

Boyne Valley Township

Zoning Ordinance



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Boyne Valley Township Zoning Ordinance
Table of Contents

| | | | |
|----------------|------------------------------|--|------------|
| Article | | | |
| | Preamble | | 1-1 |
| 1 | Purpose and Authority | | 1-1 |
| | Section 1.01 | Title | 1-1 |
| | Section 1.02 | Purpose | 1-1 |
| | Section 1.03 | Authority | 1-2 |
| | Section 1.04 | Validity | 1-2 |
| | Section 1.05 | Limitation of Zoning Ordinance | 1-2 |
| | Section 1.06 | Repeal of Previous Zoning Ordinance | 1-2 |
| 2 | Definitions | | 2-1 |
| | Section 2.01 | Rules of Construction | 2-1 |
| | Section 2.02 | Definitions | 2-1 |
| 3 | General Provisions | | 3-1 |
| | Section 3.01 | The Effect of Zoning | 3-1 |
| | Section 3.02 | Nonconformities | 3-1 |
| | Section 3.03 | Essential Services | 3-5 |
| | Section 3.04 | Accessory Buildings and Structures | 3-5 |
| | Section 3.05 | Accessory Building as a Principal Use | 3-6 |
| | Section 3.06 | Temporary Dwelling Occupancy During Construction | 3-7 |
| | Section 3.07 | Mobile Homes | 3-7 |
| | Section 3.08 | Home Business | 3-8 |
| | Section 3.09 | Recreational Vehicles For Lodging or Camping Purposes | 3-9 |
| | Section 3.10 | Fences and Walls | 3-10 |
| | Section 3.11 | Outdoor Lighting | 3-10 |
| | Section 3.12 | Signs | 3-11 |
| | Section 3.13 | Antenna Co-location on an Existing Tower or Structure | 3-15 |
| | Section 3.14 | Non-commercial Wind Turbine Generators | 3-15 |
| | Section 3.15 | Vehicular Parking and Access | 3-15 |
| | Section 3.16 | Water Supply and Sewage Disposal Facilities | 3-16 |
| | Section 3.17 | Storm Water Retention | 3-17 |
| | Section 3.18 | Hazardous Substances | 3-17 |
| | Section 3.19 | Waterfront Greenbelt | 3-17 |
| | Section 3.20 | Landscape Buffer | 3-18 |
| | Section 3.21 | Building Spacing | 3-18 |
| | Section 3.22 | Special Events and Activities | 3-19 |
| | Section 3.23 | Medical Use of Marihuana or Marijuana | 3-20 |

| | | |
|----------|--|------------|
| 4 | Zoning Districts and Regulations | 4-1 |
| | Section 4.01 Zoning Districts | 4-1 |
| | Section 4.02 Table of Land Uses by Zoning District | 4-4 |
| | Section 4.03 Schedule of Regulations | 4-9 |
| | Section 4.04 Zoning Map and Rules of Interpretation | 4-11 |
| 5 | Site Plan Review | 5-1 |
| | Section 5.01 Purpose | 5-1 |
| | Section 5.02 Approval of Site Plan or Plot Plan Required | 5-1 |
| | Section 5.03 Data Requirements | 5-2 |
| | Section 5.04 Site Plan Review Procedures | 5-4 |
| | Section 5.05 Site Plan Approval Standards | 5-5 |
| | Section 5.06 Conformity to Approved Site Plan | 5-7 |
| | Section 5.07 Changes and Appeals | 5-7 |
| 6 | Special Use Permit | 6-1 |
| | Section 6.01 Purpose and Intent | 6-1 |
| | Section 6.02 Special Use Permit Procedures | 6-1 |
| | Section 6.03 Standards for Granting A Special Use Permit | 6-3 |
| | Section 6.04 Performance Guarantee | 6-4 |
| | Section 6.05 Amendment of Approved Special Use Permits | 6-4 |
| | Section 6.06 Expiration of Approved Special Use Permit | 6-4 |
| | Section 6.07 Reapplication | 6-5 |
| | Section 6.08 Jurisdiction of the Zoning Board of Appeals | 6-5 |
| | Section 6.09 Special Use Permit Inspection | 6-5 |
| 7 | Supplemental Site Development Standards | 7-1 |
| | Section 7.01 Purpose | 7-1 |
| | Section 7.02 Accessory Dwelling | 7-1 |
| | Section 7.03 Adult Foster Care and Adult Day Care | 7-1 |
| | Section 7.04 Bed & Breakfast Facility | 7-2 |
| | Section 7.05 Business with Drive-through Facilities | 7-2 |
| | Section 7.06 Gasoline / Service Station | 7-2 |
| | Section 7.07 Junk and Salvage Material Storage | 7-3 |
| | Section 7.08 Kennels and Veterinary Clinics/Hospitals | 7-4 |
| | Section 7.09 Mobile Food Vending | 7-4 |
| | Section 7.10 Mobile Home Parks | 7-5 |
| | Section 7.11 Mobile Homes and Trailers, Other Uses | 7-5 |
| | Section 7.12 Outdoor Display and Storage | 7-5 |
| | Section 7.13 Planned Unit Developments | 7-6 |
| | Section 7.14 Public Buildings, Institutions and Places of Worship | 7-9 |
| | Section 7.15 Residential Rehabilitation Facility | 7-9 |
| | Section 7.16 Resource Mining and Extraction Operations | 7-9 |
| | Section 7.17 Sexually Oriented Businesses | 7-12 |

Preamble

An Ordinance to provide for the establishment of Zoning Districts to encourage and regulate the use of land and proper location of buildings and structures for residence, trade, industry, or other purposes; to regulate dimensions of yards, and other spaces; to provide for the administration, enforcement, penalties for violation, and amendment of this ordinance. Nothing herein shall relieve any property owner or applicant from complying with all applicable local ordinances, and state and federal regulations.

BOYNE VALLEY TOWNSHIP HEREBY ORDAINS:

SECTION 1.01 Title

This Ordinance shall be known as the Boyne Valley Township Zoning Ordinance.

SECTION 1.02 Purpose

The purpose of the Ordinance is to:

- A. Provide for the orderly development of the Township while minimizing the impacts of incompatible adjoining land uses and preventing nuisances from interfering with the reasonable use and enjoyment of private property. In all cases, it is the purpose of this Ordinance to regulate the use of private property so that it does not adversely impact upon broader public interest;
- B. Insure the public health, safety and general welfare;
- C. Promote the use of lands and natural resources of the Township in accordance with their character and adaptability and in turn, limit their improper use;
- D. Reduce hazards to life and property;
- E. Lessen congestion on the public roads and streets;
- F. Provide, in the interests of health and safety, the minimum standards under which certain buildings and structures may hereafter be erected and used;
- G. Facilitate the development of an adequate system of transportation, education, recreation, sewage disposal, safe and adequate water supply and other public requirements;
- H. Conserve life, property and natural resources and the expenditure of funds for public improvements and service to conform with the most advantageous uses of land, resources and properties.

SECTION 1.03 Authority

This Ordinance is ordained and enacted into law pursuant to the provisions and in accordance with the Michigan Zoning Enabling Act, Act 110 of Public Acts of 2006, as amended.

SECTION 1.04 Validity

This Ordinance and various parts, sections, subsections, sentences, phrases and clauses thereof are hereby 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 thereby. The Township Board of Trustees hereby declares that it would have passed this Ordinance and each part, section, subsection, phrase, sentence and clause thereof irrespective of the fact that any one or more parts, sections, subsections, phrases, sentences or clauses be declared invalid.

SECTION 1.05 Limitation of Zoning Ordinance

The provisions of this Ordinance shall not impact the continued use of any dwelling, building or structure or any land or premises, which was lawful and existing on the adoption date of this Ordinance.

SECTION 1.06 Repeal of Previous Zoning Ordinance

- A. This Ordinance repeals and replaces any previous Boyne Valley Township Zoning Ordinance in its entirety.
- B. The repeal of the Boyne Valley Township Zoning Ordinance of 1996 as amended, as provided, shall not affect any rights acquired, fines, penalties, forfeitures or liabilities incurred there under or actions involving any provisions of said ordinance sections repealed is hereby continued in force and effect after the passage, approval and publication of this Ordinance for the purpose of such rights, fines, penalties, forfeitures, liabilities and actions therefore.

SECTION 2.01 RULES APPLYING TO TEXT

The following rules of construction apply to the text of this Ordinance:

- A. The particular shall control the general.
- B. In case of any difference of meaning or implication between the text of this Ordinance and any caption, the text shall control.
- C. The word “shall” is always mandatory and not discretionary. The word “may” is permissive.
- D. Words used in the present tense shall include the future, and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- E. A “building” or “structure” includes any part thereof.
- F. The words “used” or “occupied”, as applied to any land or buildings, shall be construed to include the words “intended”, “arranged”, “designed to be used”, or “occupied”.
- G. 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:
 - A. "And" denotes that all the connected items, conditions, provisions, or events apply in combination.
 - B. "Or" indicates that the connected items, conditions, or provisions, or events may apply singly or in any combination.
- H. “Township” shall refer specifically to Boyne Valley Township.
- I. The term “person” shall mean an individual, firm, corporation, association, partnership, limited liability company or other legal entity, or their agents.
- J. Any word or term not defined herein shall be used with a meaning of common or standard utilization.
- K. The term “adjoining lots and parcels” is intended to include lots and parcels separated by highways, roads, streets or rivers.
- L. Any necessary interpretation of this Ordinance shall be defined by the Township Zoning Board of Appeals.

