roads are being created to provide access to the newly created properties which are not subject to regulation under the Land Division Act, as amended, or other State regulations. The townships determines it is in the best interest of public health, safety, and welfare to regulate the construction and improvement, extension, relocation, and use of private roads to assure that:

1. Private roads are designed with width, surface, and grade to assure safe passage and maneuverability of private vehicles, and police, fire, ambulance, and other safety vehicles.
2. Private roads are constructed of suitable materials to ensure minimal maintenance and safe passage.
3. Private roads will be constructed so as to protect against or minimize soil erosion to prevent damage to lakes, streams, wetlands, and natural environment of the Townships.
4. Private roads appropriately serve the properties and individuals they are intended to serve.

B. Private Roads Permitted

Private roads are permitted provided they conform to the requirements of this Section.

C. Exceptions

Exceptions are as set forth in paragraph D-1 below, all parcels of land or lots created by a land division, platted subdivision, and site condominium units must front on a public or private road which meets this Ordinance requirements and a land use and or zoning permit for a structure or building shall not be issued until a final road permit has been issued by the Zoning Administrator.

D. General Private Road Requirements

1. The provisions of this Section shall only apply to a new private road which provides access to ten (10) or more existing or proposed lots or parcels and all site condominium units.
2. After the effective date of this Ordinance, a private road shall not be

constructed, extended, or relocated, except in accordance with the minimum standards and requirements of this Ordinance. If an existing road is proposed to be extended, the new portion shall comply with the standards of this Ordinance.

3. The provisions of this Ordinance shall not apply to access roads internal to any individual lot, parcel, or tract of land which has direct frontage access and is under the control of one person, firm, corporation, association, or other entity provided that the access road does not provide access to any abutting lot, parcel, or tract of land.

E. Private Roads

All private roads constructed in the Townships shall be located within a permanent right-of-way easement duly recorded with the Benzie County Register of Deeds.

F. Easements

Such easements shall be a minimum of forty (40) feet in width, unless additional right-of-way is required for adequate construction.

G. Dead-ends and Cul-de-Sacs

At any dead-end or cul-de-sac, the easement shall widen to a minimum radius of ninety (90) feet and an overhead clearance of sixteen feet (16 ') and shall otherwise meet the access requirements of the Homestead and Inland Fire Departments.

H. Construction Standards and Road Geometrics

Except as otherwise provided in this Ordinance, the creation of a road that serves a division of land, subdivision or site condominium development consisting of one or more principal buildings, other than a subdivision as defined by the Land Division Act, as amended, shall meet or exceed the cross-sectional construction standards established by the Benzie County Road commission for all public roads, shall have minimum roadway surface of at least six (6) inches of road gravel (MDOT 22A) with a twelve (12) inch sand sub-base (MDOT Class) or equivalent material as approved by the Township Engineer, at the applicant's expense.

I. Zoning Board of Appeals

The Zoning Board of Appeals, pursuant to the Michigan Zoning Enabling Act (Act 110 of 2006, as amended) may grant a variance of the above stated construction standards, road geometrics, or design standards in this Section based on the following standards:

1. Whether anticipated traffic flows will overburden the proposed roadway design.
2. If any unusual topographic conditions will constrain the roadway design.
3. To what extent roadway design will preserve natural features on the site.
4. Whether a stub road connection would be created.
5. Whether or not the proposed roadway should be constructed with curb and gutter drainage structures.

J. Roadway Surface

All private roadway surfaces shall be developed with a minimum width of twenty four (24) feet and shall be located within the established right-of-way.

K. Dedication of Rights-of-Way or Easements

While not required to be dedicated to the public, no structure or development activity shall be established within approved rights-of-way or easements. All plans, as submitted for approval, must show the private road easement including a legal description, and must include the grades for these roads.

L. Connection to County Roads

Construction authorization from the Benzie County Road Commission is required for connection to a County road. When applicable, a permit is also required from the County under the Soil Erosion and Sedimentation portion of PA 451 of 1994, part 91, as amended.

M. Cul-de-sacs

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

1. 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 building envelope, lot or parcel within the development and that building envelope, lot or parcel fronts on the cul-de-sac.
2. Frontage measurements along the cul-de-sac shall be measured at the front setback line and at right angles to the lot depth.
3. Not more than four (4) dwelling units or structures shall have frontage

on a cul-de-sac.

N. Maximum Number of Principal Single Family dwellings or Parcels of Land Served

No more than twenty five (25) dwellings or parcels of land may be served by a single private road if only one (1) point of intersection is provided between a private road and a public road. No more than seventy five (75) dwellings or parcels of land may be served by a private road where two or more points of intersection are provided between a private road or roads and public roads. Where more than seventy five (75) dwelling units or parcels of land are served, the road shall be a paved street built to full Benzie County Road Commission standards.

O. Road Construction Application

Application for road construction shall be made at the same time as application for land division, if applicable, and at least thirty (30) days prior to the meeting date for which the applicant requests consideration. Prior to approval by the Planning Commission, the applicant shall prepare and provide ten (10) sets of a general property development site plan complying with the requirements for formal site plan review and approval pursuant to the requirements found in Article XIII of this Ordinance. The following additional information shall be submitted:

1. An application for approval of a joint road maintenance and easement agreement shall be made to the Zoning Administrator at the same time as application for land division, if a private road is required under this Section. Such application shall include a proposed road maintenance and easement agreement signed by the private road proprietor(s) to be recorded with the Township Clerks and the Benzie County Register of Deeds that contains the following provisions:
 - a. A method of initiating and financing of such road construction and maintenance in order to keep the road up to properly engineered specifications and free of snow or debris.
 - b. A workable method of apportioning the costs of maintenance and improvements to current and future users.
 - c. A notice that if repairs and maintenance are not made, the Township Board may bring the road up to the established Township Road Standards for private roads and assess the owners of the parcels on the private road for the improvements.
 - d. A notice that no public funds of the Townships are to be used to build, repair, or maintain the private road and the Townships have

no responsibility for the maintenance or upkeep of the road.

- e. The United States Postal Service and the local school district are not required to traverse this private improvement and may provide service only to the closest public access. (Maintenance of Private Roads Act, PA 139 of 1972, as amended.) All conditions and requirements concerning public roads shall be deemed the same for private roads, i.e., location on a public road, setbacks (front yard measured from the property line), etc.
 - f. Majority vote rules regarding road maintenance and improvement decisions.
 - g. The owner of each parcel will be responsible for payment of the share of costs apportioned to his or her parcel.
 - h. The owners shall have standing and the right to commence legal or equitable action against a delinquent parcel owner or parcel owners to foreclose a lien or otherwise collect the sums owed.
 - i. The agreement shall be recorded and shall run with the land and bind and benefit the parcels, and the owners thereof, in perpetuity.
 - j. The owner or owners of the land served by the road shall provide for the requirement to grade, drain, and otherwise maintain the private road in accordance with the requirements of the Ordinance.
 - k. Easements to the public for purposes of emergency and other public vehicles and whatever public utility services are necessary.
 - l. The owners of any and all property using the road shall refrain from prohibiting, restricting, limiting or in any manner interfering with normal ingress and 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 or having a need to use the road.
2. The proposed road maintenance and easement agreement shall be sent to the Township Attorney for review and approval. All associated costs shall be borne by the applicant.
 3. The Zoning Administrator shall approve the road maintenance and easement agreement if the information and agreements required by this section have been met by the applicant. Following approval, the road maintenance and easement agreement shall be recorded with the Benzie County Register of Deeds.

P. Application

Approval Process for Preliminary and Final Road Construction Permit:

1. After the Zoning Administrator has approved the road maintenance and easement agreement required by Section 3.25.O.1, an application for road construction may be made at least 30 days prior to the meeting date for which the applicant requests consideration.
2. Prior to approval by the Planning Commission, the applicant shall prepare and provide ten (10) sets of a general property site plan complying with the requirements for site plan review and approval pursuant to the requirements found in Article XIII of this Ordinance. A site plan for the private road shall be submitted to the Zoning Administrator. The Zoning Administrator may submit the private road site plan to the Benzie County Road Commission and the Township Engineer for review and comment.
3. The recommendations of the Road Commission and the Township Engineer shall be forwarded to the Planning Commission, who shall be responsible for granting approval for the private road application.
4. The planning commission shall approve a private road application if it finds that all of the applicable requirements of this section have been met. If the private road application is approved by the Planning Commission, preliminary construction permit will be issued by the Zoning Administrator. If the application is rejected, the reasons for the rejection and any requirements for approval will be given in writing to the applicant.
5. The applicant will arrange for timely inspections by the Township Engineer during construction of, and upon completion of the private road. Such costs shall be borne by the applicant.
6. The final road permit shall be issued by the Zoning Administrator after the private road has been constructed and certification has been made by the Township Engineer that the road has been built according to the site plan and the requirements of this Ordinance.

Q. Failure to Perform

Failure by the applicant to begin construction of the private road according to approved plans on file with the Townships within one (1) year from the date of approval shall void the approval and a new plan shall be required by the Townships subject to any changes made by the Benzie County Road Commission or the Townships in its standards and specifications for road construction and

development. The private road shall be completed within one and one-half (1-1/2) years.

R. Posting of Private Roads

All private roads shall be designated as such and shall be clearly posted with a clearly readable name which can be easily seen in an emergency. The sign shall be paid for, posted, and thereafter maintained by the property owner's association or developer. The developer shall check with the Benzie County Road Commission to avoid a duplicate of names and give approval of the same.

S. Private Drives

Private Drives serving three (3) to nine (9) dwellings and /or parcels are not required to comply with the established standards for a private road. All private drives shall have a road surface of not less than twenty four feet in width, and shall have signs posted at all access points from a public road, clearly stating the name and "Private Drive, not maintained by Township or County". All private drives shall be recorded with the Benzie County Register of Deeds and with the Township.

T. Private Drives / Land Divisions

In the event any divisions of land are made such that a formally designated private drive will serve an additional tenth (10th) dwelling unit or parcel, then the portion of the private drive between the new dwelling unit or parcel and the public road shall be required to comply with the Private Road provisions of this section. The costs of upgrading the private drive to a private road shall be the responsibility of the party creating the tenth (10th) parcel accessing the drive.

Section 3.26 Open Space Preservation

Statement of Intent: To allow, at the option of the landowner, the development of an open space residential development as a special use under the provisions of Act 110 of 2006, as amended.

An Open Space residential development shall be considered under Formal Site Plan Review requirements as outlined in Article XIII, Section 13.4.B in the following zoning districts:

- FR Forest Residential
- RR Rural Residential
- R-1 Single Family Residential
- MR Mixed Residential

A. Application

The application review and approval process as outlined in Article VII shall be followed.

In addition, as part of the review process, a yield plan showing the proposed development as it would be permitted under conventional development regulations in the zoning district where the property is located, as outlined in this ordinance, shall be submitted by the applicant. The Planning Commission shall use this yield plan in determining the density and number of dwelling units to be used in calculating the Open space Preservation Development Plan.

All other regulations of the zoning district, such as building height, setbacks, minimum floor area, etc., remain in full effect as outlined in the zoning ordinance regulations.

B. Access

All access to the interior roads of the proposed development and the development shall not create or use more than two (2) curb cuts to a public road, unless approved by the Benzie County Road Commission or the Michigan Department of Transportation District Manager. Access shall meet all standards set forth by the Benzie County Road Commission and the Michigan Department of Transportation.

If the interior access to serve dwelling units is to be by private road, such access shall meet all of the requirements of the private road standards and regulations of the Townships as outlined in Article III, Section 3.25 of this ordinance.

C. Dedication of Open Space

The applicant shall provide to the Townships evidence of the creation of legal documents, as filed with the Benzie County Register of Deeds, setting aside the dedicated open space created as part of the project as permanent open space in perpetuity.

Such dedication may be in the form of a conservation easement, plat dedication, restrictive covenant or other legal means that runs with the land.

All land not intended to be conveyed to individual dwelling units, building envelopes or lots shall be set aside for the use of all occupants of the development. All such lands shall be protected by restrictions or covenants running with the land and shall be approved by the Township Attorney to assure the following:

1. Title to open space is held in common ownership by the owners of all units/lots in the Open Space Development.
2. A permanent organization for maintenance and management of all such areas shall be assured by legal documents prior to the issuance of a Land Use Permit.

Section 3.27 Site Condominium and Subdivision Developments

The following regulations shall apply to all site condominium or subdivision developments within the Townships:

- A. All condominium or subdivision projects shall be subject to the standard requirements set forth for the zoning district in which the project is proposed.
- B. The maximum number of residential units allowed for a residential site condominium or subdivision project shall be calculated based on dividing the total project acreage by the minimum lot requirements as per the schedule of regulations in the appropriate land use district. In the case of fractional units, the number of allowed units shall be rounded down to the number of whole units.
- C. Minimum spacing between detached residential buildings shall not be less than one and one-half (1 ½) times the height of the higher building as measured from the lowest first floor elevation, or 20 feet minimum, whichever is greater. All exterior walls for clustered structures shall have a minimum fire rating of two (2) hours.
- D. All condominium or subdivision developments shall be subject to the requirements and standards included in Article XIII, Section 13.4.B, Formal Site Plan Review Prior to recording the Master Deed (required by the Condominium Act, as amended) or final plat approval (required by the Land Division Act, as amended), the condominium or subdivision development shall undergo site plan review and approval pursuant to this Ordinance.
- E. Site Plans for Phased Projects: prior to expansion of a condominium or Subdivision development to include additional land, each new phase of the project shall undergo site plan review and approval pursuant to Article XIII Section 13.4.B Formal Site Plan Review of this Ordinance.
- F. Planted, landscaped, or existing natural vegetative buffer areas with a minimum width of twenty-five (25) feet are required along all exterior boundaries of the property to be developed, shall be maintained in a living condition, and a description of the buffer areas shall be stated in the Master Deed, describing any uses, restrictions maintenance requirements, and/or any other relevant information, and shall provide adequate and appropriate buffering for the design of the project, existing natural features, as well as adjacent land uses as specified in Section 3.28.