SECTION 2.02 DEFINITIONS

For the purpose of this ordinance, the following terms and words are defined as follows:

Accessory Building or Structure – Any building or structure that is customarily incidental and subordinate to the use of the principal building or structure, including but not limited to, accessory buildings, personal freestanding television, radio or wireless communication antennas and signs. An accessory structure attached to a main structure shall be considered part of the main structure.

Accessory Building, Major – Any accessory structure that is not a minor accessory building.

Accessory Building, Minor – An accessory structure 200 square feet or less with no permanent footings or foundations and/or no water/sewer connections.

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 or electronically, electrically 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 the 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 any 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 35% or more of sales volume or occupies 35% 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 Facility – A facility for the care of adults over 18 years of age, as licensed and regulated by the State of Michigan. It includes facilities and foster care home for adults who are aged, mentally ill, developmentally disabled, or physically disabled who require supervision on an ongoing basis but who do not require continuous nursing care. It does not include nursing homes, assisted living facilities, hospitals, alcohol or substance abuse rehabilitation centers, or residential centers for persons released from or assigned to a correctional facility.

Adult Foster Care Family Home – A private residence with the approved capacity to receive not more than six (6) adults who are provided with foster care for five or more days a week and for two or more consecutive weeks.

Adult Foster Care Large Group Home – An adult foster care facility with the approved capacity to receive thirteen (13) to twenty (20) adults, excluding licensee and staff, to be provided with foster care.

Adult Foster Care Small Group Home – An adult foster care facility with the approved capacity of not more than twelve (12) adults, excluding licensee and staff, to be provided with foster care.

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, other photographic reproductions or visual media that are characterized by the 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.

Alterations – Any change, addition or modification in construction or type of occupancy; any change or rearrangement in the structural parts of a building; any enlargement of a building 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.

Anemometer – An instrument for measuring and recording the speed of the wind.

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

Appearance Ticket – see Municipal Civil Infraction Citation.

Architectural Features – Parts of a building which are not for human occupancy, that shall include but are not limited to cornices, eaves, gutters, sills, lintels, bay windows, chimneys, cupolas and decorative ornaments.

Assisted Living Facility – A combination of housing, supportive services, personalized assistance or health care designed to respond to the individual needs of persons, typically the frail elderly, who need help with activities of daily living. Such facilities may include a central or private kitchen, dining, recreational or other facilities, with separate bedrooms or living quarters.

Automobile /Small Engine 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 Wash Establishment – A building, or portion thereof, the primary purpose of which is washing motor vehicles.

Average – For the purpose of this Ordinance, the term, "average" will be an arithmetic mean.

Basement– A story having more than one-half of its height below the average finished level of the adjoining ground. A basement shall not be counted as a story for the purpose of height measurement in stories.

Bed & Breakfast Facility – A dwelling, or portion thereof, where overnight and short-term lodging rooms and meals are provided for compensation.

Board of Appeals – As used in this Ordinance, this term means the Boyne Valley Township Zoning Board of Appeals.

Boarding House – See Rooming House.

Boat and/or Canoe Livery – A place where boats and/or canoes are stored, rented, sold, and docked.

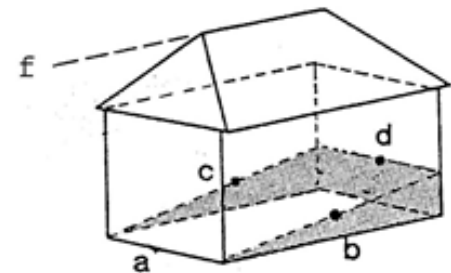
Building – A structure either temporary or permanent, having a roof supported by columns or walls.

Building Height: The vertical distance from the peak of the roof to the average finished grade. When the terrain is sloping, the height shall be computed using the average grade measured at the building wall on all four sides (see Figure).

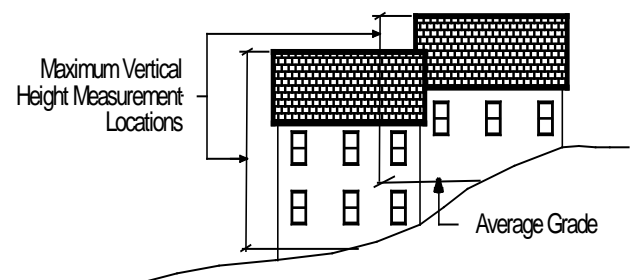
No portion of the structure's roof may exceed the maximum height allowed in the specific District regulations. As illustrated in Figure below, buildings may be "stair stepped" up and down slopes. The building height shall be calculated for each "stair stepped" portion separately.

Campgrounds – Any parcel or tract of land, under the control of any person wherein pre-established sites are offered for the use of the public or members of an organization, either free of charge or for a fee for the establishment of temporary living quarters for five (5) or more recreational units and/or tents.

Child Care Facility – A facility for the care of children (persons under 18 years of age), as licensed and regulated by the state under Act 116 of the Public Acts of 1973, being M.C.L. §§



a, b, c, d = avg finished grade on each building wall
 Average Grade (entire building): $(a+b+c+d)/4 = e$
 Height = f (elevation at peak) – e (average grade)



722.111 through 722.128, and the associated rules promulgated by the State Department of Social Services. Such organizations shall be further defined as follows:

- A. **Family Day Care Home** – A private home operated by a Michigan licensed day care operator in which at least one (1) but less than (7) seven children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent and legal guardian, not including children related to an adult member of the resident family by blood, marriage or adoption. It includes a home that gives care to an unrelated child for more than four weeks during a calendar year. Use by right where allowed if a 400 square foot fenced in play area is installed and a copy of the State license is presented with the permit application.
- B. **Group Day Care Home** – A private home operated by a Michigan licensed day care operator in which more than six (6) but not more than 12 children are given care and supervision for periods less than 24 hours a day, unattended by a parent or legal guardian, not including children related to an adult member of the resident family by blood, marriage or adoption. It includes a home that gives care to an unrelated child for more than four weeks during a calendar year. Requires a special use permit.
- C. **Child Care Center or Day Care Center** – A facility, other than a private home, receiving more than six pre-school or school age children for group care for periods of less than 24 hours a day, and where the parents or guardians are not immediately available to the child. It includes a facility that provides care for not less than two consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a childcare center, day care center, day nursery, nursery school, parent cooperative pre-school, play group or drop-in center. Child Care Center or Day Care Center does not include a Sunday school conducted by a religious institution or a facility operated by a religious institution where children are cared for during short periods of time while persons responsible for such children are attending religious services. Requires a special use permit.

Church – See Place of Worship.

Co-location – The use of an existing telecommunication tower or alternative tower structure by an additional telecommunication provider(s).

Condominium Project – A plan or project consisting of two (2) or more condominium units established and approved in conformance with the Condominium Act (Act 59 of 1978, as amended).

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

Cottage Industry – See Home Business, Cottage Industry.

Deck – A structural platform without a roof or walls, typically used for outdoor living purposes that may or may not be attached to a building.

Districts – Portions of the Township within which certain regulations and requirements or various combinations thereof apply under the provisions of this Ordinance. “Districts” as used herein is synonymous with the word “zones” or “zoning districts.”

Drive-through Business – Any restaurant, bank or other business with an motor vehicle service window.

Dwelling – A single unit building, or portion thereof, which provides complete independent living facilities for one (1) family for residential purposes, and includes permanent provisions for living, sleeping, heating, cooking, and sanitation. In no case shall a travel trailer, truck, bus, motor home, tent or other such portable structures be considered a dwelling.

Dwelling, Accessory – A dwelling accessory to a single family residence or a commercial business, located either in the principal structure or an accessory building, such as a garage. An accessory dwelling commonly has its own kitchen, bath, living area, sleeping area and usually a separate entrance.

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

- A. The structure is produced in a factory in accordance with the National Manufactured Housing Construction and Safety Standards Act, as amended, and
- B. The structure is designed to be transported to the site in 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 dwelling or as a module to be combined with other elements to form a complete dwelling 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.

Dwelling, Multiple-Family – A building, or portion thereof, containing three (3) or more dwellings designed exclusively for occupancy by three (3) or more families living independently of each other.

Dwelling, Single-Family – A building, or portion thereof, containing one (1) dwelling designed exclusively for occupancy by one (1) family.

Dwelling, Two-Family – A building, or portion thereof, containing two (2) dwellings designed exclusively for occupancy by two (2) families living independently of each other.

Easement – A legal property right, held by a person to use the land of another person for a specific purpose.

Efficiency Unit – A small dwelling unit consisting of one room, exclusive of bathroom, hallway, and closets.