Section 3.28 Landscaping

The following shall apply to all development proposals for which a formal site plan is required:

A. Site Landscaping

1. In addition to any landscape buffer and/or parking lot landscaping required by this section, ten (10) percent of the site area, excluding thoroughfare right of way, shall be landscaped in grass, groundcover, shrub and/or other natural, living landscape materials and maintained in a living condition.
2. 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, but may not exceed five (5) percent of the site area or one half of the required site landscaping area.

B. Landscape Buffer

1. A strip of land with a minimum width of twenty five (25) feet shall be located between the buildable area and the abutting road right-of-way and shall be landscaped with a minimum of one (1) tree for each thirty linear feet. The trees shall have a height of twelve (12) feet or a minimum caliper of 2 ½ inches at the time of planting. The remainder of the landscape buffer shall be landscaped in grass, groundcover, shrub and/or other natural, living landscape materials, and maintained in a living condition.
2. Access ways from public rights-of-way through the required landscape strips shall be permitted, but such access ways shall not be subtracted from the linear dimension used to determine the minimum number of trees required unless such calculation would result in a violation of the spacing requirement set forth in this section.

C. Parking Lot Landscaping

1. 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, and a minimum landscaped area within any designated parking area of fifty (50) square feet. All deciduous trees are to be a minimum of 2 1/2 inch caliper, and coniferous trees five (5) feet in height. 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 pavement.

Section 3.29 Towers

A. Telecommunication towers and alternative tower structures located on property owned, leased, or otherwise controlled by the Townships shall be permitted as a use by right provided a license or lease authorizing such telecommunication tower or alternative tower structure has been approved by the Townships.

B. Antenna co-located on telecommunication towers and alternative tower structures which have received a special land use permit under Article XII of this Ordinance shall

be permitted in any zoning district according to supplemental regulations as specified in Article XII, Section 12.07.C.

Section 3.30 Animals

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

Except for individual pets or 4-H projects, the raising or keeping of small animals, such as rabbits, poultry, goats or sheep, shall not be permitted on parcels less than one (1) acre in size.

The keeping of large livestock, such as hogs, horses or cattle is allowed on any parcel of land two and one half (2 ½) or more acres in size. Such animals shall not be housed closer than one fifty (50) feet from a neighboring residential structure and shall be properly housed, fenced, maintained and controlled so as not to be objectionable or offensive. Special care shall be taken so that accumulation and/or storage of manure will not create offensive odors to adjacent uses, and so that any run-off from such manure storage or accumulation will not degrade the quality of surface water. These requirements are subject to the Right to Farm Act, Act 93 of 1981, as amended, and the subsequent Generally Accepted Agricultural Management Practices.

Section 3.31 Outdoor Storage

Yards for the storage of supplies, material and machinery generally used by contractors and heavy equipment businesses either owned or not by the property owner, and off-season storage of boats and recreational units shall be located only in areas approved by the Planning Commission following the provisions of Article XII, Special Use Permits and Article XIII Site Plan Review. Such storage yards shall be sufficiently screened from view from off the property and may be enclosed with approved evergreen landscaping and/or a solid fence not less than six (6) feet and not more than eight (8) feet high and constructed and maintained in such suitable manner in accordance with this Ordinance.

In approving or disapproving such a fence to screen outdoor storage, the following standards shall be applied:

- A. The fence shall be constructed in accord with Section 3.15 of this Ordinance and of such materials and of such design as to reasonably prevent trespassers from entering the premises.
- B. The fence shall be constructed of materials which totally obstruct the view off the premises enclosed.
- C. The fence shall be maintained in an attractive manner and shall not in any way be used as a sign or billboard.
- D. Lighting shall be regulated in Section 3.20.

E. Signs shall be as regulated in Section 3.21.

F. Landscaping shall be as regulated in Section 3.28.

Section 3.32 Private Community Sanitary Sewer Systems

Pursuant to the requirements of Act 241 of 2005, as amended, the Townships of Homestead and Inland, Benzie County, Michigan, are not responsible or subject to penalties or sanctions for an unauthorized discharge from a private community sanitary sewer system constructed within the townships under a permit from the Michigan Department of Environmental Quality, unless the townships have accepted responsibility in writing for the same, and has also been notified by MDEQ of such responsibility.

Section 3.33 Conditional Rezoning

A. Purpose and Scope

It is recognized that there are certain instances where it would be in the best interests of the townships, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed by property owners as part of a request for a rezoning. It is the intent of this Section to provide a process consistent with the provisions of Section 405 (MCL125.3405) of the Michigan Zoning Enabling Act (Act 110 of 2006, as amended) by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.

B. Application and Offer of Conditions

1. An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed, or may be made at a later time during the rezoning process.
2. The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this Section.
3. The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested zoning district.
4. The owner's offer of conditions shall bear a reasonable and rational relationship to the property for which the rezoning is requested.
5. Any use or development proposed as part of an offer of conditions that would require a special land use permit under the terms of this Ordinance may only

be commenced if a special land use permit for such use or development is ultimately granted in accordance with the provisions of this Ordinance.

6. Any use or development proposed as part of an offer of conditions that would require a variance under the terms of this Ordinance may only be commenced if a variance for such use or development is ultimately granted by the Zoning Board of Appeals in accordance with the provisions of this Ordinance.
7. Any use or development proposed as part of an offer of conditions that would require site plan approval under the terms of this Ordinance may only be commenced if site plan approval for such use or development is ultimately granted in accordance with the provisions of this Ordinance.
8. The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are entered into voluntarily by the owner. An owner may withdraw all or part of the offer of conditions at any time prior to the final rezoning action of the Township Board provided that, if such withdrawal occurs subsequent to the Planning Commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the Planning Commission for a new public hearing with the appropriate notice and a new recommendation.

C. Planning Commission Review

The Planning Commission, after public hearing and consideration may recommend approval, approval with recommended changes or denial of the rezoning; provided however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the Owner.

D. Township Board Review

After receipt of the Planning Commission's recommendation, the Township Board shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request. Should the Township Board consider amendments to the proposed conditional rezoning advisable and if such contemplated amendments to the offer of conditions are acceptable to and thereafter offered by the owner, then the Township Board shall, in accordance with Section 405 of the Michigan Zoning Enabling Act (MCL 125.3405), refer such amendments to the Planning Commission for a report thereon within a time specified by the Township Board and proceed thereafter in accordance with said statute to deny or approve the conditional rezoning with or without amendments.

E. Approval

1. If the Township Board finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written Statement of Conditions acceptable to the owner and conforming in form to

the provisions of this Section. The Statement of Conditions shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the Township Board to accomplish the requested rezoning.

2. The Statement of Conditions shall:
 - a. Be in a form recordable with the Register of Deeds of Benzie County.
 - b. Contain a legal description of the land to which it pertains.
 - c. Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding upon successor owners of the land.
 - d. Incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owner and that are necessary to illustrate the implementation of the Statement of Conditions. If any such documents are incorporated by reference, the reference shall specify where the document may be examined.
 - e. Contain a statement acknowledging that the Statement of Conditions shall be recorded by the Township with the Benzie County Register of Deeds.
 - f. Contain the notarized signature of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the Statement of Conditions.
3. Upon the rezoning taking effect, the Zoning Map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a Statement of Conditions. The Township Clerk shall maintain a listing of all lands rezoned with a Statement of Conditions.
4. The approved Statement of Conditions shall be filed by the Township with the Register of Deeds of Benzie County.
5. Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all of the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the Statement of Conditions.

F. Compliance with Conditions

1. Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with the entire conditions set forth in the Statement of Conditions. Any failure to comply with a condition contained within the Statement of Conditions shall constitute a violation of this Zoning

Ordinance and shall be deemed a nuisance per se and subject to judicial abatement as provided by law.

2. No permit or approval shall be granted under this Ordinance for any use or development that is contrary to an applicable Statement of Conditions.

G. Time Period for Establishing Development or Use

Unless another time period is specified in the Ordinance rezoning the subject land, the approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within 18 months after the rezoning takes effect and thereafter proceed diligently to completion. This time limitation may, upon written request, be extended by the Township Board if (1) it is demonstrated to the Township Board's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion and (2) the Township Board finds that there has not been a change in circumstances that would render the current zoning with Statement of Conditions incompatible with other zones and uses in the surrounding area or otherwise be inconsistent with sound zoning policy.

H. Reversion of Zoning

If an approved development and/or use of the rezoned land do not occur within the time frame specified under Subsection G above, then the land shall revert to its former zoning classification as set forth in MCL125.3405. The reversion process shall be initiated by the Township Board requesting that the Planning Commission proceed with consideration of the rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applies to all other rezoning requests.

I. Subsequent Rezoning of Land

When land that is rezoned with a Statement of Conditions is thereafter rezoned to a different zoning classification, to the same zoning classification but with a different or no Statement of Conditions, whether as a result of a reversion of zoning pursuant to Subsection H above or otherwise, the Statement of Conditions imposed under the former zoning classification shall cease to be in effect. Upon the owner's written request, the Township Clerk shall record with the Register of Deeds of Benzie County a notice that the Statement of Conditions is no longer in effect.

J. Amendment of Conditions

1. During the time period for commencement of an approved development or use specified pursuant to Subsection G above, or during any extension thereof granted by the Township Board, the Township shall not add to or alter the conditions in the Statement of Conditions.

2. The Statement of Conditions may be amended thereafter in the same manner as was prescribed for the original rezoning and Statement of Conditions.

K. Township Right to Rezone

Nothing in the Statement of Conditions, nor in the provisions of this Section shall be deemed to prohibit the Township from rezoning all or any portion of land that is subject to a Statement of Conditions to another zoning classification. Any rezoning shall be conducted in compliance with this Ordinance and the Michigan Zoning Enabling Act (MCL 125.3101 et seq.)

L. Failure to Offer Conditions

The Township shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this Ordinance.

Section 3.34 Wind Energy Conversion Systems (WECS)

A. Household WECS

A Household WECS shall be allowed in all Land Use Districts as a permitted use and as regulated by this Section, and a Commercial WECS is allowed in all Land Use Districts as a special use as regulated by this Section and Article XII, with formal site plan approval as specified in Article XIII by the Planning Commission. In addition to the requirements regarding special uses and site plans, an application for a WECS shall contain the following requirements:

1. Documentation establishing the legal mechanism for siting the WECS, that is, by easement, license, lease or by virtue of ownership of the parcel.
2. A site plan showing the locations of all existing overhead electrical transmission wires or distribution lines whether utilized or not, and the location of each WECS with its specific dimensions.
3. A project description showing for each WECS its height above grade, diameter of the rotor and tower type.
4. Construction plans and specification for each proposed WECS and its anchoring system certified as structurally safe by a manufacturer registered with the State of Michigan.
5. A statement of the survival wind speed for each WECS.
6. In the case of an interconnected WECS, proof of written notice to the local electric utility company of the proposed interconnection and the utilities

response thereto.

B. Size and Setbacks

1. The minimum parcel size shall be two (2) acres for each WECS. This minimum size requirement shall supersede all other parcel size requirements for the land use district within which the WECS is proposed.
2. Any WECS shall be setback from a property line and from any public or private road right of way or easement a distance of no less than 1.25 times the height of the WECS.

C. Accessory Structures

All electrical lines or wires extending substantially horizontally above the ground between a WECS and an accessory building or structure or between two or more WECS shall be at least fourteen (14) feet above the ground at all points unless buried underground.

D. Construction Standards

1. A Commercial WECS shall be a free-standing structure without guy wires, cables or anchoring mechanisms extending beyond the mounting foundation of the WECS. A Household WECS may utilize guy wires and other anchoring mechanisms according to the manufacturer's set up instructions.
2. The maximum level of noise generated by any WECS shall not exceed 55 dB(A) as measured on the dB(A) scale measured at the lot line. The owner and operator shall provide certification after construction and upon request of the Townships, re-certification that such decibel is being maintained. A household WECS must provide manufacturers data.
3. All WECS must comply with all state construction and electrical codes. Interconnected WECS shall comply with the applicable utility, Michigan Public Service Commission and Federal Energy Regulatory Commission interconnection standards.
4. The WECS rotor shall be located on the tower or support such that the minimum blade clearance above the ground level at the tower location is not less than twenty (20) feet.
5. Each WECS shall comply with all uniform or national building, electrical, mechanical and fire codes.
6. Vibration due to the WECS at the parcel boundaries shall not be perceptible.
7. Towers shall be designed and constructed in such a manner that climbing

devices are only accessible with a separate ladder to a height of twelve (12) feet.