Enclosed, Locked Facility – That term as defined in Section 3 of Initiated Law 1 of 2008, as amended (Michigan Medical Marijuana Act), being MCL 333.26423. [Adopted July 6, 2011 by Ord. No. 01 of 2011, effective July 22, 2011.]

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.

Education Facility– A public or private educational facility or institution offering students academic, academic support services or vocational/trade programs and/or curriculum. Such term shall also include all adjacent properties owned by and used by such facilities/programs for educational, research, and recreational purposes.

Essential Services – The erection, construction, alteration, or maintenance by public utilities or municipal departments, commissions, or boards of underground 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, wireless communication antenna and wind turbine generators are not included within this definition.

Excavating –The act of moving, filling or removal of earth, sand, stone, gravel, or dirt.

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.

Fence – Any permanent or temporary means, partition structure or gate erected as a dividing structure or barrier.

Floor Area – The square footage of floor space measured from exterior to exterior wall for all floors, but not including enclosed and unenclosed porches, breezeways, non-commercial garages, attic, unfinished basement and cellar area.

Garage - Private – A building typically used for the storage of vehicles for the use of the occupants of a lot on which such building is located.

Gasoline / Service Station – Any land, building or structure used for sale or retail 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.

Grade, Finished – The elevation of the ground upon the completion of construction and improvements.

Greenbelt, Waterfront – A strip of land fifty (50) feet in depth landward from and parallel with the Ordinary High Water Mark.

Hazardous Substances: Any substances or materials that, by reason of their toxic, caustic, corrosive, abrasive or otherwise injurious properties, may be detrimental to the health of any person handling or otherwise coming into contact with such materials or substances.

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

Home Occupations – A profession or occupation conducted within a dwelling, or an attached garage, which is clearly incidental and secondary to the use of the lot, or dwelling for residential purposes, and includes, but is not limited to, an occupation to

give instruction in a craft or fine art within a residence, as required under the Michigan Zoning Enabling Act. Home occupations are regulated by **Section 3.07**.

Cottage Industry – An occupation or trade conducted within a detached accessory building to a dwelling, which is clearly incidental and secondary to the use of the lot, and dwelling for residential purposes. Cottage industries are regulated by **Section 3.07**.

Hotel or Motel – A building in which transient lodging or boarding and lodging are offered to the public for compensation. Boarding houses and apartments are excluded.

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

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. Loading space(s) shall not be included as an off-street parking space in computation of the required off-street parking.

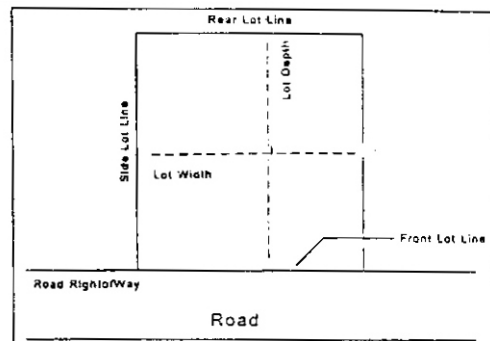
Lot – A parcel of land, either described by metes and bounds or by reference to a recorded plat, or a site condominium unit occupied or to be occupied by a use or building and its accessory buildings or structures together with such open spaces, minimum area, and width as required by this Ordinance for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

Lot - Corner – A lot that occupies the interior angle at the intersection to two (2) street lines which make an angle of less than one hundred forty-five (145) degrees.

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

Lot, Interior – A lot with frontage on one (1) street.

Lot Line, Front – In the case of an interior lot, the boundary line of the lot immediately adjacent to the street right-of-way upon which the lot fronts; in the case of a corner lot, the front lot line shall be the boundary line of the lot immediately adjacent to the street right-of-way that the driveway enters from or the designated front entrance to the home.

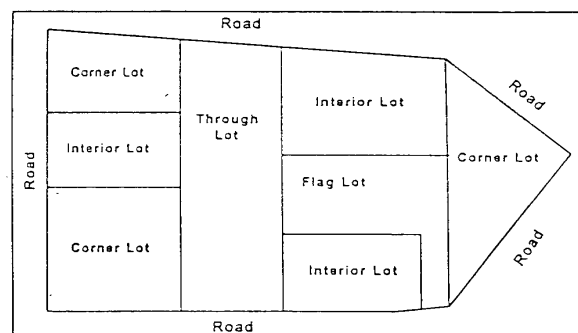


Lot Line, Rear – A lot line which is opposite and most distant from the front lot line and, in the case of an irregular shaped lot, a line ten (10') feet in length within the lot, parallel to and at the maximum distance from the front lot line.

Lot Line, Side – Any boundary line not a front lot line or a rear lot line.

Lot of Record – A lawfully created lot defined by a legal description and recorded in the office of the Charlevoix County Register of Deeds on or before the effective date of this Ordinance or relevant amendments to this Ordinance.

Lot, Through – A lot, other than a corner lot, having frontage on more than one (1) street.



Front yard corresponds to the accepted front door of the home.

Lot Width – The distance between the side lot lines measured at right angles to the lot depth at a point midway between the front and rear lot lines.

Lot, Waterfront – A lot having a lot line abutting the shore of a lake or river.

Manufacturing – To make or process (a raw material) into a finished product, especially by means of a large-scale industrial operation; or to make or process (a product), especially with the use of industrial machines. To create, produce, or turn out in a mechanical manner or to concoct or invent; fabricate.

Marina, Commercial – A facility which extends into or over a lake, river or stream and that provides docking, storage, maintenance and other facilities for watercrafts. Slips may be rented, leased, or sold on a transient, short term, or long term basis to the general public.

Mobile Food Vending – Serving or offering for sale food and/or beverages from a mobile food vending unit which meets the definition of a ‘food service establishment’ under Public Act 92 of 2000, which may include the ancillary sales of branded items consistent with food.

Mobile Food Vending Unit – Any motorized or non-motorized vehicle, trailer, or other device designed to be portable and not permanently attached to the ground from which food is vended, served or offered for sale.

Mobile Food Vendor – Any individual engaged in the business of Mobile Food Vending: if more than one individual is operating a single stand, cart or other means of conveyance, then Mobile Food Vendor shall mean all individuals operating a single stand, cart, or other means of conveyance.

Mobile Home Park – A parcel of land which has been designed and improved for the placement of three (3) or more mobile homes.

Mobile Home Site – A plot of land within a mobile home park designed to accommodate one mobile home.

Marijuana or Marihuana – That term as defined in Section 7106 of Act No. 368 of the Public Acts of 1978, as amended (Michigan Public Health Code), being MCL 333.7106. [Adopted July 6, 2011 by Ord. No. 01 of 2011, effective July 22, 2011.]

Medical Use – That term as defined in Section 3 of Initiated Law 1 of 2008, as amended (Michigan Medical Marijuana Act), being MCL 333.26423. [Adopted July 6, 2011 by Ord. No. 01 of 2011, effective July 22, 2011.]

Mobile Home – see Dwelling, Mobile.

Motel – see Hotel.

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 Structure – A building, structure, or portion thereof lawfully existing at the effective date of this Zoning Ordinance or any amendments to this Ordinance, which does not currently conform to the applicable dimensional regulations of the zoning district in which it is located.

Nonconforming Lot of Record – A lot lawfully existing at the effective date of this Zoning Ordinance or any amendments to this Ordinance, which does not currently conform to the applicable dimensional regulations of the zoning district in which it is located.

Nonconforming Sign – A sign lawfully existing at the effective date of this Zoning Ordinance or any amendments to this Ordinance, which does not currently conform to the applicable dimensional regulations of the zoning district in which it is located. A nonconforming sign shall be considered a nonconforming structure.

Nonconforming Use – A use lawfully existing at the effective date of this Zoning Ordinance or any amendments to this Ordinance, which does not currently conform to the applicable use regulations of the zoning district in which it is located.

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 or promise of 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 breast-feeding 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 the 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 storage of live trees, shrubs, or plants offered for wholesale or 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.

Nursing or Convalescent Home – A State of Michigan licensed long term facility providing accommodation and supervised medical and personal care on a twenty four (24) hour basis for aged and infirmed persons. A state licensed: a) sub-acute care facility; b) home for the aged; c) nursing home, or d) hospice facility providing twenty four (24) hour care are included.

Occupancy Permit – A permit issued by the Charlevoix County building official that certifies a structure as being completed and suitable for use and/or occupancy.

Open Space – An area that is intended to provide light and air, and is designed for environmental, scenic, or recreational purposes. Open space may include, but is not limited to, lawns, decorative planting, walkways, active and passive recreation area, playgrounds, fountains, swimming pools, wooded areas, and watercourses. Open space shall not be deemed to include driveways, parking lots, or other surfaces designed or intended for vehicular travel. In no event shall any area of a lot constituting neither the minimum lot area nor any part of an existing or future road or right-of-way be counted as constituting open space.

Operate (as related to Mobile Food Vending) – All activities associated with the conduct of business, including set up and take down and/or actual hours when the mobile food vending unit is open for business.

Ordinary High Water Mark – The line between the 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 the result of the permanent removal or abandonment of a dam, it means the natural ordinary high water mark.

Owner – A person holding any legal, equitable, option or contract interest in land.

Park – Properties and facilities owned or operated by any governmental agency, or owned or operated by any private agency, which are open to the general public for recreational purposes.

Person(s) – An individual, firm, corporation, association, partnership, limited liability company, or other legal entity.

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.

Planned Unit Development (PUD) – A type of development to be planned and built as a unit and which permits upon review and approval, variations in many of the traditional controls related to density, land use, setbacks, open space and other design elements, and the timing and sequencing of the development. Such developments can be proposed as either single use (such as a residential site condominium project), or mixed use developments (such as a project which includes both residential and commercial components).

Planning Commission – For the purpose of this Ordinance, the term Planning Commission is deemed to mean the Boyne Valley Township Planning Commission.

Plot Plan – The drawings and documents depicting and explaining all salient features of a proposed use for which a zoning permit is required, but a full site plan is not required, in order to evaluate compliance with Ordinance standards and requirements.

Primary Caregiver – That term as defined in Section 3 of Initiated Law 1 of 2008, as amended (Michigan Medical Marijuana Act), being MCL 333.26423 who has registered with the Michigan Department of Community Health under the Michigan Medical Marijuana Act.

Principal or Main Use – The primary or predominant use and chief purpose of a lot or structure.

Qualifying Patient – That term as defined in Section 3 of Initiated Law 1 of 2008, as amended (Michigan Medical Marijuana Act), being MCL 333.26423 who has registered with the Michigan Department of Community Health under the Michigan Medical Marijuana Act, and includes the parents or legal guardians of a qualifying patient under the age of 18 who are serving as the primary caregiver as required by the Michigan Medical Marijuana Act exclusively for that qualifying patient under the age of 18.

Recreational Vehicle (RV) – Any self-propelled motorized vehicle or travel or camping trailer, normally used only for vacation or recreational purposes.

Recreational Vehicle Park (RV Park) – Any site, lot, field or tract upon which one (1) or more occupied R.V. are harbored, either free of charge or for revenue purposes, including any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of such R.V. park; which site, lot, field or tract shall be licensed and regulated by the Michigan Department of Environmental Quality.

Residential Rehabilitation Facility – An adult residential care facility operated by a government agency or private nonprofit organization that provides care and supervision on a twenty four (24) hour basis for the treatment of mental illness, alcohol or substance abuse, or other long term illnesses along with temporary group living accommodations. Also includes 'half-way houses for ex-prisoners making the adjustment from prison/jail to self-sufficiency.

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

Rooming House – A residential building where rooms or suites are rented where the renter uses common facilities such as hallways and bathrooms. A rooming house shall not include hotels, motels, apartment houses, multi-family dwellings, duplexes, or fraternity and sorority houses.

Setback – The minimum horizontal distance from an applicable lot line within which no building or structure can be placed, except as otherwise provided in this Ordinance.

Setback, Front – The required setback measured from the front lot line.

Setback, Rear – The required setback measured from the rear lot line.

Setback, Side – The required setback measured from a side lot line.

Sexual Encounter Center – Except as provided herein, 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, except when such wrestling or tumbling is conducted for the sole purpose of training students for school-sanctioned athletic events; 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.

Shed – See “Accessory Structure, Minor”.

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 Area – The entire area within a circle, triangle, parallelogram or any other shape which encloses the extreme limits of writing, representation, emblem, logo, or any other figure or similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed, excluding only the structure necessary to support the sign.

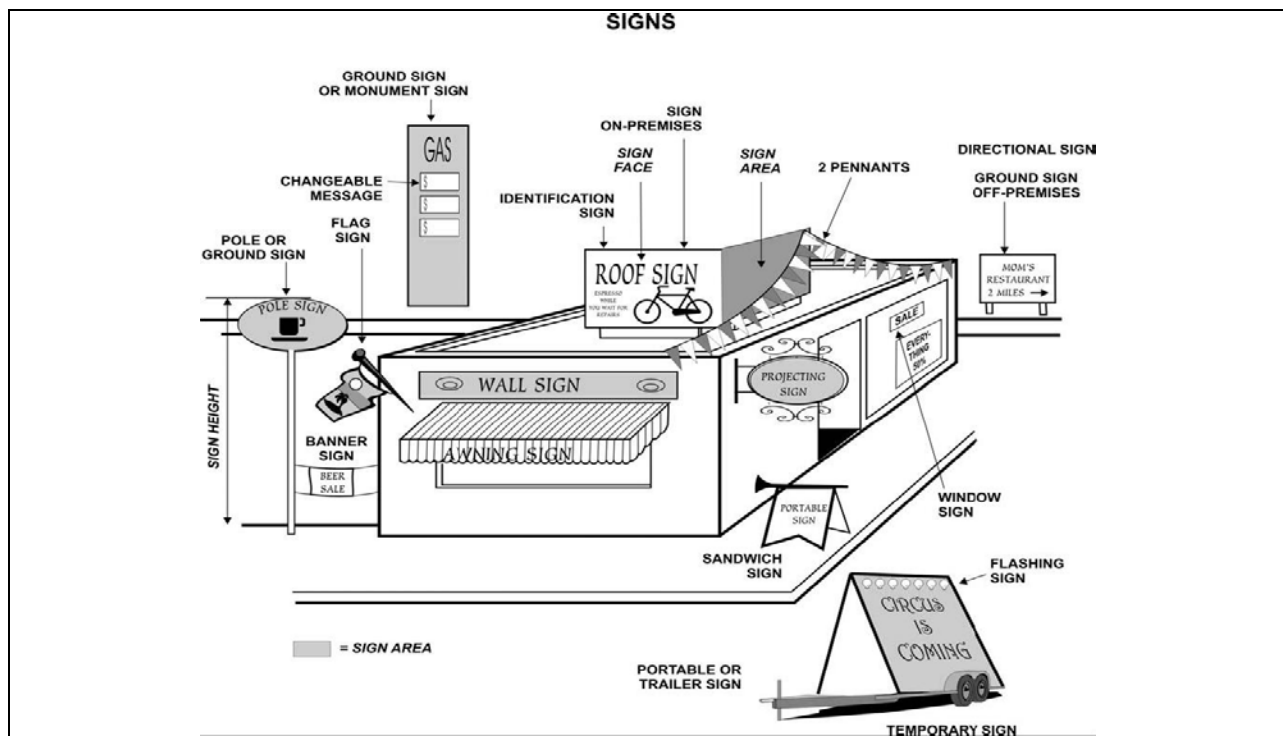
Sign, Accessory – A subordinate sign for traffic management or directional purposes only, which provides no advertising display or commercial message. (i.e. handicap parking signs).

Sign, Changeable Message – A sign designed so that the message displayed can be easily changed by hand, mechanically or electronically.

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

Sign, Height of – The vertical distance measured from the ground immediately beneath the sign to the highest point of the sign or its projecting structure.

Sign, Identification – A sign whose copy is limited to the name and address of a building, institution, or person and/or the activity or occupation being identified.



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Sign, Nonconforming – A sign lawfully existing on the effective date of this Zoning Ordinance or amendment thereof, which does not conform to one or more of the regulations set forth in this Zoning Ordinance.

Sign, Permanent – A sign constructed of durable materials, installed in a secure manner which is intended to exist for the duration of time that the use or occupant is located on the premises.

Sign, Portable – A freestanding sign not permanently anchored or secured to either the building or the ground (such as a sandwich sign), and includes trailered or similarly mounted signs or signs on parked vehicles where the sign is the primary use of the vehicle or wheeled object while it is parked.

Sign, Projecting – 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, Temporary – Any sign or advertising device intended to be displayed for a limited period of time and capable of being viewed from any public right-of-way, parking area, or neighboring property.

Sign, Wayfinding – A sign including maps, graphics or audible methods used to convey location and directions to visitors.

Site Condominium Unit – That portion of a condominium subdivision designed and intended for occupancy and used by the unit owner consistent with the provisions of the master deed.

Site Plan – The drawings and documents depicting and explaining all salient features of the a proposed development so that it may be evaluated by the Planning Commission 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 – Areas of the human body that are either of the following:

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

Specified Sexual Activities – Activities that are any of the following:

- A. The fondling or other erotic touching of human genitals, pubic region, buttocks anus, or female breasts.
- 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.

State Licensed Residential Facility – A structure constructed for residential purposes that is licensed by the State pursuant to Act No. 218 of the Public Acts of 1979, as amended, being Sections 400.701 to 400.737 of the Michigan Compiled Laws, or Act No. 116 of the Public Acts of 1973, as amended, being Sections 722.111 to 722.128 of the Michigan Compiled Laws, which provides resident services or care for six (6) or fewer persons under twenty-four (24) hour supervision for persons in need of that supervision or care.

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

Structure – Anything constructed, assembled, or erected, the use of which requires location on or beneath the ground or attachment to something on or beneath the ground, including but not limited to, dwellings, garages, principal and accessory buildings, mobile homes, fences, signs, towers, poles, underground storage tanks, decks, seawalls, docks, and other similar objects, but not including compacted gravel, concrete, or asphalt used as part of an approved parking area, driveway, or sidewalk, boardwalks, pathways, underground sprinkler systems on your own property and underground storm water retention systems consisting exclusively of pipes and rocks.