8. The entire WECS including turbines, alternators, generators and interconnect systems shall be filtered and/or shielded to prevent the emission of generated radio frequency energy which would cause any interference with radio and/or television broadcasting or reception or which would cause unreasonable interference with the operation of cell phones or other wireless devices and shall comply with Federal Communication Commission rules 47 CFR, parts 15 and 18 including all relevant parts thereof.
9. No WECS, Household or Interconnected, shall be installed in a location where its proximity with existing fixed broadcast, retransmission, or reception antenna for radio, television or wireless phone or other person communication systems would produce interference to electromagnetic transmission or reception. No WECS shall be installed long the major axis of an existing microwave, UHF or VHF communication link where its operation is likely to produce interference with the electromagnetic transmission or reception of signals.
10. No displays, advertising signs or other identification of any kind intended to be visible from the ground or other structures shall be permitted except as required for emergency purposes.
11. Each WECS shall be painted with non-reflective paint of an unobtrusive color designed to minimize off-site visibility of the WECS.
12. Lighting for each WECS shall comply with the legal minimums established by the Federal Aviation Administration (FAA), the Michigan Aeronautical Commission (MAC) or their successor agencies.
13. All new power transmission lines shall be installed underground from the base of the WECS to a point within 50 feet of the nearest overhead utility distribution circuit. Only one (1) utility connection exit shall be permitted for a Commercial WECS. Further, setbacks from any existing overhead electrical lines shall be equal to and not less than the height of the WECS unless the local utility requirements are more restrictive, then they shall apply.
14. Existing site vegetation shall be preserved to the maximum extent practical.

E. Use Standards

1. A WECS shall be removed by the owner or operator or the property owner within six (6) months of being abandoned. For the purposes of this paragraph, abandonment is defined as continuous and uninterrupted non-use for a period of six (6) months or more, without cause attributable to damage, repairs,

maintenance or upgrades.

2. A removal bond or other performance guarantee for the maintenance or removal of each WECS and all accessory structures may be recommended by the Planning Commission and approved by the Township Board.
3. The Special Use application shall be signed by both the owner and operator of the WECS, who shall also be responsible jointly for the operation and maintenance of the WECS.

Section 3.35 Clearing of Land – Permit Required

Unless associated with a bona fide forestry, agricultural practice or public works project (such as the installation of utilities or other similar activities conducted by, or on behalf of the state, federal government, county, or the townships), it shall be unlawful for any person to engage in land clearing of over one (1) acre, including the stripping and removal of topsoil or existing vegetation, from any site, parcel, or lot within Homestead and Inland Townships without first receiving appropriate zoning approval.

**ARTICLE IV
ZONING DISTRICTS AND MAP**

Section 4.1 Classification of Zoning Districts

For the purpose of this Ordinance, the following Zoning Districts shall be established:

- FR Forest Residential District
- RR Rural Residential District
- R-1 Single Family Residential District
- MR Mixed Residential District
- MH Manufactured Housing Community District
- C -1 General Commercial District

Section 4.2 Zoning Map

The areas assigned to each Zoning District and the boundaries thereof shown on the map entitled "Homestead and Inland Townships Zoning Maps, Benzie County, Michigan" are hereby established, and said map and all proper notations and other information shown thereon are hereby made a part of this Zoning Ordinance.

Section 4.3 Boundaries of Districts

Unless otherwise specified, the boundary lines of the Zoning Districts shall be interpreted as following along section lines, or customary subdivisions of sections, or centerlines of highways or streets, or the shoreline of waterways, or property lines of legal record at the office of the Benzie County Register of Deeds on the date of the enactment of the Zoning Ordinance. The official Zoning Map shall be the final authority in any dispute concerning district boundaries. The official map shall be kept up to date and any amendments to the Ordinance involving the official map shall become legal only after such changes are noted and portrayed on said map.

The official zoning map, including legally adopted amendments, shall be designated as such by the signature of the Township Clerks of Homestead and Inland Townships. Where uncertainty exists as the exact district boundaries, the following rules shall prevail:

- A. Where boundary lines are indicated as approximately following streets, alleys, or highways; the center lines of the said streets, alleys, or highways shall be considered to be exact boundary lines.
- B. Boundaries indicated as approximately following lot lines shall be considered to follow said lot lines.
- C. Where the application of the above rules leave a reasonable doubt as to the exact location of a district boundary, the provisions of the more restrictive district shall

govern the entire parcel in question, unless determined otherwise by the Zoning Board of Appeals.

Section 4.4 Zoning of Vacated Areas

Whenever any street, alley, highway, or other public right-of-way within the Townships has been abandoned by official government action, such right-of-way lands attach to and become part of the land adjoining such street, alley, highway or public right-of-way. Such right-of-way property shall automatically acquire and be subject to the provisions of the Zoning District of the abutting property. In the case of an abandoned right-of-way which also serves as the district boundary, the centerline of the right-of-way shall be the district boundary.

Section 4.5 Zoning of Filled Areas

No fill material shall be placed in any lake or stream within the Townships unless appropriate permits are obtained from the Michigan Department of Environmental Quality. Such fill area shall take on the Zoning District and accompanying provisions of the land abutting said fill area.

Section 4.6 Zoning District Changes

When district boundaries change, any lawful non-conforming use may continue subject to all other applicable provisions of this Ordinance.

**ARTICLE V
DISTRICT REGULATIONS
FOREST RESIDENTIAL DISTRICT**

Summary Sheet, page 2

Section 5.0 Forest Residential (FR)

In addition to the requirements specified in Article III, General Provisions, the following regulations shall apply to uses in the Forest Residential District:

Section 5.1 Intent

The predominant land uses in this District are intended to be primarily forestry and agricultural uses together with related processing facilities, forest –based recreation and very low density residential. It is the intent of the district to conserve and promote the continuance of forests, agriculture and open lands, while allowing low impact out-door recreational activities and limited residential development.

Section 5.2 Permitted Uses

The use of all lands and premises shall be limited to the following uses. These uses are allowed by right, without the need for site plan approval, with the appropriate land use permit, and subject to the general provisions outlined in Article III:

- A. Agriculture, forestry, tree farms, general and specialized farming.
- B. Roadside stands for the sale of farm products subject to Section 3.23.
- C. Agricultural warehouses and non-animal agricultural processing facilities.
- D. Plant nurseries and greenhouses.
- E. Single and two family dwellings.
- F. Licensed child or adult daycare facilities serving six (6) or fewer clients.
- G. Home occupations subject to Section 3.12.
- H. Accessory buildings and structures customarily incidental to the above permitted uses.
- I. Short term rentals subject to Section 3.13.
- J. Household wind energy conversion systems (WECS) subject to Section 3.34.

Section 5.3 Uses Permitted with Site Plan Approval

The following uses are allowed by right, subject to site plan approval, as specified in Article XIII, Section 13.4.A, with the appropriate land use permit, and subject to the general provisions outlined in Article III:

- A. Bed and Breakfast establishments subject to Section 3.12.

- B. Home Based Business subject to Section 3.13.
- C. Forest products processing and sales.
- D. Riding stables, dude ranches, and commercial equine boarding facilities.
- E. Outdoor storage subject to Section 3.31.
- F. Site condominium and subdivision developments subject to Section 3.27.
- G. Open space preservation developments as permitted by Act 177 of 2001 and subject to Section 3.26.
- H. Public buildings and facilities.
- I. Churches and related religious facilities.
- J. Private campgrounds.
- K. Sawmills and wood processing facilities and sales.

Section 5.4 Uses Permitted Subject to Special Use Approval

The following uses are allowed subject to special use and site plan approval, and subject to the general provisions outlined in Article III:

- A. Telecommunication Towers and Alternative Tower Structures.

Section 5.5 Lot Size, Width, Setbacks and Access

- A. Lot size – Each dwelling or other structure or facility together with all accessory buildings or facilities hereafter erected or constructed shall be located on a lot or parcel of not less than five (5) acres.
- B. Lot Width – Each lot or parcel of land shall have a minimum width of three hundred (300) feet of frontage on a public or private road.
- C. Setbacks –
 - 1. Front – Forty (40) feet.
 - 2. Sides – Twenty (20) feet.
 - 3. Rear - Twenty (20) feet.

4. Special Setback – Any structure used to house farm animals shall be located not less than fifty (50) feet from any lot line, subject to Right to Farm Act.
 5. Water Setback – No structure shall be placed or erected within fifty (50) feet of the ordinary high water mark, edge of water, shoreline, vegetative line or top of bank of any lake, stream or watercourse.
 6. Height – maximum of thirty five (35) feet except for farm related structures.
- D. Access – Each lot or parcel used for commercial purposes shall provide proper access for the delivery or shipping of merchandise and supplies without impeding vehicular or pedestrian traffic. Adequate off-street parking shall be provided at the minimum of one (1) additional parking space for each three hundred (300) square feet of total enclosed building space. Subject to the provisions of Article XIII, Site Plan Review.

**ARTICLE VI
DISTRICT REGULATIONS
RURAL RESIDENTIAL RR**

Summary sheet, page 2

Section 6.0 Rural Residential (RR)

In addition to the requirements specified in Article III, General Provisions, the following regulations shall apply to uses in the Rural Residential District:

Section 6.1 Intent

This district is designated to provide for an area of low density residential uses in a rural setting to preserve the rural, forest and open space environment of a majority of the lands in this district. Further, this district is intended to provide a transition between the lower density forest residential district, and the more intensive density of single family residential.

Section 6.2 Permitted Uses

The use of all lands and premises shall be limited to the following uses. These uses are allowed by right, without the need for site plan approval, with the appropriate land use permit, and subject to the general provisions outlined in Article III:

- A. Agriculture, forestry, tree farms, general and specialized farming.
- B. Roadside stands for the sale of farm products subject to Section 3.23.
- C. Agricultural warehouses and non-animal agricultural processing facilities.
- D. Plant nurseries and greenhouses.
- E. Single and two family dwellings.
- F. Licensed child or adult daycare facilities serving six (6) or fewer clients.
- G. Home occupations subject to Section 3.12.
- H. Accessory buildings and structures customarily incidental to the above permitted uses.
- I. Short term rentals subject to Section 3.13.
- J. Household wind energy conversion systems (WECS) subject to Section 3.34.

Section 6.3 Uses Permitted with Site Plan Approval

The following uses are allowed by right, subject to site plan approval as specified in Article XIII, Section 13.4.A, with the appropriate land use permit, and subject to the general provisions outlined in Article III:

- A. Bed and Breakfast establishments subject to Section 3.12.
- B. Home Based Business subject to Section 3.12.
- C. Forest products processing and sales.
- D. Riding Stables, Dude Ranches, and commercial equine boarding facilities.
- E. Outdoor storage subject to Section 3.31.
- F. Site Condominium and Subdivision Developments subject to Section 3.27
- G. Open Space Preservation Developments as permitted by Act 177 of 2001 and subject to Section 3.26.
- H. Public Buildings and facilities.
- I. Churches and related religious facilities.
- J. Private Campgrounds.
- K. Sawmills and wood processing facilities.

Section 6.4 Uses Permitted Subject to Special Use Approval

The following uses are allowed subject to special use and site plan approval, and subject to the general provisions outlined in Article III:

- A. Telecommunication Towers and Alternative Tower Structures.

Section 6.5 Lot Size, Width, Setbacks and Access

- A. Lot size – Each dwelling or other structure or facility together with all accessory buildings or facilities hereafter erected or constructed shall be located on a lot or parcel of not less than two and one half (2 1/2) acres.
- B. Lot Width – Each lot or parcel of land shall have a minimum width of two hundred (200) feet of frontage on a public or private road.

C. Setbacks –

1. Front – Forty (40) feet.
 2. Sides – Twenty (20) feet.
 3. Rear - Twenty (20) feet.
 4. Special Setback – Any structure used to house farm animals shall be located not less than fifty (50) feet from any lot line. Subject to Right to Farm Act.
 5. Water Setback – No structure shall be placed or erected within fifty (50) feet of the ordinary high water mark, edge of water, shoreline, vegetative line or top of bank of any lake, stream or watercourse.
 6. Height – thirty five feet (35) except for farm structures.
- D. Access – Each lot or parcel used for commercial purposes shall provide proper access for the delivery of shipping of merchandise and supplies without impeding vehicular or pedestrian traffic. Adequate off-street parking shall be provided at the minimum of one (1) additional parking space for each three hundred (300) square feet of total enclosed building space. Subject to the provisions of Article XIII, Site Plan Review.

**ARTICLE VII
DISTRICT REGULATIONS
SINGLE FAMILY RESIDENTIAL R-1**

Summary sheet, page 2

Section 7.0 Single Family Residential (R-1)

In addition to the requirements specified in article III, General Provisions, the following regulations shall apply to uses in the Rural Residential District:

Section 7.1 Intent

This district is designated to provide for an area of moderate density residential uses in a rural setting to preserve the rural, forest and open space environment of a majority of the lands in this district.

Section 7.2 Permitted Uses

The use of all lands and premises shall be limited to the following uses. These uses are allowed by right, without the need for site plan approval, with the appropriate land use permit, and subject to the general provisions outlined in Article III:

- A. Agriculture, forestry, tree farms, general and specialized farming.
- B. Roadside stands for the sale of farm products subject to Section 3.23.
- C. Agricultural warehouses and non-animal agricultural processing facilities.
- D. Plant nurseries and greenhouses.
- E. Single and two family dwellings.
- F. Licensed child or adult daycare facilities serving six (6) or fewer clients.
- G. Home occupations subject to Section 3.12.
- H. Accessory buildings and structures customarily incidental to the above permitted uses.
- I. Short term rentals subject to Section 3.13.
- J. Household wind energy conversion systems (WECS) subject to Section 3.34.

Section 7.3 Uses Permitted with Site Plan Approval

The following uses are allowed by right, subject to site plan approval as specified in Article XIII, Section 13.4.A, with the appropriate land use permit, and subject to the general provisions outlined in Article III:

- A. Bed and Breakfast establishments subject to Section 3.12.