Telecommunication Towers and Facilities or Tower – All structures and accessory facilities, including Alternative Tower Structures, relating to the use of the radio frequency spectrum for

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

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

Transfer of Development Rights – The conveyance of development rights by deed, easement, or other legal instrument authorized by local law to another parcel of land.

Use – The lawful purpose for which land or a building is arranged, designed or intended, or for which land or a building may be occupied according to this Ordinance.

Variance, Dimensional – A dispensation granted by the Zoning Board of Appeals to provide relief from a specific regulation in this Ordinance, which usually relates to an area, dimension, or construction requirement/ limitation.

Vehicle Sales – A licensed dealership primarily for the sale of vehicles, new and/or used.

Vicinity Sketch – A graphic depiction of a subject property as well as all properties within three hundred feet the associated land uses of such properties and the identification of streets in this area.

Wetlands – Land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support, wetland vegetation or aquatic life, and is commonly referred to as a bog, swamp, or marsh and which is any of the following:

- (i) Contiguous to an inland lake or pond, or a river or stream.
- (ii) Not an inland lake or pond, or a river or stream; and more than 5 acres in size; except this subparagraph shall not be of effect, except for the purpose of inventorying, in counties of less than 100,000 population until the department certifies to the commission it has substantially completed its inventory of wetlands in that county.
- (iii) Not contiguous to an inland lake or pond, or a river or stream; and 5 acres or less in size if the department determines that protection of the area is essential to the preservation of the natural resources of the state from pollution, impairment, or destruction and the department has so notified the owner; except this subparagraph may be utilized regardless of wetland size in a county in which subparagraph (ii) is of no effect; except for the purpose of inventorying, at the time.

Wind Turbine Generator – A tower, pylon, or other structure, including all accessory facilities, upon which any, all, or some combination of the following are mounted:

1. A wind vane, blade, or series of wind vanes or blades, or other devices mounted on a rotor for the purpose of converting wind into electrical or mechanical energy.
2. A shaft, gear, belt, or coupling device used to connect the rotor to a generator, alternator, or other electrical or mechanical energy-producing device.

3. A generator, alternator, or other device used to convert the energy created by the rotation of the rotor into electrical or mechanical energy.

Wind Turbine Generator, Commercial – A wind turbine generator designed and used primarily to generate electricity by or for sale to utility companies.

Wind Turbine Generator, Noncommercial – A wind turbine generator designed and used primarily to generate electricity or produce mechanical energy for use on the property where located.

Wind Turbine Generator Tower Height – The distance between the ground and the highest point of the wind turbine generator, plus the length by which the rotor wind vanes or blades mounted on a horizontal axis wind turbine rotor exceeds the height of the wind turbine generator.

Yard – The space between a principal building, excluding steps and unenclosed porches, and a lot line.

Yard - Front – A yard extending across the front of the lot between the side lot lines and measured between the front line of the lot and the nearest wall of the principal building.

Yard - Rear – The yard between the principal building and the rear lot line extending across the entire width of the lot.

Yard - Side – The yard between the principal building and a side lot line extending between the front yard and the rear yard.

Zoning Administrator – The person retained by the Boyne Valley Township and designated to administer and enforce this Ordinance.

Zoning Permit – Written authority issued by the Zoning Administrator on a standard form on behalf of the Township permitting construction, moving, exterior alteration or use of a building or land in conformity with the provisions of this Ordinance.

SECTION 3.01 THE EFFECTS OF ZONING

- A. No excavation, for construction purposes, use or activity on a piece of land shall be established, no building or part thereof shall be allowed to be used, constructed, altered or moved upon any property unless it is in conformance with this Ordinance, and a zoning permit has been obtained as required by **Section 9.02**.
- B. If any activity, use, building, structure or part thereof is placed upon a piece of property in direct conflict with the intent and provisions of this Ordinance, such activity, use, building or structure shall be declared a nuisance per se and may be required to be vacated, dismantled, abated, or cease operations by any legal means necessary and such use, activity, building or structure shall not be allowed to function until it is brought into conformance with this Ordinance.
- C. 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 nonconformity and be allowed to remain as such, including completion of construction, providing said construction does not require more than one (1) year from the effective date of this Ordinance for completion. If said construction is continued for more than one (1) year, the legal status of the activity, use, building or structure shall be determined by the Boyne Valley Township Planning Commission.

SECTION 3.02 NONCONFORMITIES

- A. Purpose: Nonconformities are uses, buildings, structures, and lots that do not conform to one or more of the requirements of this Ordinance, or any subsequent amendment, which were lawfully established prior to the effective date of this Ordinance, or any subsequent amendment. The purpose of this Section is to specify the terms and conditions under which a nonconformity is permitted to continue to exist. To that end nonconforming uses, buildings, and structures shall be placed into two classifications, a Class A nonconformity and a Class B Nonconformity. The purpose of this Section is to eliminate Class B nonconformities over a period of time, while permitting Class A nonconformities to be used, repaired, replaced, and enlarged under less stringent regulations.
- B. Nonconforming Use Permitted; Completion of Nonconforming Buildings or Structures:
1. If a nonconforming building or structure, a building that contains a nonconforming use, or a nonconforming use of land that was lawful at the time of enactment of this Ordinance, or any subsequent amendment, then that nonconformity may be continued although it does not conform to the provision of this Ordinance, or any subsequent amendment, under the terms and conditions of this Section.
 2. To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of a building or structure on which substantial construction has been lawfully begun prior to the effective date of this Ordinance, or any subsequent amendment.

C. Classification of Nonconformities:

1. All nonconforming uses, buildings, and structures shall be designated either a Class A nonconformity or a Class B nonconformity. Unless designated a Class A nonconformity under subsection 2, the nonconforming use, building or structure shall be deemed to a Class B nonconformity. If a Class B nonconformity is damaged or destroyed, the property owner may seek Class A designation under subsection 2 after such damage or destruction. The Class B nonconformity shall then be judged for a Class A designation on the nonconformity as it existed prior to the damage or destruction.
2. A property owner who desires that his or her property be designated a Class A nonconformity 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 that establish the standards for approving a Class A designation have been met, and the fee as provided for in **Section 9.04** of this Ordinance. 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 special use permit before the Planning Commission. The Planning Commission's decision whether to grant the Class A designation shall be based on the written findings of fact made pursuant to the standards contained in subsection C. The Planning Commission may attach reasonable conditions to the Class A designation to assure compatibility of the nonconforming use, building, or structure with the surrounding property uses. The property owner shall receive no vested interest or rights in the Class A designation, since that designation may be revoked by the Planning Commission under subsection 4.
3. The Planning Commission shall grant a Class A designation for a nonconforming use, building or structure if it finds that all of the following standards are met:
 - a. The nonconforming use, building, or structure was lawful at the time of its inception.
 - b. The continuation of the nonconforming use, building, or structure will not significantly and adversely affect surrounding properties and will not significantly depress property values in the immediate area.
 - c. If the nonconforming structure is a sign, the nonconformity is due to dimensional regulations other than the limitation on the area of the sign surface or the limitation on the height of the sign.
 - d. The nonconforming use, building, or structure is not located within the landscape buffer required by **Section 3.20** of this Ordinance (except as otherwise permitted by **Section 3.20**), is not located within the Waterfront Greenbelt as regulated by **Section 3.19** of this Ordinance, and is not located within a wetland regulated by the State of Michigan.
 - e. The nonconforming use, building, or structure is of economic benefit to the Township.
4. 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 standards for the Class A designation under subsection 3 no

longer qualify the nonconforming use, building, or structure for the Class A designation.

D. Regulations concerning Class A Nonconformities:

The following regulations shall apply to all Class A nonconforming uses, buildings, and structures:

1. Normal maintenance and incidental repairs, including repair or replacement of nonbearing walls, fixtures, wiring, or plumbing may be performed on any nonconforming building or structure or on any building containing a nonconforming use.
2. A nonconforming building or structure or a building that contains a nonconforming use which is unsafe or unlawful due to the lack of repairs or maintenance, as determined by the Zoning Administrator or County Building Official, may be restored to a safe condition.
3. If a nonconforming building or structure (including a nonconforming sign) or building that contains a nonconforming use is damaged or destroyed by any means or is removed by the property owner, then such nonconforming building or structure may be restored, rebuilt, or repaired to its original configuration and on its original foundation.
4. A nonconforming building or structure or a building that contains a nonconforming use may be enlarged or alter in any way, provided such enlargement or alteration does not increase the degree or extent of the any nonconformity on both the horizontal and vertical planes.
5. A nonconforming use shall not be extended to any portion of the lot that was not lawfully occupied by such nonconforming use on the effective date of this Ordinance, or any subsequent amendments of this Ordinance. However, a nonconforming use may be extending throughout any part of a building, which was designed for such use, and which existed at the time the use became nonconforming.
6. A Class A nonconforming use, building, or structure may be replaced by another Class A nonconforming use, building or structure if the Planning Commission finds, following the procedures of **Section 3.02C.2**, that the new nonconforming use, building, or structure qualifies for a Class A designation and that the new nonconforming use, building, or structure will not increase the extent or intensity of the nonconformity on the property.