- B. Home Based Business subject to Section 3.12.
- C. Forest products processing and sales.
- D. Riding Stables, Dude Ranches, and commercial equine boarding facilities.
- E. Outdoor storage subject to Section 3.31.
- F. Site Condominium and Subdivision Developments subject to Section 3.27
- G. Open Space Preservation Developments as permitted by Act 177 of 2001 and subject to Section 3.26.
- H. Public Buildings and facilities.
- I. Churches and related religious facilities.
- J. Private Campgrounds.
- K. Sawmills and wood processing facilities.

Section 7.4 Uses Permitted Subject to Special Use Approval

The following uses are allowed subject to special use and site plan approval, and subject to the general provisions outlined in Article III:

- A. Telecommunication Towers and Alternative Tower Structures.

Section 7.5 Lot Size, Width, Setbacks and Access

- A. Lot size – Each dwelling or other structure or facility together with all accessory buildings or facilities hereafter erected or constructed shall be located on a lot or parcel of not less than one (1) acre.
- B. Lot Width – Each lot or parcel of land shall have a minimum width of one hundred fifty (150) feet of frontage on a public or private road.
- C. Setbacks –
 - 1. Front – Forty (40) feet.
 - 2. Sides – Twenty (20) feet.
 - 3. Rear - Twenty (20) feet.
 - 4. Special Setback – Any structure used to house farm animals shall be located not less than fifty (50) feet from any lot line. Subject to Right to Farm

Act.

5. Water Setback – No structure shall be placed or erected within fifty (50) feet of the ordinary high water mark, edge of water, shoreline, vegetative line or top of bank of any lake, stream or watercourse.
 6. Height – thirty five feet (35) except for farm structures.
- D. Access – Each lot or parcel used for commercial purposes shall provide proper access for the delivery of shipping of merchandise and supplies without impeding vehicular or pedestrian traffic. Adequate off-street parking shall be provided at the minimum of one (1) additional parking space for each three hundred (300) square feet of total enclosed building space. Subject to the provisions of Article XIII, Site Plan Review.

**ARTICLE VIII
DISTRICT REGULATIONS
MIXED RESIDENTIAL MR**

Summary sheet, page 2

Section 8.0 Mixed Residential District (MR)

In addition to the requirements specified in Article III, General Provisions, the following regulations shall apply to uses in the Mixed Residential District:

Section 8.1 Intent

This district is designed to provide an area adjacent to villages for a mixture of uses and densities to enhance community growth and stability, and to implement the Master Plan goal to encourage future growth within established development areas.

Section 8.2 Uses Permitted

The use of all lands and premises shall be limited to the following uses. These uses are allowed by right, without the need for site plan approval, with the appropriate land use permit, and subject to the general provisions outlined in Article III:

- A. Agriculture, forestry, tree farms, general and specialized farming.
- B. Roadside stands for the sale of farm products subject to Section 3.23.
- C. Agricultural warehouses and non-animal agricultural processing facilities.
- D. Plant nurseries and greenhouses.
- E. Single and two family dwellings.
- F. Licensed child or adult daycare facilities serving six (6) or fewer clients.
- G. Home occupations subject to Section 3.12.
- H. Accessory buildings and structures customarily incidental to the above permitted uses.
- I. Short term rentals subject to Section 3.13.

Section 8.3 Uses Permitted with Site Plan Approval

The following uses are allowed by right, subject to site plan approval as specified in Art XIII, Section 13.4.A, with the appropriate land use permit, and subject to the general provisions outlined in Article III:

- A. Bed and Breakfast establishments subject to Section 3.12.

- B. Home Based Business subject to Section 3.12.
- C. Household wind energy conversion systems (WECS) subject to Section 3.34.
- D. Site condominium and subdivision developments subject to Section 3.27.
- E. Open space preservation developments as permitted by Act 177 of 2001 and subject to Section 3.26.
- F. Public Buildings and facilities.
- G. Multiple family dwellings.
- H. Churches and other religious facilities.
- I. Schools, public and private.
- J. Motels and resorts.
- K. Outdoor Storage subject to Section 3.31.
- L. Convalescent, nursing homes or assisted living establishments.
- M. Group day care or group foster care facilities.
- N. Kennels, veterinary clinics and animal hospitals.
- O. Professional offices and clinics.

Section 8.4 Uses Permitted Subject to Special Use Approval

The following uses are allowed subject to special use and site plan approval, and subject to the general provisions outlined in Article III:

- A. Private campgrounds.
- B. Commercial recreation enterprises, clubs and fraternal organizations.
- C. Telecommunication Towers and Alternative Tower Structures

Section 8.5 Lot Size, Width, Setbacks and Access

- A. Lot size – Each dwelling or other structure or facility together with all accessory buildings or facilities hereafter erected or constructed shall be located on a lot or parcel of not less than twenty thousand (20,000) square feet.

B. Lot Width – Each lot or parcel of land shall have a minimum width of seventy five (75) feet of frontage on a public or private road.

C. Setbacks –

1. Front – Twenty five (25) feet.
2. Sides – Ten (10) feet.
3. Rear – Ten (10) feet.
4. Water Setback – No structure shall be placed or erected within fifty (50) feet of the ordinary high water mark, edge of water, shoreline, vegetative line or top of bank of any lake, stream or watercourse.
5. Height – two (2) stories or forty (40) feet.

D. Access – Each lot or parcel used for commercial purposes shall provide proper access for the delivery of shipping of merchandise and supplies without impeding vehicular or pedestrian traffic. Adequate off-street parking shall be provided at the minimum of one (1) additional parking space for each three hundred (300) square feet of total enclosed building space. Subject to the provisions of Article XIII Site Plan Review.

**ARTICLE IX
DISTRICT REGULATIONS
MANUFACTURED HOUSING COMMUNITY MH**

Summary sheet, page 2

Section 9.0 Manufactured Housing Community District (MH)

In addition to the requirements specified in Article III, General Provisions, the following regulations shall apply to the uses in the Manufactured Housing Community District:

Section 9.1 Intent

This district is intended to provide for the location and regulation of manufactured housing communities. It is intended that manufactured housing communities be provided with the necessary community services in a setting that provides a high quality life for residents, and residential development standards consistent with all other residential districts.

Determining the appropriate location for a manufactured home park community is a unique task and may have an impact on adjacent and surrounding land uses. A manufactured housing community contains specific site conditions unlike other types of residential development. Sites with an abundance of natural features such as forested areas, wetlands, steep slopes, productive cropland, and sites without road and utility infrastructure to support a high density living environment are not found to be suitable for the development of a manufactured housing community.

In light of these parameters, and in the absence of a detailed resource inventory in the Townships, coupled with the absence of public water and sewer facilities, and incomplete road infrastructure, the Townships has elected to allow this district to “float”, thus placing the responsibility for the site analysis on the applicant for the placement of this district.

The Townships and its residents will rely on the Master Plan, the standards contained in the Zoning Ordinance, and the review standards and requirements of this Section to determine future use, and to judge and evaluate rezoning requests under this Section.

Section 9.2 Rezoning Application

Applications to amend the Zoning Ordinance to establish a manufactured home community district shall be evaluated in accordance with the following standards:

- A. There must be available public water and wastewater facilities or, if not available, private water and septage disposal facilities that meet or exceed both state and local health department standards, ordinances and regulations. All such facilities, where public or private, shall also comply with the regulations of the Michigan Manufactured Housing Commission.
- B. Absence of unique natural features such as:
 - 1. The property must not be covered by more than fifteen percent (15%) of wetlands as defined under Chapter 324 of Michigan’s Natural Resources and Environmental Protection Act, as amended.

2. The property shall not have slopes in excess of ten (10%) percent over more than twenty (20%) of its surface.
3. The property must be located on or have direct access to an all weather Class A road, county primary road or paved county secondary road.
4. Within one and one-half mile of commercial land uses, providing neighborhood and convenience shopping, and community services such as schools and churches.

Section 9.3 Uses Permitted

The use of all lands and premises shall be limited to the following uses. These uses are allowed by right, without the need for site plan approval, with the appropriate land use permit, and subject to the general provisions outlined in Article III:

- A. Manufactured Housing Communities subject to the developmental standards and requirements of the Manufactured Housing Commission Act, Act 96 of 1987, as amended, and as administered by the Michigan Manufactured Housing Commission.
- B. Household WECS subject to Section 3.34.

Section 9.4 Uses Permitted with Site Plan Approval

The following uses are allowed by right, subject to site plan approval as specified in Art XIII, Section 13.4.A, with the appropriate land use permit, and subject to the general provisions outlined in Article III:

- A. Home Based Business subject to Section 3.12.
- B. Churches and related religious facilities.
- C. Multiple Family Dwellings.

Section 9.5 Uses Permitted Subject to Special Use Approval

The following uses are allowed subject to special use and site plan approval, and subject to the general provisions outlined in Article III:

- A. Commercial Recreation Enterprises, Clubs and Fraternal Organizations.
- B. Telecommunication Towers and Alternative Tower Structures and Commercial WECS.

Section 9.6 Additional Standards

In addition to the above referenced standards and requirements, uses in this District are subject to requirements outlined in Article III, General Provisions such as:

- A. Outdoor Lighting as regulated in Section 3.20
- B. Signs as regulated in Section 3.21.
- C. Landscaping as regulated by Section 3.28.

Section 9.7 Lot Size, Width, Setbacks and Access for Uses Other Than Manufactured Housing Communities.

- A. Lot Size – The minimum site size shall be ten (10) acres for a Manufactured Housing Community.
- B. Lot Size – The minimum size shall be two and one half (2 ½) for all other uses.
- C. Lot Width – Each lot or parcel shall have a minimum width of five hundred (500) feet of frontage on a public or private road.
- D. Setbacks-
 - 1. Front – Fifty (50) feet.
 - 2. Sides – Ten (10) feet.
 - 3. Rear – Ten (10) feet.
 - 4. Water Setback – No structure shall be placed or erected within fifty (50) feet or the ordinary high water mark, edge of water, shoreline, vegetative line or top of bank of any lake, stream or watercourse.
 - 5. Height – Thirty Five (35) feet.
- E. Access – Each lot or parcel used for commercial purposes shall provide proper access for the delivery of shipping of merchandise and supplies without impeding vehicular or pedestrian traffic. Adequate off-street parking shall be provided at the minimum of one (1) additional parking space for each three hundred (300) square feet of total enclosed building space. Subject to the provisions of Article XIII, Site Plan Review. Manufactured Housing Communities must follow Manufactured Housing Commission standards.

**ARTICLE X
DISTRICT REGULATIONS
GENERAL COMMERCIAL C-1**

Summary sheet, page 2

Section 10.0 General Commercial District (C-1)

In addition to the requirements specified in Article III, General Provisions, the following regulations shall apply to uses in the General Commercial District:

Section 10.1 Intent

This district is established in the vicinity of US-31 to meet the needs of residents of the townships, and to serve a somewhat larger consumer population. The uses permitted relate to interests of passer-by traffic, and some comparison shopping needs, while primarily serving the convenience commercial needs of nearby residential areas. It is anticipated that light intensity industrial, professional office and administrative service uses may also take place within this district. The integration of planned commercial establishments served by common access, signage, parking and landscaping is encouraged.

Section 10.2 Permitted Uses

The use of all lands and premises shall be limited to the following uses. These uses are allowed by right, without the need for site plan approval, with the appropriate land use permit, and subject to the general provisions outlined in Article III:

- A. Retail Sales within an enclosed building.
- B. Banks and financial services, except drive through facilities.
- C. Business and personal services.
- D. Professional offices.
- E. Motels and Resorts.
- F. Restaurants without drive through facilities.
- G. Clinics, except veterinary clinics having outdoor runs, medical, dental and optical laboratories that provide testing services or medical or dental services.
- H. Accessory structures and uses customarily incidental to the above permitted uses.

Section 10.3 Uses Permitted with Site Plan Approval

The following uses are allowed by right, subject to site plan approval as specified in Article XIII, Section 13.4.A, with the appropriate land use permit, and subject to the general provisions outlined in Article III:

- A. Health and Athletic clubs.

- B. Theaters, auditoriums, churches, concert halls, banquet halls, clubs and fraternal organizations or similar places of assembly when conducted within a completely enclosed building.
- C. Carry-out restaurants, fast-food establishments.
- D. Drive-up facilities for commercial uses such as restaurants, banks, drug stores and similar drive-up services.
- E. Mini-storage warehouse facilities.
- F. Public and Government Buildings.
- G. Light Industrial Uses.
- H. Single Family Residential.

Section 10.4 Uses Permitted Subject to Special Use Approval

The following uses are allowed subject to special use and site plan approval, and subject to the general provisions outlined in Article III:

- A. Dry cleaners and Laundromats.
- B. Veterinary clinics having outdoor runs.
- C. Gasoline filling stations, mechanical service and repair facilities, car wash establishments, new and/or used vehicle sales lots, mobile and modular homes and agricultural machinery.
- D. Contractors yards, salesrooms, rental facilities, open air businesses such as garden furniture, hardware and building items.
- E. Mortuaries and funeral homes.
- F. Commercial Recreation Enterprises.
- G. Commercial wind energy conversion systems WECS.
- H. Sexually Oriented Business.

Section 10.5 Lot Size, Width, setbacks and Access

- A. Lot size – Each structure or facility together with all accessory buildings or facilities hereafter erected or constructed shall be located on a lot or parcel of not less than one (1) acre.
- B. Lot Width – Each lot or parcel of land shall have a minimum width of one hundred fifty (150) feet of frontage at the Right-of-way line on a public or private road.
- C. Setbacks –
 - 1. Front – Forty (40) feet.
 - 2. Sides – Twenty (20) feet.
 - 3. Rear - Twenty (20) feet.
 - 4. Water Setback – No structure shall be placed or erected within fifty (50) feet of the ordinary high water mark, edge of water, shoreline, vegetative line or top of bank of any lake, stream or watercourse.
 - 5. Height – two (2) stories or forty (40) feet.
- D. Access – Each lot or parcel used for commercial purposes shall provide proper access for the delivery or shipping of merchandise and supplies without impeding vehicular or pedestrian traffic. Adequate off-street parking shall be provided at the minimum of one (1) additional parking space for each three hundred (300) square feet of total enclosed building space. Subject to the provisions of Article XIII, Site Plan Review.

ARTICLE XII SPECIAL LAND USES

Section 12.1 General Requirements

Act 110 of 2006 as amended, permits the legislative body to provide for special land uses in a zoning district as long as the following requirements are specified in the Ordinance:

- A. A listing of the special land uses and activities eligible for approval and the body or official responsible for reviewing and granting approval.
- B. The requirements and standards for approving a request for a special land use.
- C. The procedures and supporting material required for the application, review, and approval of a special land use.

Uses requiring special approval shall be subject to the general provisions of the zoning district where located, in addition to applicable provisions of this Article, to prevent conflict with or impairment of the other uses permitted by right of the district. Each use shall be considered as an individual case.

Public notification shall be provided as specified in Section 103 of Act 110 of 2006, as amended, and as outlined in Article XIV, Section 14.13 of this ordinance.

Section 12.2 Review and Approval

The special land uses and activities eligible in a respective zoning district may be permitted only after review and approval by the Planning Commission. Such special uses shall also be subject to site plan review and approval as provided for in Article XIII of this ordinance.

A request for approval of a land use or activity shall be approved if the request is in compliance with the standards stated in this ordinance, the conditions imposed under the ordinance, other applicable ordinances, and state and federal statutes.

Section 12.3 Permit Procedure

Request for a special use permit shall be made by filing with the Zoning Administrator the following:

- A. A permit fee as specified in Article XIV, Section 14.4 of this ordinance.
- B. A copy of the completed application form for special use permit which shall contain at a minimum the following information:
 - 1. The applicant name, address and phone number in full.

2. Proof of ownership of the property, and whether there are operations on the property and any easements that limit its use, and any leasehold interest in the property.
3. The name and address of the owners(s) of record if the applicant is not the owner of record, or the firm or corporation having a legal or equitable interest in the property, and if that firm or corporation is a subsidiary of another firm or corporation, and the signatures, in legible form, of all of the owners having equitable interest in the land.
4. Legal description, property parcel number and street address of the subject parcel of land.
5. Area of the subject parcel of land stated in acres, or if less than one acre, in square feet.
6. Present zoning classification on parcel.
7. Present and proposed land use.
8. Applicant's statement, as appropriate, of the expected effect on emergency service requirements, schools, storm water systems and automobile and truck circulation patterns and local traffic volume.
9. Any additional information necessary to consider the impact of the project upon adjacent properties and the general public as may be requested by the Zoning Administrator or the Townships.

Section 12.4 Standards for Decisions

In considering special land uses as a discretionary decision under this Article, the statute requires that the ordinance shall specify the regulations and standards upon which those decisions are made. The standards shall be consistent with and promote the intent and purpose of the zoning ordinance and insure that the land use activity authorized shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land use. The standards shall also insure that the land use or activity is consistent with the public health, safety, and welfare of the townships.

Standards - Special approvals shall be based on the determination that the proposal complies with all applicable requirements of this Ordinance, including site plan review criteria set forth in Article XII, applicable site development standards for specific uses set forth in Article XII, and the following standards:

General Standards

The Planning Commission shall approve, or approve with conditions, an application for a special land use permit only upon a finding that the proposed special land use complies with all of the following general standards:

- A. The property subject to the application is located in a zoning district in which the proposed special land use is allowed.
- B. The proposed special land use will not involve uses, activities, processes materials, or equipment that will create a substantially negative impact on the natural resources of the township or the natural environment as a whole.
- C. The proposed special land use will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on other conforming properties in the area by reason of traffic, noise, smoke, fumes, glare, odors, or the accumulation of scrap material that can be seen from any public highway or seen from any adjoining land owned by another person.
- D. The proposed special land use will be designed, constructed, operated, and maintained so as not to diminish the opportunity for surrounding properties to be used and developed as zoned.
- E. The proposed special land use will not place demands on fire, police, or other public resources in excess of current capacity.
- F. The proposed special land use will be adequately served by public or private streets, water and sewer facilities, and refuse collection and disposal services.
- G. The proposed special land use complies with all specific standards required under this Ordinance applicable to it.

Section 12.5 Conditions of Approval

The Planning Commission may attach conditions when granting special use approval. These conditions may include those necessary to insure the adequacy of public services and facilities affected by a proposed 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. Any conditions imposed, however, shall meet all of the following requirements:

- A. 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 immediately adjacent to the proposed land use or activity, and the community as a whole.

- B. Be related to the valid exercise of the police power which are affected by the proposed use or activity.
- C. Be necessary to meet the intent and purpose of the zoning requirements, be related to the standards established in the ordinance for the land use activity under consideration, and be necessary to insure compliance with those standards.

The conditions imposed as part of an approval of a land use or activity shall be recorded in the record of the approval action and remain unchanged except upon mutual consent of the approving authority and the landowner. The approving body shall maintain a record of conditions which are changed.

The Zoning Administrator, or designee, shall have the right to periodically inspect any special approvals, to ensure continued compliance with the conditions of the special approvals.

Section 12.6 Minor and Major Amendments to a Special Land Use

Amendments to an approved special use permit shall be permitted only under the following circumstances:

- A. The owner of property for which a special land use has been approved shall notify the Zoning Administrator for any desired change to the approved special use permit. Minor changes may be approved by the zoning administrator upon determining that the proposed revision(s) will not alter the basic design and character of the special land use, nor any specified conditions imposed as part of the original approval. Minor changes shall include the following:
 - 1. Reduction in size of any building and/or sign.
 - 2. Movement of buildings and/or signs by no more than ten (10) feet.
 - 3. Landscaping approved in the special use permit that is replaced by similar landscaping to an equal or greater extent.
 - 4. Changes in floor plans that do not exceed five (5%) percent of the total floor area and which do not alter the character of the uses or increase the amount of required parking.
 - 5. Internal re-arrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design.
 - 6. Changes related to items 1 through 5 above, required or requested by the Townships, Benzie County, or other state or federal regulatory agencies in order to conform with other laws or regulations; provided the extent of such changes does not alter the basic design and character of the special land use, nor any specified conditions imposed as part of the original approval.

- B. All amendments to a special land use permit approved by the Zoning Administrator shall be in writing. After approval by the Zoning Administrator, the applicant shall prepare a revised site plan showing the approved amendment. The revised site plan shall contain a list of all approved amendments and a place for the Zoning Administrator to sign and date all approved amendments.
- C. An amendment to an approved special use permit that cannot be processed by the Zoning Administrator under subsection A above shall be processed in the same manner as the original special use permit application.

Section 12.7 Supplemental Site Development Standards

In addition to meeting the standards specified in Section 12.04, those permitted uses and uses allowed by special use enumerated in any zoning district, if included below, shall be subject to the following conditions and requirements:

A. Sexually Oriented Business – General Requirements

1. No sexually oriented business shall be permitted in a location in which any principal or accessory structure, including signs, is within one thousand (1,000) feet of any principal or accessory structure of another sexually oriented business.
2. No sexually oriented business shall be established on a parcel which is within one thousand (1,000) feet of any parcel residential zone.
3. No sexually oriented business shall be established on a parcel within one thousand (1,000) feet of any residence, park, school, child care organization, or place of worship, or other sexually oriented business. This distance shall be measured in a straight line from the nearest property line upon which the proposed sexually oriented business is to be located to the nearest property line of the residence, school, child care organization, place of worship, or other sexually oriented business.
4. The proposed use shall conform to all lot size and setback regulations of the zoning district in which it is located.
5. The proposed use must meet all applicable written and duly promulgated standards of the townships and other governments or governmental agencies having jurisdiction, and that to the extent required, the approval of these governments and/or governmental agencies has been obtained or is reasonably assured.
6. The outdoor storage of garbage and refuse shall be contained, screened from view and located so as not be visible from neighboring properties or

adjacent roadways.

7. Any sign or signs proposed for the sexually oriented business must comply with the provisions of this Ordinance, and shall not otherwise include photographs, silhouettes, drawings, or pictorial representations of any type, or include animated or flashing illumination.
8. Entrances to the proposed sexually oriented business must be posted on both the exterior and interior walls, in a location clearly visible to those entering and exiting the business, and using lettering no less than four (4) inches in height that: 1) "Persons under the age of 18 are not permitted to enter the premises", and 2) "No alcoholic beverages of any type are permitted within the premises unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission."
9. No product or service for sale or gift, or any picture or other representation of any product or service for sale or gift, shall be displayed so as to be visible from the nearest adjoining roadway or a neighboring property.
10. Hours of operation shall be limited to 8:00 AM to 12:00 AM.
11. All off-street parking areas shall be illuminated during all hours of operation of the sexually oriented business, and until one hour after the business closes.
12. Any booth, room or cubicle available in any sexually oriented business, excepting an adult motel, used by patrons for the viewing of any entertainment characterized by the showing of Specified Anatomical Areas or Specified Sexual Activities:
 - a. Is handicap accessible to the extent required by the Americans with Disabilities Act;
 - b. Is unobstructed by any door, lock or other entrance and exit control device;
 - c. Has at least one side totally open to a public, lighted aisle so that there is an unobstructed view at all times from the adjoining aisle of any occupant;
 - d. Is illuminated by a light bulb of wattage of no less than 25 watts;
 - e. Has no holes or openings in any side or rear walls.
13. Not have detrimental affect on property values.

B. Review Procedures for Sexually Oriented Businesses

The Planning Commission shall adhere to the following procedures when reviewing a special use application for a sexually oriented business:

1. If the Planning Commission determines that a special approval application for a sexually oriented business is not complete when it is first presented to the Planning Commission, it shall provide written notice by first class mail within three (3) business days of said determination detailing the items required to complete the application.

Upon payment of a new filing fee, the applicant may resubmit the amended application for review by the Planning Commission for completeness.

2. If the Planning Commission determines that the application is complete, it shall within sixty (60) days of said determination make and adopt specific findings with respect to whether the proposed sexually oriented business is in compliance with the standards designated in Sections 12.04 and 12.06 A and B. If the Planning Commission has not made and adopted findings of fact with respect to a proposed sexually oriented business and either approved or denied the issuance of a special approval for the same within sixty (60) days of its determination that a completed application has been filed, then the special approval shall be deemed to have been approved. Only upon approval, whether by the Planning Commission or upon automatic approval after the lapse of 60 days as provided herein may a special use permit be issued by the Zoning Administrator.
3. Prompt judicial review of adverse determination: If the Planning Commission denies a special use application for a sexually oriented business pursuant to the above paragraphs, then the applicant shall be entitled to prompt judicial review by submitting a written request to the Zoning Administrator, or designee. The townships shall within three (3) business days of the receipt of such written notice do the following:
 - a. File a petition in the Circuit Court for the County of Benzie seeking a judicial determination with respect to the validity of such denial and, in conjunction therewith, apply for a preliminary and permanent injunction restraining the applicant from operating the sexually oriented business in violation of the Zoning Ordinance;
 - b. Request that the application for issuance of a preliminary injunction be set for a show-cause hearing within five (5) business days or as soon thereafter as is possible after the filing of such petition. In the event the

applicant appears at or before the time of such show-cause hearing, waives the notice otherwise provided by Michigan Court Rules, and requests that at the time set for such hearing the Court proceed to hear the case under applicable rules of civil procedure for the issuance of such permanent injunction on its merits, the township shall be required to waive its application for preliminary injunction and shall join in such request.

In the event that the applicant does not waive notice and/or does not request any early hearing on the township's application for permanent injunction, it shall never the less be the duty of the township to seek the earliest possible hearing date under Michigan law and the Michigan Court Rules.

The filing of written notice of intent to contest the Planning Commission's denial of a special use shall not in any way affect the validity of such denial, but such denial shall be deemed invalid and the special approval application automatically approved if, within fifteen (15) business days of the filing of the township's petition, a show-cause hearing has not been scheduled.

C. Telecommunication Towers and Alternative Tower Structures

1. Purpose

The purpose of this section is to establish general guidelines for the location of wireless telecommunications, alternative tower structures and antennas. The townships recognize that it is in the public interest to permit the location of wireless telecommunication towers, alternative tower structures and antennas within the townships. The townships also recognizes the need to protect scenic beauty of the townships from unnecessary and unreasonable visual interference, and that wireless telecommunication towers, alternative tower structures and antennas may have negative aesthetic impacts upon adjoining and neighboring uses. As such, this ordinance seeks to:

- a. Protect residential areas from potential adverse impacts from towers and Antennas;
- b. Encourage the location of towers in nonresidential areas;
- c. Minimize the total number of towers throughout the community;
- d. Encourage the joint use of new and existing tower sites rather than the construction of additional towers;
- e. Encourage developers of towers and antennas to configure them in a way

that minimizes their adverse visual impact.

- f. Enhance the ability of providers of telecommunication services to provide such services to the community quickly, effectively, and efficiently.
- g. Consider the public health and safety of telecommunication towers and alternative tower structures; and
- h. Avoid potential damage to adjacent property from tower failure.