E. Regulations concerning Class B Nonconformities:

The following regulations shall apply to all Class B nonconforming uses, buildings, and structures:

1. Normal maintenance and incidental repairs, including repair or replacement of nonbearing walls, fixtures, wiring, or plumbing may be performed on any nonconforming building or structure or on any building containing a nonconforming use.
2. A nonconforming building or structure or a building that contains a nonconforming use which is unsafe or unlawful due to the lack of repairs or maintenance, as determined by the Zoning Administrator or County Building Official, may be restored to a safe condition.
3. If a nonconforming building or structure (other than a nonconforming sign) or a building that contains a nonconforming use is damaged or destroyed by any

means or any portion of the building or structure is removed by the owner to the extent that the cost of the necessary repairs or reconstruction will exceed forty percent (40%) of the replacement cost of the entire nonconforming building or structure before damage, destruction, or removal of any portion thereof, as determined by a qualified appraiser, then such nonconforming building or structure or building that contains a nonconforming use shall only be repaired, remodeled, or reconstructed in complete conformity with the provisions of this Ordinance, unless the cost of such repair, remodeling, or reconstruction exceeds 150% of the replacement cost of the entire nonconforming building or structure before damage, destruction, or removal as determined by a qualified appraiser. If the cost of any repair, remodeling or reconstruction exceeds 150% of the replacement cost of the entire nonconforming building or structure as specified above, then the Zoning Administrator shall require the nonconforming building or structure, or building that contains a nonconforming use to be repaired, remodeled or reconstructed in such a manner or in such a location as to maximize conformity with the provisions of this Ordinance without exceeding the 150% limitation specified above.

4. If a nonconforming sign is damaged or destroyed by any means or is removed by the owner to the extent that the cost of necessary repairs will exceed twenty percent of the replacement cost of the sign, then such nonconforming sign shall only be repaired or reconstructed in complete conformity with the provisions of this Ordinance.
5. Except for repairs or maintenance authorized under subsections 1 and 2 above, a nonconforming building or structure or a building that contains a nonconforming use shall not be enlarged or altered, unless such enlargement or alteration is in complete conformity with the requirements of this Ordinance.
6. A nonconforming use shall not be extended to any portion of the lot or extended throughout any part of a building in which it is located that was not lawfully occupied by such nonconforming use on the effective date of this Ordinance, or any subsequent amendments creating such nonconformity, unless such extension is in complete conformity with the requirements of this Ordinance.
7. A Class B nonconforming use, building or structure may not be replaced by another Class B nonconforming use, building or structure. However, a Class B nonconforming use, building, or structure may be replaced with a Class A nonconforming use, building, or structure if the Planning Commission finds following the procedures of **Section 3.02.C.2** that the new nonconforming use, building, or structure qualifies for a Class A designation and that the new nonconforming use, building, or structure will not increase the extent or intensity of the nonconformity on the property.

F. Change of Nonconforming Use, Building or Structure

If a nonconforming use, building, or structure is changed to a more conforming use, building, or structure or is replaced by a conforming use, building, or structure, the nonconforming use, building or structure shall not revert to its original nonconforming status.

G. Change of Nonconforming Lots of Record

The following regulations shall apply to all nonconforming lots of record:

1. Except as provided in subsection 2 below, any lot 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. Any required variances may be requested pursuant to the procedures and standards of this Ordinance.

2. If two (2) or more contiguous lots, parcels or portions of lots or parcels are under the same ownership and do not individually meet the lot width, depth and/or area requirements of this Ordinance, then those contiguous lots, parcels, or portions of lots or parcels shall be considered an undivided lot or parcel for the purposes of this Ordinance, and no portion of such undivided lot or parcel shall be used or divided in a manner that diminishes compliance with the lot width, depth and/or area requirements established by this Ordinance.

SECTION 3.03 ESSENTIAL SERVICES

- A. The erection, construction, alteration, maintenance, and operation by utilities or municipal departments or commission, of overhead or underground gas, electrical, steam or water distribution, transmission systems, collection, communication, supply or disposal systems, including mains, drains, sewers, pipes, conduits, wires, hydrants, structures, towers, poles, electrical substations, gas regulator stations, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utility or municipal department or commission, or for the public health or safety or general welfare, shall be permitted as authorized or regulated by any laws and the ordinances of Boyne Valley Township in any Zoning District.
- B. Telecommunication towers, alternative tower structures, antennas, wind turbine generators, and anemometer towers shall be regulated and permitted pursuant to this Ordinance and **shall not be regulated or permitted as essential services**, public utilities or private utilities.

SECTION 3.04 ACCESSORY BUILDINGS AND STRUCTURES

- A. An accessory building connected to the principal building by a roofed structure or shared wall shall be considered part of the principal building, provided the accessory building and connection to the principal building are approved by the Charlevoix County Department of Building Safety to ensure the applicable Construction Code requirements are met.
- B. An accessory structure which is connected to a principal building by means other than provided for in subsection A above, shall not be considered part of the principal building.
- C. No Accessory buildings shall be permitted on a lot without a principal building or a valid zoning permit for the construction of the principal building, except per **Section 3.05** or in the case of contiguous parcel or parcels separated by a public or private road which are under the same ownership and the owner of the two lots records deed restrictions (or other legal instruments) acceptable to the township attorney with the county Register of Deeds Office requiring the two lots to be used and/or sold as one development site.
- D. Two major accessory buildings shall be permitted per lot or parcel.
- E. Except for minor accessory buildings (200 sf or less), a detached accessory building or structure shall be located in accordance with the applicable district setback requirements, and maintain at least ten (10) feet between buildings, per **Section 3.21**.

- F. Manufactured homes, mobile homes, RV's, and recreational vehicles, shall not be used as an accessory building or structure.
- G. In addition to the allowed major accessory buildings or structures, two (2) minor accessory building/shed of not more than 200 square feet shall be allowed, and shall be located in a side or rear yard and shall comply with the applicable district setbacks requirements.

SECTION 3.05 ACCESSORY BUILDING AS A PRINCIPAL USE

An accessory building shall be allowed as the principal use of a lot in the Rural Residential (RR-1) and Agricultural/Forest (AF) districts, provided that all of the following applicable requirements are met:

1. The accessory building is devoted to a use that is accessory to a principal use authorized by right or special use permit in the zoning district in which the lot under construction is located.
 2. If the accessory building will be used for storage, then the items stored in the accessory building are owned by the owner of the lot on which the accessory building is located; no commercial storage of any kind shall be allowed.
 3. The accessory building is not used for dwelling, lodging or sleeping purposes.
 4. The accessory building is located on the lot under consideration in full compliance with all applicable setback requirements for the district in which the lot is located.
 5. The accessory building complies with the height restrictions for accessory buildings for the district in which the lot is located.
 6. The accessory building is located on the lot under consideration in such a location that a future development envelope is preserved on the lot within which a principal building or use may be constructed or established in full compliance with all applicable setback requirements for the district in which the lot is located. This requirement will not apply if the future development envelope for the principal building or use will be located on another lot as provided in subsection 7 below.
 7. If the lot on which the accessory building is located does not have sufficient lot area for the future development envelope as required in subsection 6 above, then the accessory building may be constructed on the lot under consideration only if the owner of the lot owns another lot with sufficient lot area for the future development envelope that is either contiguous to the lot under consideration or is separated from the lot under consideration by a public or private road and the owner of the two lots records deed restrictions (or other legal instruments) acceptable to the township attorney with the county Register of Deeds Office requiring the two lots to be used and/or sold as one development site.
-

SECTION 3.06 TEMPORARY DWELLING OCCUPANCY DURING CONSTRUCTION

For the express purpose of promoting the health, safety and general welfare of the inhabitants of Boyne Valley Township, and of reducing hazards to health, life and property, no basement-dwelling, cellar-dwelling, 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 principal 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. Upon completion of the principal dwelling, the temporary dwelling shall be removed from the property, or utilized in compliance with this Ordinance.
- C. Water and sewage disposal shall be provided in compliance with the applicable Township Ordinances, and in accordance with any applicable District Health Department regulations, 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 that he or she 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 3.07 MOBILE HOMES

- A. Newly sited mobile homes located on individual lots shall meet the standard yard setbacks, minimum floor area and minimum dwelling unit width for the district in which they are located and shall meet the following additional standards:
 - 1. Mobile homes shall be attached to an approved permanent foundation or basement and shall be anchored using a system that meets the Michigan Mobile Home Commission requirements.
 - 2. Mobile homes shall be installed according to manufacturer's set up requirements, and the construction of the unit shall comply with the National Mobile Home Construction and Safety Standards Act of 1974, as amended.
 - 3. The wheels and axles shall be removed from a mobile home before the unit is attached to the foundation. Additionally, no mobile home shall have any exposed undercarriage or chassis.

4. All mobile homes shall have manufacturer's certified minimum roof load to meet the Construction Code requirements for Charlevoix County.
5. Mobile homes shall not be used as an accessory building.