2. Application

The applicant must demonstrate that no existing tower, alternative tower, alternative tower structure or alternative technology not requiring the use of towers or alternative tower 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 alternative towers or alternative technology. Evidence submitted to demonstrate that no existing tower, or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:

- a. No existing towers or alternative structures are located within the geographic area which meets the applicant's engineering requirements.
- b. Existing towers or alternative tower structures are not of sufficient height to meet applicant's engineering requirements.
- c. Existing towers or alternative tower 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 alternative tower structures, or the antenna on the existing towers or alternative tower 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 alternative tower structure or to adapt an existing tower or alternative tower structure for sharing are unreasonable. Cost 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 alternative tower structures, such as a cable micro cell network using multiple low-powered transmitters/receivers attached to a wire line system is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.
- h. The applicant will provide available for emergency services communication antenna and equipment at no cost to the community.

3. Setbacks

The following setback requirements shall apply to all towers for which a special 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 setback a distance equal to at least one hundred point twenty five fifty (1.25) times the height of the tower from all property lines and the easements of public and private roads and private drives.
- b. Guys and accessory buildings must satisfy the minimum zoning district setback requirements.

4. Security Fencing

Towers and attendant accessory structures 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 any such requirements, as it deems appropriate.

5. Landscaping

The following requirements shall govern the landscaping surrounding towers for which a special 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 of plant materials that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least four (4) feet wide and six (6) feet high outside the perimeter of the compound.

- 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.

6. 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, 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 and antenna at the owner's expense.

7. Aesthetics

Towers and antennas shall meet the following requirements:

- a. 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.
- b. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
- c. 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.
- d. Where a feasible alternative exists, towers, alternative tower structures and supporting structures shall not utilize a power source which generates noise able to be heard by a person of normal aural acuity at adjoining property lines or public property; however this section shall not be construed as limiting the use of temporary generators or similar devices

used to create power during period of interruption of the primary power source.

8. Lighting

Towers shall not be artificially lighted unless required by the FAA or other applicable authority. If lighting is required, the lighting alternative and design chosen must cause the least disturbance to the surrounding views.

9. Compliance with Codes

Antenna and metal towers shall be grounded for protection against a direct strike by lightning and shall comply as to electrical connections and wiring and as to structural integrity with all applicable state and local building codes and the applicable standards for towers published by the Electronic Industries Association, as amended from time to time.

10. Interference with Residential Reception

Towers shall be located so that they do not interfere with television and radio reception to neighboring residential areas.

11. Signs

No signs other than signs required pursuant to federal, state, or local law or ordinance shall be allowed on an antenna or tower.

12. Spacing-Towers

Towers shall be located no closer than five (5) miles from an existing telecommunication tower or alternative tower structure, as measured in a straight line between the base of the existing tower and proposed base of the proposed tower.

13. Spacing-Residences

A tower shall not be located within two hundred (200) feet or three hundred (300) percent of the height of the tower, whichever is greater, of a single family or multiple family dwelling unit, church, school, or other structure normally used and actually used for the congregation of persons. Distance for the purpose of this section shall be measured from the base of the tower structure to the lot line of the single family or multiple family dwelling unit, church, school or other structure normally used and actually used for the congregation of persons.

14. Removal of Abandoned Antennas and Towers

Any antenna or tower that is not operated for a continuous period of six (6) months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within ninety days of receipt of notice from the township notifying the owner of such abandonment. Along with removal, the owner shall restore the site of the antenna or tower to its original condition prior to location of the antenna or tower subject to reasonable wear and tear. Failure to remove an abandoned antenna or tower within ninety (90) days shall be grounds to remove the tower and antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not be effective until all users cease using the tower. The Planning Commission may require the applicant to file a bond equal to the reasonable cost of removing the tower, antenna, alternative tower structure or other supporting structure(s) as a condition of a special approval given pursuant to this section.

D. Commercial Wind Energy Conversion Systems (WECS)

1. Intent

It is the intent of this section to allow Commercial WECS, as defined in Article III, Section 3.34, General Provisions, in all Land Use Districts as a special use. An application for a Commercial WECS shall contain the following requirements:

- a. Documentation establishing the legal mechanism for siting the WECS, that is, by easement, license, lease or by virtue of ownership of the parcel.
- b. A site plan showing the locations of all existing overhead electrical transmission wires or distribution lines whether utilized or not, and the location of each WECS with its specific dimensions.
- c. A project description showing for each WECS its height above grade, diameter of the rotor and tower type.
- d. Construction plans and specification for each proposed WECS and its anchoring system certified as structurally safe by a manufacturer registered with the State of Michigan.
- e. A statement of the survival wind speed for each WECS.
- f. In the case of an interconnected WECS, proof of written notice to the local electric utility company of the proposed interconnection and the utilities response.

2. Size and Setbacks

- a. The minimum parcel size shall be two (2) acres for each WECS. This minimum size requirement shall supersede all other parcel size requirements for the land use district within which the WECS is proposed.
- b. A WECS shall be setback a distance equal to at least one hundred point twenty five (1.25) times the height of each WECS, measured from all property lines and the easements of public and private roads and private drives.

3. Accessory Structures

- a. All electrical lines or wires extending substantially horizontally above the ground between a WECS and an accessory building or structure or between two or more WECS shall be at least eight (8) feet above the ground at all points unless buried underground.

4. Construction Standards

- a. A Commercial WECS shall be a free-standing structure without guy wires, cables or anchoring mechanisms extending beyond the mounting foundation of the WECS.
- b. The maximum level of noise generated by any WECS shall not exceed 55 dB(A) as measured on the dB(A) scale measured at the lot line. The owner³ and operator shall provide certification after construction and upon request of the townships, re-certification that such decibel is being maintained.
- c. All WECS must comply with all state construction and electrical codes. Interconnected WECS shall comply with the applicable utility, Michigan Public Service Commission and Federal Energy Regulatory Commission interconnection standards.
- d. The WECS rotor shall be located on the tower or support such that the minimum blade clearance above the ground level at the tower location is not less than twenty (20) feet.
- e. Each WECS shall comply with all uniform or national building, electrical, mechanical and fire codes.
- f. Vibration due to the WECS at the parcel boundaries shall not be perceptible.

- g. Towers shall be designed and constructed in such a manner that Climbing devices are only accessible with a separate ladder to a height of twelve (12) feet.
 - h. The entire WECS including turbines, alternators, generators and interconnect systems shall be filtered and/or shielded to prevent the emission of generated radio frequency energy which would cause any interference with radio and/or television broadcasting or reception or which would cause unreasonable interference with the operation of cell phones or other wireless devices and shall comply with Federal Communication Commission rules 47 CFR, parts 15 and 18 including all relevant parts thereof.
 - i. No WECS shall be installed in a location where its proximity with existing fixed broadcast, retransmission, or reception antenna for radio, television or wireless phone or other personal communication systems would produce interference to electromagnetic transmission or reception. No WECS shall be installed along the major axis of an existing microwave, UHF or VHF communication link where its operation is likely to produce interference with the electromagnetic transmission or reception of signals.
 - j. No displays, advertising signs or other identification of any kind intended to be visible from the ground or other structures shall be permitted except as required for emergency purposes.
 - k. Each WECS shall be painted with non-reflective paint of an unobtrusive color designed to minimize off-site visibility of the WECS.
 - l. Lighting for each WECS shall comply with the legal minimums established by the Federal Aviation Administration (FAA), the Michigan Aeronautical Commission (MAC) or their successor agencies.
 - m. All new power transmission lines shall be installed underground from The base of the WECS to a point within 50 feet of the nearest overhead utility distribution circuit. Only one (1) utility connection exit shall be permitted for a Commercial WECS. Further, setbacks from any existing overhead electrical lines shall be equal to and not less than the height of the WECS unless the local utility requirements are more restrictive, then they shall apply.
 - n. Existing site vegetation shall be preserved to the maximum extent practical.
5. Use Standards
- a. A WECS shall be removed by the owner or operator or the property

owner within six (6) months of being abandoned. For the purposes of this paragraph, abandonment is defined as continuous and uninterrupted non-use for a period of six (6) months or more, without cause attributable to damage, repairs, maintenance or upgrades.

- b. A removal bond or other performance guarantee for the maintenance or removal of each WECS and all accessory structures may be recommended by the Planning Commission and approved by the Township Boards.
- c. The Special Use application shall be signed by both the owner and operator of the WECS, who shall also be responsible jointly for the operation and maintenance of the WECS.

ARTICLE XIII SITE PLAN REVIEW

Section 13.1 Intent and Purpose

Act 110 of 2006, as amended, the Michigan Zoning Enabling Act, authorizes local government to require the submission and approval of a site plan before authorization of a land use or activity regulated by the Zoning Ordinance.

It is the intent and purpose of this section to provide for consultation and cooperation between the land owner, developer and/or applicant for a site plan review for certain uses as outlined elsewhere in this ordinance and the Planning Commission. As used in this ordinance, "site plan" includes the documents and drawings required by this ordinance to insure that a proposed land use or activity is in compliance with this ordinance and other local, state and federal requirements or statutes.

Section 13.2 Minor and Major Site Plan

A. Minor Site Plan

A minor site plan is required for all uses listed in the zoning districts for which a site plan approval is required. The site plan requirements listed below under section 13.4.A, Optional Sketch Plan Review are the minimum requirements for a minor site plan review. The applicant is encouraged to provide any additional information that will assist the Planning Commission in evaluating the proposed use.

B. Major Site Plan

A formal site plan as specified in Section 13.4.B below is required for a use for which a special use permit is required.

Section 13.3 Review and Approval

Special land uses and activities eligible in a respective zoning district may be permitted only after a site plan review and approval of the Planning Commission. A site plan shall be approved if it contains the information required by this Ordinance and is in compliance with the conditions imposed under this Ordinance, other applicable ordinances, and state and federal statutes.

Section 13.4 Procedures

Each application for a site plan review shall include the following:

A. Optional Sketch Plan Review

Preliminary sketches of proposed site and development plans may be submitted for review to the Planning Commission prior to submitting a formal application. The purpose of such procedure is to allow discussion between a developer and the Planning Commission to better inform the developer of the acceptability of the proposed plans prior to incurring extensive engineering and other costs which might be necessary for final site plan approval. Such sketch plans shall include, as a minimum, the following:

1. The name and address of the applicant or developer, including names and addresses of any officers of a corporation or partners of a partnership, together with telephone numbers.
2. Legal description, property parcel number and street address of the subject parcel of land.
3. Sketch plans showing tentative site and development plans. The Planning Commission shall receive the sketch plan one week prior to the Planning Commission meeting for their information and study. The Planning Commission shall not be bound by any comments given at this time.

B. Formal Site Application Procedure

Request for formal site plan review shall be made by filing with the Township Clerks the following:

1. All applications for site plan review shall be accompanied by a filing fee specified by Article XIV, Section 14.4.
2. Thirteen (13) copies of the completed application form for site plan review, which shall contain at a minimum the following information:
 - a. Name and address of applicant.
 - b. Legal description, property parcel number and street address of the subject parcel of land.
 - c. Area of the subject parcel of land stated in acres or, if less than one (1) acre, in square feet.
 - d. Present zoning classification on parcel.

- e. Present and proposed land use.
 - f. Applicant's statement of the expected effect on emergency service requirements, schools, storm water systems and automobile and truck circulation patterns and local traffic volumes.
3. Thirteen (13) copies of the proposed site plan, which shall include at a minimum the following information:
- a. A scale drawing of the site and proposed development thereon, including the date, name and address of the preparer. Three (3) copies of the drawing at 24 inches by 36 inches in size, and the balance of the drawings at 11x17 size for Planning Commission members use.
 - b. Property parcel number (from the Assessment Role of the Township).
 - c. The topography of the site in two (2) foot contours and its relationship to adjoining land.
 - d. Itemization and depiction of existing man-made features.
 - e. Dimensions of setbacks shall be shown.
 - f. Locations, heights and sizes of structures and other important features.
 - g. Percentage of land covered by buildings and that reserved for open space.
 - h. Dwelling unit density where pertinent.
 - i. Location of public and private rights-of-way and easements contiguous to and within the proposed development which are planned to be continued, created, relocated or abandoned, including percent (%) grades and types of construction of those upon the site.
 - j. Curb-cuts, driving lanes, parking and loading areas.
 - k. Location and type of drainage, sanitary sewers, storm sewers and other facilities.
 - l. Location and nature of fences, landscaping, screening.

- m. Proposed earth changes.
- n. Signs and on-site illumination.
- o. Any additional material information necessary to consider the impact of the project upon adjacent properties and the general public, as may be requested by the Zoning Administrator or the Planning Commission.

C. Action on Application and Plans

1. Upon receipt of the plans and application in complete form, each Township Clerk shall record the date of the next scheduled meeting of the Planning Commission as the file date, and transmit eleven (11) copies thereof to the Chairman of the Planning Commission; one (1) copy to the Zoning Administrator and one (1) copy to be retained by each Township Clerk.
2. The Planning Commission shall review the application plans, and the recommendations of the Zoning Administrator with regard thereto.
3. The Planning Commission shall have the authority to approve, disapprove, or conditionally approve the proposed plans in accordance with the purpose of the site plan review provisions of this Ordinance and criteria herein contained.
4. Any modifications or alterations required by the Planning Commission shall be stated in writing, together with the reasons therefore, and delivered to the applicant. The Planning Commission may either approve the plans contingent upon the required alterations or modification, if any, or may require a further review after the same have been included in the proposed plans for the applicant. The decision of the Planning Commission shall be made by within one hundred (100) days of the receipt of the application by the Township Clerk.
5. Two (2) copies of the approved final site plan, with any required modifications thereon, shall be maintained as part of the townships records for future review and enforcement. One (1) copy shall be returned to the applicant. Each copy shall be signed and dated with the date of approval by the Chairman of the Joint Planning Commission for identification of the finally approved plans. If any variance from this Ordinance has been obtained from the Zoning Board of Appeals, the minutes concerning the variances, duly signed, shall also be filed with the townships records as a part of the site plan and delivered to the applicant for their information and direction.

D. Criteria for Review

In reviewing the application and site plan and approving, disapproving or modifying the same, the Planning Commission shall be governed by the requirements of Act 110 which provides for approval of a discretionary decision if all approval standards are met, and in accordance with the following standards:

1. That there is a proper relationship between the existing streets and highways within the vicinity and proposed deceleration lanes, service drives, entrance and exit driveways and parking areas to assure the safety and convenience of pedestrian and vehicular traffic, and that the proposed streets and access plan conforms to any street or access plan adopted by the Townships or the County Road Commission.
2. That the buildings, structures and entryways thereto proposed to be located upon the premises are so situated and designed as to minimize adverse effects therefrom upon owner and occupants of adjacent properties and the neighborhood.
3. That as many natural features of the landscape shall be retained as possible, particularly, 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.
4. That any adverse effects of the proposed development and activities proceeding here from upon adjoining residents or owners shall be minimized by appropriate screening, fencing or landscaping.
5. That all provisions of this Ordinance are complied with unless an appropriate variance therefrom has been granted by the Zoning Board of Appeals.
6. That all buildings and structures are accessible to emergency vehicles.
7. That the plan as approved is consistent:
 - a. To encourage the use of lands in accordance with their character and adaptability.
 - b. To avoid the overcrowding of population.
 - c. To lessen congestion on the public roads and streets to reduce hazards to life and property.
 - d. To facilitate adequate provisions for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation and other public requirements.

- e. To conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources and properties.
 - f. To preserve property values and natural resources.
 - g. To give reasonable consideration to the character of a particular area, its peculiar suitability for particular uses and the general and appropriate trend and character of land, building and population development.
8. That a plan for erosion controls and storm water discharge has been approved by appropriate public officials.

E. 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 to such approved plan, the approval thereof shall be forthwith revoked by the Zoning Administrator by written notice of such revocation posted upon the premises involved and mailed to the developer at his last known address. Upon revocation of such approval, all further construction activities shall immediately cease upon the site, other than for the purpose of correcting the violation. However, the Planning Commission may, upon proper application of the developer and after a hearing, approve a modification in the site plan to coincide with the developer's construction, provided such construction complies with the criteria contained in the site plan approval provisions and with the spirit, purpose and intent of this Ordinance.

F. Term of Approval Site Plan

Approval of the site plan shall be valid for a period of one (1) year after the date of approval. If a building permit has not been obtained and on-site development actually commenced within said one (1) year, the site plan approval shall become null and void and a new application for site plan approval shall be required and new approval shall be required and obtained before any construction or earth change is commenced upon the site. A six (6) month extension may be requested, and may be approved by the Planning Commission based on a finding of fact that the extension will result in completion of the project.

G. Amendment to Site Plan

- 1. Minor Amendment: The owner of property for which a site plan has been approved shall notify the Zoning Administrator for any desired change to the approved site plan. Minor changes may be approved by the Zoning Administrator upon determining that the proposed revision(s) will not alter

the basic design and character of the site plan, nor any specified conditions imposed as part of the original approval. Minor changes shall include the following:

- a. Reduction in size of any building and/or sign.
 - b. Movement of buildings and/or signs by no more than ten (10) feet.
 - c. Landscaping approved in the site plan that is replaced by similar landscaping to an equal or greater extent.
 - d. Changes in floor plans that do not exceed five (5%) percent of the total floor area and which do not alter the character of the uses or increase the amount of required parking.
 - e. Internal re-arrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design.
 - f. Changes related to items a) through d) above, required or requested by the Townships, Benzie County, or other state or federal regulatory agencies in order to conform with other laws or regulations; provided the extent of such changes does not alter the basic design and character of the site plan, nor any specified conditions imposed as part of the original approval.
 - g. All amendments to a site plan approved by the Zoning Administrator shall be in writing. After approval by the Zoning Administrator, the applicant shall prepare a revised site plan showing the approved amendment. The revised site plan shall contain a list of all approved amendments and a place for the Zoning Administrator to sign and date all approved amendments.
2. Major Amendment: A proposed amendment, modification or alteration to a previously approved site plan shall be submitted to the Planning Commission for review in the same manner as the original application was submitted and reviewed.

**ARTICLE XIV
ADMINISTRATION AND ENFORCEMENT**

Section 14.1 Administration

It shall be the duty of the Zoning Administrator, who shall be appointed by and on such terms determined by the Township Boards, to administer this Ordinance and to enforce the provisions contained herein. The Board of Zoning Appeals shall interpret this Ordinance, hear appeals from acts or interpretations of the Zoning Administrator, make decision on matters coming within its jurisdiction and instruct the Zoning Administrator as to the steps necessary to enforce its decision.

Section 14.2 Zoning Administrator

It shall be the duty of the Zoning Administrator to receive applications for land use permits and issue or deny same; to inspect buildings or structures; to determine compliance with the land use permits issued in compliance with this Ordinance; and to be in charge of the enforcement of this Ordinance. The Township Boards may, in its discretion, instruct the Zoning Administrator to make efforts to obtain voluntary compliance with this Ordinance. He/she shall perform such other duties as the Township Boards may prescribe.

The Zoning Administrator, or designee, shall enforce this Ordinance, and shall have the authority to:

- A. Approve all zoning permits and certificates of compliance.
- B. Conduct inspection of all buildings and structures and the use of all lands subject to the provisions of this ordinance to determine compliance.
- C. Maintain permanent and correct records of this ordinance including, but not limited to zoning permits, exceptions, variances and appeals.
- D. Provide and maintain a public information office relative to all matters arising out of the administration of the ordinance.
- E. Investigate all applications for uses subject to special approval and variances addressed to the Planning Commission and Board of Appeals, and report these findings to the Commission and Boards.
- F. Initiate appropriate action for proceedings to prevent, restrain, correct or abate any illegal act in violation of this Ordinance.

Section 14.3 Land Use Permits

No person shall erect or place any building, having more than two hundred (200) square feet of floor area, nor shall any person make an addition of more than two hundred (200) square feet of enclosed floor space to any existing building, or change or establish a new use for any land within any zoning district without first obtaining a land use permit therefore. Application shall be made to the Zoning Administrator for such permit, on forms to be supplied by him, together with an application fee. The Zoning Administrator shall have the power to require proof of ability to comply with all of the requirements of this Ordinance pertaining to said use and may require a site plan review as specified in Article XIII, and further he may also require proof of ability to meet all public health standards and applicable State and County laws, regulations and ordinances.

Permit Requirements

The application shall be signed by the owner of the premises or his agent and shall certify that all provisions of this Ordinance and other applicable laws and requirements are to be complied with. Any application requiring approval from the Planning Commission must be submitted not less than thirty (30) days prior to a scheduled meeting for consideration at that Planning Commission meeting. The application shall be accompanied by:

- A. A site plan, if required, or a sketch to scale in duplicate showing the location and dimensions of the premises including the boundary lines of all parcels of land under separate ownership contained therein:
 - 1. The size, dimensions, location on the premises, and height of all buildings, structures or other impervious surfaces in existence, to be erected and/or altered;
 - 2. The width and alignment of all abutting streets, highways, alleys, easements and public open spaces;
 - 3. The front yard dimensions of the nearest building on both sides of the proposed building or structure;
 - 4. The location and dimensions of sewage disposal facilities both on adjoining land or lots and those to be erected on the lot under consideration;
 - 5. And the location of all wells on adjoining lands or lots and those to be erected on the lot under consideration.
- B. The property owner shall physically stake on the ground the location of where buildings will be located. The Zoning Administrator shall inspect the site prior to construction to be sure that the actual locations of the proposed buildings on the ground are the same as the locations of the buildings as drawn on the site map.

C. Copies of permits or waivers of permits by other agencies as may be required by statute and/or by the Zoning Administrator or this Ordinance.

D. Such other information as may be required to determine compliance with the Ordinance.

A Zoning Permit shall not be issued until all other necessary permits required by statute have been obtained or waived with exception of those permits issued by the Benzie County Building Department.

Any Zoning Permit granted under this Ordinance that has been issued shall become null and void after twelve (12) months from date of issuance unless substantial construction has begun. No permit shall be transferable to another parcel.

The Zoning Administrator, or designee, may in conjunction with the issuance of a municipal civil infraction, issue a stop work order on work in progress when that work violates any provision of the Zoning Ordinance. The stop work order shall remain in effect only until adjudication of the municipal civil infraction citation by the court or until modified or revoked by a court of competent jurisdiction.

For each Zoning Permit, a fee shall be paid to the Zoning Administrator, or designee, who shall turn over the funds to the Treasurer. No Zoning Permit shall be valid until the required fees have been paid. No separate fee shall be required for accessory buildings or structures when application thereof is made at the same time as the principal building or structure. Applications and petitions filed pursuant to the provisions of this Ordinance shall be accompanied by the filing fees as specified by the Township Boards.

Section 14.4 Fees

A. The Township Boards may from time to time adopt by resolution a fee schedule establishing basic zoning fees related to the following:

1. Zoning permits.
2. Special use permits.
3. Requests for classification of property.
4. Appeals to or requests for interpretations by the Zoning Board of Appeals.
5. Requests for variances from the Zoning Board of Appeals.
6. Requests for a special meeting of the Planning Commission.
7. Change of Use Permits.
8. Requests for change to Class A non-conforming use.
9. Amend zoning ordinance text.
10. Amend zoning districts map.
11. Site Plan Review – Minor
12. Site Plan Review – Major.

- B. In addition to the basic application fee, applicants for zoning permits and/or approval shall pay the costs of review of applications for variances, special use permits, site plans, rezoning, subdivisions, site condominiums, and similar requests. Such charges shall be in addition to the basic application fee, in an amount equal to the township's actual expenses incurred for reviewing the application, including but not limited to the cost of:
1. Joint Planning Commission subcommittee meetings.
 2. Special meetings.
 3. Reports and review by Township Attorney and preparation of appropriate approving resolutions or ordinances.
 4. Reports and review by Township Planner.
 5. Reports and review by Township Engineer.
 6. Additional notices of public hearing.
 7. Traffic studies.
 8. Environmental impact studies.
 9. Similar services and expenses.

The amount of these zoning fees shall cover the costs associated with the review of the application or appeal, including but not limited to the costs associated with conducting public hearings, publishing notices in the newspaper, sending required notices to property owners, postage, photocopying, mileage, time spent by zoning staff, and time spent by the members of the Planning Commission and/or Zoning Board of Appeals. The basic zoning fees shall be paid before any application required under this Ordinance is processed. The basic zoning fees are non-refundable, even when an application or appeal is withdrawn by the applicant.

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

amount held in escrow becomes less than ten percent (10%) of the initial escrow deposit or less than ten percent (10%) of the latest additional escrow deposit and review of the application or decision on the appeal is not completed, then the Planning Commission or Zoning Board of Appeals 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 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 final action on the application or the final decision on the appeal. Any actual costs incurred by the townships 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.

Section 14.5 Posting of Financial Guarantee

The townships are empowered to require a performance bond, irrevocable letter of credit or certified check in an amount equal to the estimated cost of road, lighting, utility, sidewalk, landscaping and drainage improvements associated with the project. Such performance guarantee shall be deposited with the Township Treasurer at the time of the issuance of the permit authorizing the activity or project to insure faithful completion of the improvements indicated with the approved site plan; if not, said performance guarantee shall be forfeited. The townships shall rebate a proportional share of cash deposits only when requested by the depositor, based on the percent of improvement completed, as attested to by the depositor and verified by the Zoning Administrator, or designee. In cases where provisions of this Ordinance have not been met, the amount of the aforementioned performance guarantee shall be used by the townships to complete the required improvements; and the balance, if any, shall be returned to the applicant.

Section 14.6 Moving Structures

No permit is required for moving a structure if it remains on the same lot and no change is made in the structure and if it complies with setback and yard requirements. The only requirement is that the Zoning Administrator be notified prior to moving the structure.

Section 14.7 On-Site Inspection

Before issuing a land use permit for the erection of any building on land classified "high water table" (high seasonal stages of ground water level six (6) feet or less from the surface) as shown by the current Soil Survey of Benzie County, Michigan, as published by the United States Department of Agriculture, an on-site inspection shall be made by the Zoning

Administrator, or an inspection report submitted by a representative of the Soil Conservation District and the County Health Department supporting said use and any conditions or alterations recommended by the report shall be included in the Land Use Permit. The applicant shall bear the cost of such inspection and report.

Section 14.8 Lots of Record

The Zoning Administrator may issue land use permits to lots of record where healthful, safe and sanitary water source and waste disposal systems are available. The setback requirements shall conform to those provided in this Ordinance. However, in the case of previously platted lots, where setback requirements cannot be met, the most suitable building site shall be chosen so as not to endanger the aesthetic character of the surrounding area.

Section 14.9 Permit Effective Date

A land use permit shall be effective for twelve (12) months from the date of issuance. Extension of that time may be obtained by applying to the Zoning Administrator. Such extension of permit effectiveness is required only if the land use change planned under the original permit had not been yet completed.