SECTION 3.08 HOME BUSINESS

The regulation of home occupations and cottage industries as provided herein is intended to secure flexibility in the application of the requirements of this Ordinance; but such flexibility is not intended to change the essential residential character of residential districts, in terms of use and/or appearance. The nonresidential use shall only be incidental to the primary residential use.

- A. Site and Development Standards
Home occupations or cottage industries, as defined in Article 2 of this Ordinance, shall comply with the following site and development standards:

| Standard | Home Occupation | Cottage Industry |
|---------------------------------|---|--|
| Structure Used | Primary dwelling only | Primary Dwelling or Accessory Structure |
| Outdoor Storage or Display | Not allowed | If screened, screening approved by Planning Commission |
| # of Nonresident Employees | 1 | 2 |
| Retail Sales | N/A | Limited retail sales (incidental to residence) and does not create a nuisance |
| Traffic | Traffic – shall not exceed that normally created by residential use | Traffic – shall not exceed that normally created by residential use |
| Parking | No additional off-street parking demand | Not to exceed number of parking spaces set by PC, after consideration of the standards set forth in Section 3.15 . |
| Appearance | No change in exterior appearance of residence, other than sign | Shall not detract from the residential character of the premises or neighborhood |
| Nuisance | No noise, vibration, glare, fumes, odors or electrical interference detectable off-site | Shall not create nuisance, due to objectionable levels of noise, vibration, glare, fumes, odors or electrical interference detectable off-site |
| Hours of Operation | Customer visits limited to 8:00am to 8:00pm | Approved by Planning Commission |
| Signs | 4 square feet | 4 square feet |
| Approval/permit required | Zoning Permit | Special Use Permit required |

- B. Termination, Extensions, Revisions, and Inspections

1. Upon written application by the owner, the Planning Commission may, for just cause, grant a time extension for compliance with the conditions of this Section.
2. Any cottage industry shall be subject to periodic review by the Zoning Administrator.
3. If the Zoning Administrator has reason to believe the property owner is in violation of his or her permit or grounds for revocation exist, written notice of alleged violation(s) shall be sent to the operator of the home occupation or cottage industry.
4. Proposed revisions or additions to a cottage industry shall constitute a change of use and shall be subject to special use review and approval by the Planning Commission.

SECTION 3.09 RECREATIONAL VEHICLES FOR LODGING OR CAMPING PURPOSES

- A. Two (2) RV may be located and occupied on a vacant parcel or lot with a zoning permit, provided the following standards are met:
 1. The RVs shall all be located on the lot in full compliance with all applicable setback requirements for the district in which the lot is located.
 2. All RVs shall comply with all Charlevoix County Sanitary Code rules and regulations applicable to the use and occupancy of recreational vehicles outside of licensed campgrounds.
 3. RVs shall be legally operable on the highways of the State of Michigan by virtue of having a current and valid registration and license plate as required by the Michigan Vehicle Code.
 4. The occupants of the RVs and/or their guests shall not create or maintain a nuisance for the surrounding properties or their occupants.
- B. Group gatherings with multiple RVs located on a parcel or lot shall be allowed one time per calendar year, for not more than 7 consecutive days provided Health Department approved temporary sanitary facilities are provided.
- C. In the event of an extreme medical emergency the Planning Commission may allow the temporary placement of a RV on any lot with occupied dwelling unit in the Township, but not to exceed six (6) months.
- D. One (1) RV may be stored outside on the lot of any occupied dwelling unit in the Township provided all of the following conditions are met:
 1. The RV shall carry currently valid state license plate.
 2. The RV shall not be occupied or used as a dwelling while stored, except as provided for in C.
 3. The RV shall not be connected to water and sewer services, while stored.
 4. Wheels and tires are not removed at any time while stored except for the purposes of repair.
 5. The RV is not used for any purpose.

6. The RV shall not be used for storing materials of any kind other than the furnishings and personal items common to a RV.
7. The RV is not elevated, blocked or stabilized in any manner other than with jacks designed for that purpose.

SECTION 3.10 FENCES AND WALLS

- A. All Boundary line fences shall be entirely located upon the private property of the person, firm or corporation constructing, or causing the fence, unless the owner of the property adjoining agrees, in writing, that such fence may be erected on the division line of the respective properties. Any gate in the fence shall swing open into the fence owner's property. No setback requirements shall apply.
- B. Fences in the Residential Districts shall not exceed six (6) feet in height in the side and rear yards and shall not exceed three (3) feet in height in the front yard and in the yard between the principal building and the lot line that abuts the shore of the lake or river.
- C. Fences in the Commercial and Industrial Districts shall not exceed eight (8) feet in height except security fences, which shall not exceed twelve (12) feet in height including barbed wire toppings. No barbed wire shall be located less than 6' above ground level.
- D. No fences shall be constructed within road rights-of way or utility easements.
- E. No fence shall be permitted to encroach upon a public right-of-way, such as a street or alley.
- F. Hedges or living fences shall be maintained so as not to encroach upon neighboring properties, sidewalks, right-of-ways or hinder the vision of a vehicle driver.
- G. Materials: For all fences and walls erected after the effective date of this Ordinance, the finished face of such fence or wall shall face outside the property, with any visible posts or supports being located inside of the fence or wall.
- H. The owner of a fence or visual screen, consisting of materials requiring painting, staining or other significant periodic maintenance, shall be responsible for all maintenance of the fence.
- I. Clear Vision Areas: Clear vision areas shall be maintained at all intersections of public roads, streets, alleys and driveways.
- J. No fence shall be approved which constitutes a fire hazard either itself or in connection with the existing structures in the vicinity, nor which will interfere with access in the case of a fire or emergency, or will constitute a hazard to street traffic or to pedestrians.

SECTION 3.11 OUTDOOR LIGHTING

- A. All outdoor lighting, whether for illuminating sites, parking areas, buildings, signs and/or other structures shall be shielded, shaded, designed and/or directed away from all adjacent properties and uses; and further shall not glare upon or interfere with persons and vehicles using public streets. 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. 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 candles as measured three (3) feet above the ground surface, directly under the fixture.
- C. Outdoor low-voltage lighting, typically used for residential landscape or accent lighting shall be excluded from these regulations.

SECTION 3.12 SIGNS

The purpose of this section is to preserve the desirable character and personality of Boyne Valley Township, 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 local business places. At the same time, the Township recognizes the right of residents to be free of advertising that could 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.

A. Sign Regulations Matrix

| Sign Regulations | | | Zoning Districts | | | | | | | | |
|--|----|--|--|-------------------|------------|-----------------------------------|------------------------------|----------------------|-------------------|---------------------|----------------------|
| | | | Commercial | | | Residential & Agricultural/Forest | | | | | CR |
| | | | C-1 | C-2 | I | R-1 | R-2 | R-3 | RR-1 | AF | |
| | | | Resort Mixed Use District | Commercial | Industrial | Single Family Residential | Mobile Home Park Residential | Multiple Family Res. | Rural Residential | Agricultural Forest | Conservation Reserve |
| A. STREET ADDRESS/ IDENTIFICATION /SIGN | 1. | <u>Number</u> ^a : | 1 | 1 | 1 | 1 | | 1 | 1 | 1 | 1 |
| | 2. | <u>Size</u> ^a : Maximum size allowed in square feet. | 2 | 2 | 2 | 2 | 2 | 2 | 2 | 2 | 2 |
| | 3. | <u>Approval Requirements</u> | None | | | | | | | | |
| B. PERMANENT SIGNS <i>Including, but not limited to:</i> | 1. | <u>Number</u> : Total Permanent Signs per property or business, whichever is greater | 2 ^{b, e} | 2 ^{b, e} | 2 | 1 | 1 | 1 | 1 | 1 | 1 |
| | 2. | <u>Size</u> : Max. size (per side) in square feet | 32 | 32 | 32 | 4 | 16 | 24 | 16 | 24 | 16 |
| | 3. | <u>Height</u> : Maximum in feet | 12 | 12 | 12 | 10 | 10 | 10 | 12 | 12 | 10 |
| | 4. | <u>Setback</u> Requirements | Signs shall not be located within or overhang any Road Right-of-way ^c | | | | | | | | |
| | 5. | <u>Approval Requirements</u> | ZA or PC, Zoning Permit | | | | | | | | |

A. Sign Regulations Matrix – con’d

| Sign Regulations | | Zoning Districts | | | | | | | | | |
|---------------------------------------|----|--|--|----------------|-----------------------------------|------------------------------|----------------------|-------------------|---------------------|----------------------|----|
| | | Commercial | | | Residential & Agricultural/Forest | | | | | CR | |
| | | C-1 | C-2 | I | R-1 | R-2 | R-3 | RR-1 | AF | | |
| | | Resort Mixed Use District | Commercial | Industrial | Single Family Residential | Mobile Home Park Residential | Multiple Family Res. | Rural Residential | Agricultural Forest | Conservation Reserve | |
| C. TEMPORARY SIGNS^c | 1. | <u>Number</u> : Total allowed (all types) ^{c, e} | 4 ^d | 4 ^d | 4 | 6 | ? | 6 | 6 | 6 | 6 |
| | 2. | <u>Total Area</u> : Total Square Footage of all Temporary Signs ^e | 24 | 24 | 24 | 24 | 24 | 24 | 24 | 24 | 24 |
| | 3. | <u>Setback</u> Requirements: | Signs shall not be located within or overhang any Road Right-of-way ^c | | | | | | | | |
| | 4. | <u>Approval</u> Requirements | Registration required. | | | | | | | | |

Notes:

- a. Street Address/Identification signs not exceeding the district size limit or number shall be allowed in addition to the number of signs and total sign area permitted for Permanent, Changeable copy and Temporary signs
- b. Businesses with entrances on more than one street and/or lane, shall be allowed one additional permanent sign for the side or rear entrance, of the size allowed for the Zoning District.
- c. Signs shall not be located in Road Right of Way, except with specific written permission of the governing Road Agency.
- d. Portable sandwich board type signs, shall be removed nightly and shall not impede any pedestrian walkway. Signs temporarily affixed to the interior of a window shall not be included for the purpose of the number and total area allowed for temporary signs.
- e. A business directory signs serving multiple business, shall be allowed in addition to the signs allowed for the individual businesses, with each business listing not to exceed eight (8) square feet.