Section 14.10 Violations and Penalties

A. Nuisance per se

Any land, dwellings, buildings or structures, including tents and trailer coaches, used, erected, altered, razed or converted in violation of this Ordinance or in violation of any regulations, conditions, permits or other rights granted, adopted or issued pursuant to this Ordinance are hereby declared to be a nuisance per se.

B. Inspection

The Zoning Administrator, or designee, shall have the duty to investigate each alleged violation and shall have the right to inspect any property for which a zoning permit has been issued to ensure compliance with the plans and conditions of the zoning permit or approved site plan.

C. Penalties

1. Any person, partnership, corporation, or association who creates or maintains a nuisance per se or who violates or fails to comply with this Ordinance or any permit issued pursuant to this Ordinance shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.9939 of Michigan compiled Laws, and shall be subject to a fine of not more than five hundred dollars (\$500). Every day that such violation continues shall constitute a separate and distinct offense under the provisions of this Ordinance. Nothing in this section shall exempt the offender from

compliance with the provisions of this Ordinance.

2. The Zoning Administrator, or designee, is hereby designated as the authorized townships official to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court.
3. In addition to enforcing this Ordinance, as a municipal civil infraction, the townships may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this Ordinance.

Section 14.11 Conflicting Regulations

When a conflict exists between this ordinance and a state or federal regulation, deed restriction, or private covenant, the more stringent regulation shall control.

Section 14.12 Amendments to this Ordinance

- A. The Township Boards are authorized and empowered to cause this Ordinance to be amended, supplemented, or changed, pursuant to the authority and according to the procedures set forth in Act 110 of the Public Act of 2006, as amended.
- B. The regulations and provisions stated in the text of this Ordinance and the boundaries of zoning districts shown on the Zoning Map may be amended, supplemented or changed by action of the Township Boards following a recommendation from the Planning Commission.
- C. Proposals for amendments, supplements or changes may be initiated by the Township Boards on their own motion, by the Planning Commission or by petition of one (1) or more owners of property to be affected by the proposed amendment.
- D. The procedure to be followed for initiating and processing an amendment shall be as follows:
 1. Each petition by one (1) or more persons for an amendment shall be submitted by application to the Zoning Administrator, or designee, on a standard form provided and shall be accompanied by the fee as prescribed by Section 14.5 of this Ordinance.
 2. The Zoning Administrator, or designee, shall notify, in writing, the Township Clerks and Chair of the Planning Commission at or before the time he/she transmits the amendment request to the Planning Commission.
 3. The Planning Commission shall consider each proposal for amendment on particular factors related to the individual proposal and in

terms of the likely effect on the community's physical development. The Planning Commission may recommend any additions or modifications to the original proposal.

4. Before ruling on any proposal the Planning Commission shall conduct a public hearing as required pursuant to Act 110 of 2006, as amended and as outlined in Section 14.13.
5. Following the public hearing the Planning Commission shall submit the proposed amendment including any zoning map changes to the County Planning Commission. If the recommendation of the County Planning Commission has not been received within thirty (30) days after the receipt of the Ordinance by the County, it shall be conclusively presumed that the County has waived its right for review.
6. The Planning Commission shall submit a final report/recommendation and proposed text to the Township Boards along with a summary of the comments received at the public hearing.
7. The Township Boards may hold additional public hearings, if they decide it is necessary and following the requirements of Section 14.13. The Township Boards may adopt or reject any proposed amendment, or refer it back to the Planning Commission for further review as prescribed by Act 110 of 2006, as amended.
8. Once adopted by the Township Boards, amendments to this Ordinance shall be filed with the Township Clerks, and one (1) notice of adoption shall be published in a newspaper of general circulation in the townships within fifteen (15) days after adoption.
9. No application for a rezoning which has been denied by the townships 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 Planning Commission to be valid. A rezoning request may be submitted if the Township Attorney certifies that a mistake has been made in the prior procedures.

Section 14.13 Public Notification

All applications for development approval requiring a public hearing shall comply with the Michigan Zoning Enabling Act, PA 110 of 2006 and the other provisions of this Section with regard to public notification.

A. Responsibility

When the provisions of this Ordinance or the Michigan Zoning Enabling Act require that notice be published, the Zoning Administrator shall be responsible for preparing the content of the notice, having it published in a newspaper of general circulation in the townships and mailed or delivered as provided in this Section.

B. Content

All mail, personal and newspaper notices for public hearings shall:

1. Describe the nature of the request: Identify whether the request is for a rezoning, text amendment, special land use, variance, appeal, ordinance interpretation or other purpose.
2. Location. Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the subject property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used such as a tax parcel identification number, identifying the nearest cross street, or including a map showing the location of the property. No street addresses must be listed when eleven (11) or more adjacent properties are proposed for rezoning, or when the request is for an ordinance interpretation not involving a specific property.
3. When and where the request will be considered: Indicate the date, time and place of the public hearing(s).
4. Written comments. Include a statement describing when and where written comments will be received concerning the request. Include a statement that the public may appear at the public hearing in person or by counsel.
5. Handicap access. Information concerning how handicap access will be accommodated if the meeting facility is not handicap accessible.

C. Personal and Mailed Notice

1. General

When the provisions of this Ordinance or state law require that personal or mailed notice be provided, notice shall be provided to:

- a. The owners of property for which approval is being considered, and the applicant, if different than the owners(s) of the property.
- b. Except for rezoning requests involving eleven (11) or more adjacent properties or an ordinance interpretation request that does not involve a specific property; to all persons to whom real

property is assessed within three hundred (300) feet of the boundary of the property subject to the request, regardless of whether the property or occupant is located within the boundaries of the townships. If the name of the occupant is not known, the term “occupant” may be used in making notification. Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one (1) occupant of each unit or spatial area shall receive the notice. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.

- c. For requests for interpretation or appeals of administrative decisions, to the person requesting an interpretation of the zoning ordinance or to a person appealing an administrative decision.
- d. In the case of a zoning ordinance amendment, or rezoning, each electric, gas, and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the clerk of the legislative body for the purpose of receiving the notice of public hearing.

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, as well as of anyone to whom personal notice was delivered.

D. Timing of Notice

Unless otherwise provide in the Michigan Zoning Enabling Act, PA 110 of 2006, or this Ordinance where applicable, notice of a public hearing shall be provided as follows:

- 1. For a public hearing on an application for a rezoning, text amendment, special land use, planned unit development, variance, appeal, or ordinance interpretation; not less than fifteen (15) days before the date the application will be considered for approval.
- 2. For any other public hearing required by this Ordinance: not less than

fifteen (15) days before the date the application will be considered for approval.

3. A notice will not be published unless/until the information required is complete and the appropriate fee is paid.


Section 14.14 Ordinance as Controlling

Except as otherwise provided under this Act, and ordinance adopted under this act shall be controlling in the case of any inconsistencies between the ordinance and an ordinance adopted under any other law.....MCL 125.310.

NOTICE OF ZONING ORDINANCE ADOPTION

PLEASE TAKE NOTICE that the attached Ordinance amending the Homestead Inland Townships Joint Zoning Ordinance was enacted by the Township Board of the Township of Homestead. The Zoning Ordinance Amendment will be effective eight days following publication of this notice and the ordinance in a newspaper of general circulation within the Township. A complete copy of the Zoning Ordinance Amendment may be purchased or inspected at the office of the Township Clerk during regular business hours or by appointment with the Township Clerk.

Adopted January 4 - 2016 Township of Homestead


Mary Geetings, Township Clerk
P.O. Box 135
Honor, MI 49640

ZONING ORDINANCE AMENDMENT ATTACHED

Amendment #8-01

Amend Article II – Definitions to add:

Mass Gathering: An organized outdoor event of three hundred (300) people or more, held at a single location on either public or private land within the townships of Homestead or Inland; provided however, a mass gathering shall not include an outdoor event of any size that is sponsored by a public school recognized as such by the State of Michigan, or sponsored by township or county government.

Sponsor: Means any person who organizes, promotes, conducts or causes to be organized, promoted or conducted a mass gathering.

Amend Article III General Provisions, to add:

Section 3.36 Mass Gatherings:

The Townships recognize that from time to time organized outdoor events of a short duration of not more than thirty (30) days will need to be accommodated within the townships.

attached for
copy was made

A. A person shall not be a sponsor, conduct or maintain, promote or permit a mass gathering in the townships without first obtaining approval of a special land use for each such mass gathering as specified in Article XII, Special Land Uses and Article XIII, Site Plan Review.

B. In addition to the standards contained in the above referenced Sections, the following supplemental information and impact statements shall also be furnished as appropriate to the character of the proposed mass gathering:

- 1) The date(s) and estimated hours of the proposed mass gathering, not to exceed 11:00 p.m.
- 2) A description of the kind, character and type of mass gathering.
- 3) The address or location of the site at which the proposed mass gathering will be held, including a written statement from the property owner consenting to the use of his or her property for the proposed mass gathering.
- 4) A written statement that indicates how the sponsor(s) have anticipated the size of the mass gathering, and how the sponsor(s) plan to provide for the following:
 - a. Police and fire protection.
 - b. Medical facilities and services, including emergency vehicles and equipment.
 - c. Food and water supply facilities.
 - d. Health and sanitation facilities.
 - e. Vehicle access and parking facilities.
 - f. Cleanup and waste disposal.
 - g. Noise control.
 - h. Insurance and bonding arrangements.

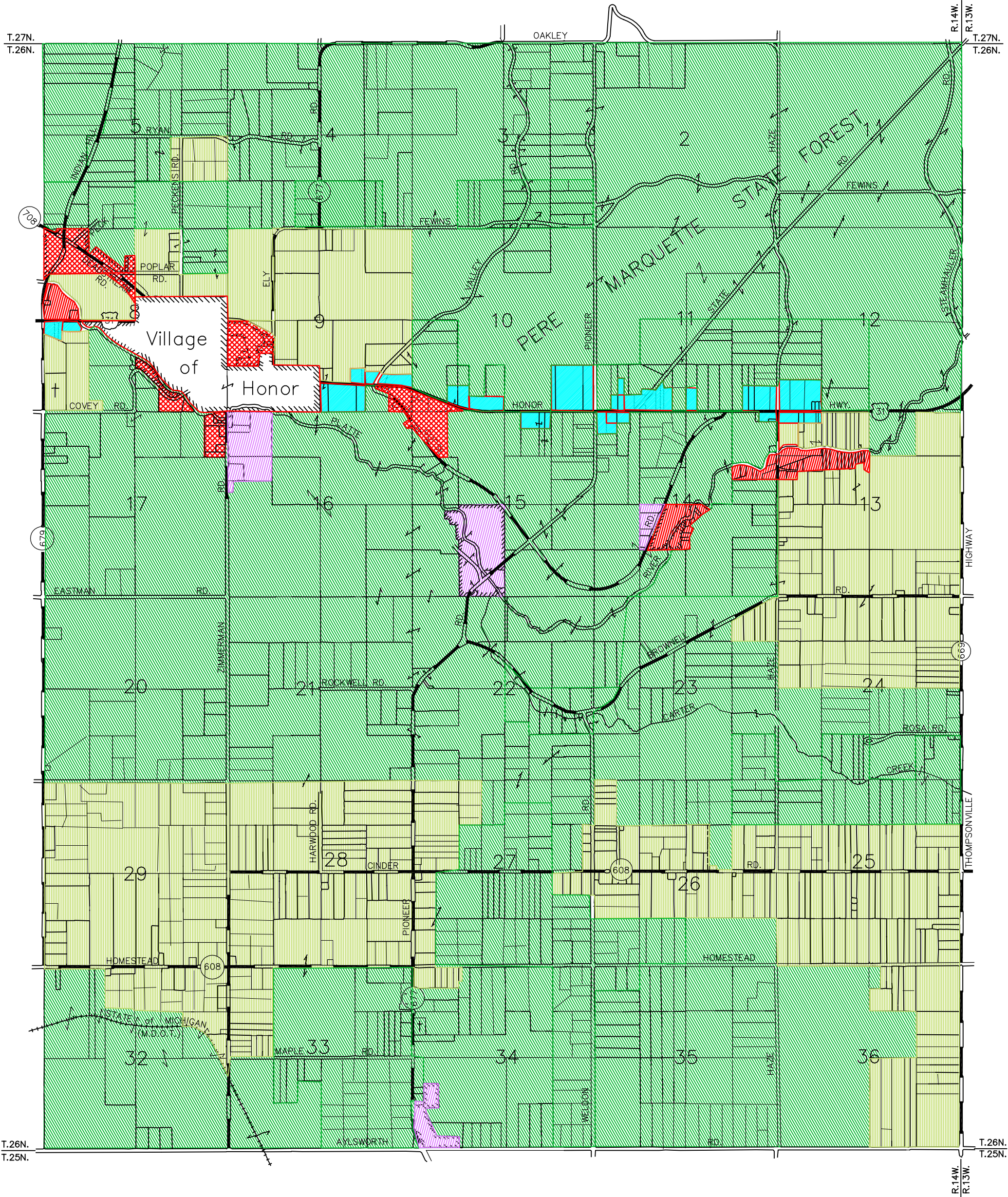
Application Fee:


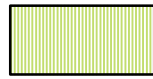

Each application shall be accompanied by a non-refundable fee in an amount established from time to time by the Township Boards.



Action on Application:

Upon receiving a complete application and the appropriate fee, the Joint Planning Commission will process the application as a Special Land Use.

HOMESTEAD TOWNSHIP



-  F/R FOREST RESIDENTIAL
-  R/R RURAL RESIDENTIAL
-  R-1 SINGLE FAMILY RESIDENTIAL

-  MR MIXED RESIDENTIAL
-  C-1 GENERAL COMMERCIAL