In addition to the specific regulations specified by zoning districts stated in Subsection 3.12.A Sign Regulations by District, the following conditions shall apply to all signs and billboards erected in any use district:

B. General Sign Regulations

1. No sign, except specifically identified in **subsection 3.12.A** above, shall be erected or altered until approved by the Zoning Administrator (ZA) or authorized by a Planning Commission (PC) approved site plan. After the ZA or PC approval, the required zoning permit shall be issued.
2. No signs or billboards 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.
3. 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 and unnecessarily illuminate the night sky, in compliance with **Section 3.11** of this Ordinance. Illuminated signs shall not be of the flashing, moving or intermittent type.
4. All directional signs located along the highway, to direct traffic to a business off the highway, must conform to the standards used by the Michigan Department of Transportation for such signs. Wherever possible such directional signs will be clustered.
5. Both sides of any freestanding or projecting sign may be used for display.
6. No sign shall project beyond or overhang the wall, roof or any architectural feature by more than five (5) feet. However, prior to the erection or overhanging of a sign in a public right-of-way, the sponsor of such sign is responsible for receiving the approval of the proper governmental agency having jurisdiction over such right-of-way (county or state).
7. Roof position signs or billboards are specifically prohibited.
8. In no case shall a sign or signs exceed a total of ten percent (10%) of the building face to which they are attached.
9. Portable signs shall be prohibited, except where allowed for in this section or such signs have been approved by the Planning Commission as meeting a special purpose and/or being appropriate for the particular need. Sandwich board portable signs shall not exceed twenty four (24) inches in width by forty eight (48) inches in height, and shall be removed nightly.
10. 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 fifteen (15) days, and no zoning permit or registration is required.

The use of any legally existing outdoor business or informational sign erected and in use at the date this Zoning Ordinance is enacted, 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 **Section 3.02** – Nonconformities of this ordinance the same as for other nonconforming uses under this ordinance.

SECTION 3.13 ANTENNA CO-LOCATION ON AN EXISTING TOWER OR STRUCTURE

- A. No antenna or similar sending/receiving devices appended to the tower, following its approved construction, shall be permitted if it exceeds the engineered design capacity of the tower thereby jeopardizing the tower's structural integrity.
- B. The installation and/or operation of the above mentioned, antennas or facilities shall not interfere with normal radio/television reception in the area. In the event interference occurs, it shall be the sole responsibility of the owner to rectify the situation with the parties involved.
- C. No antenna or similar sending and receiving devices appended to the tower or structure shall increase the overall height of the tower or structure by more than twenty (20) feet, or 10% of the tower's original height, whichever is greater.
- D. The Zoning Administrator shall within 14 days of receiving the application determine whether the application is administratively complete and the required fee has been paid. If the Zoning Administrator fails to make this determination within the 14-day period, the application shall be deemed administratively complete.
- E. If, before the expiration of the 14-day period, the Zoning Administrator notifies the Applicant that the application is not administratively complete, or notifies the Applicant that the required fee has not been paid, specifying the amount due, the 14-day period is tolled until the Applicant rectifies the specified deficiencies.

SECTION 3.14 NON-COMMERCIAL WIND TURBINE GENERATORS

- A. Non-commercial wind turbine generators and associated anemometer towers erected prior to a noncommercial wind turbine generator may be located in any district, provided the WTG or anemometer tower is setback from the property line a distance at least equal to the total height.
- B. The minimum site area for a non-commercial wind turbine generator or associated anemometer tower shall be three (3) acres.
- C. The maximum height shall be one hundred ten (110) feet or the maximum height allowed for the given location by the FAA, whichever is less.
- D. Minimum blade clearance above the ground shall be fifteen (15) feet.
- E. A non-commercial wind turbine generator or associated anemometer tower shall not be artificially lighted.

SECTION 3.15 VEHICULAR PARKING AND ACCESS

- A. For each dwelling, business, commercial, industrial, or similar building hereafter erected or altered, and located on a public highway in the Township, including buildings or structures used principally as a place of public assembly, there shall be provided and maintained suitable off-street parking in accordance with the following schedule:
 - 1. Residential Uses: Two (2) parking spaces per primary dwelling unit.
 - 2. Commercial, Service and Office Uses: Two (2) parking spaces per 1,000 square foot of gross floor area. Maximum five (5) parking spaces per 1,000 square feet

- of gross floor area.
3. Industrial Uses: one parking space for every 1,000 square foot of gross floor area.
- B. Two (2) or more buildings or uses may collectively provide the required off-street parking. In such a case, the required number of parking spaces for the individual uses may be reduced by up to twenty-five (25%) percent if a signed agreement is provided by the property owners and, upon approval, the agreement is recorded with the Charlevoix County Register of Deeds for both properties.
- C. Parking Lot Deferment: Where the property owner can demonstrate that the required amount of parking is excessive, the Planning Commission may approve a smaller parking area. Area of sufficient size to meet the parking space requirements of this Article shall be retained as open space, and the owner shall agree to construct the additional parking at the direction of the Planning Commission based on observed usage within six (6) months of being informed of such request in writing by the Zoning Administrator. The site plan shall note the area where parking is being deferred, including dimensions and dotted parking lot layout. Any required landscaping placed in this area shall be relocated when the parking area is expanded.
- D. In order to minimize excessive areas of pavement, which are unsightly and contribute to high rates of stormwater runoff, exceeding the minimum parking space requirements by greater than ten (10%) percent shall not be allowed, except as approved by the Planning Commission. In granting such additional space, the Planning Commission shall determine that such parking will be required, based on documented evidence, to accommodate the use on a typical day.
- E. In case of a use not specifically mentioned, the requirements of off-street parking facilities shall be the same as for the most similar use listed.
- F. Exits and entrances may be combined or provided separately. Approval of location of such exit and entrance shall be obtained in writing from the Charlevoix County Road Commission and/or Michigan Department of Transportation which approval shall include the design and construction thereof in the interest of safety, adequate drainage and other public requirements.
- G. On the same premises with every building, structure or part thereof, involving the receipt or distribution of vehicles or materials or merchandise, there shall be provided and maintained on-the-lot space for standing, loading, and unloading in order to avoid undue interference with public use of dedicated streets or alleys.

SECTION 3.16 WATER SUPPLY & 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 be subject to compliance with the local health department sanitary code requirements. Plans must be submitted to and approved by the responsible agencies. The written approval of such facilities by local health department shall be filed with application for a Zoning Permit.

SECTION 3.17 STORM WATER RETENTION

- A. The property owner of any property which is changed or developed in any manner, shall be required to manage the stormwater such that the post-development runoff shall not increase the quantity, rate or velocity of stormwater leaving the property above the pre-development or natural conditions levels and shall not cause erosion. Stormwater drainage in excess of natural conditions shall be retained on site. This provision may require stormwater retention ponds where appropriate. An exception may be made for water leaving the site via an adequately sized existing stormwater ditch, stormwater pipe or through other stormwater facilities that will be developed at the same time as the proposed new use. Stormwater management efforts shall be consistent with the provisions of the Charlevoix County Stormwater and Soil Erosion Control Program. In the case of conflicting regulations, between the Township Zoning Ordinance and the Charlevoix County Stormwater and Erosion Control Program, the more stringent of the two shall apply. Written approval from the Michigan Department of Transportation (MDOT) shall be required for an additional site run-off directed into a state trunkline ditch, i.e.US-131 or M-75.
- B. All stormwater management plans shall be designed to handle one (1), one hundred year, 24 hour storm event. Measures shall be implemented to capture any oil and grease, so as not to release such pollutants with the stormwater.

SECTION 3.18 HAZARDOUS SUBSTANCES

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

SECTION 3.19 WATERFRONT GREENBELT

To preserve natural resources, water quality and community scenic and recreational values, a waterfront setback shall be established and maintained on all waterfront property. The setback area shall include all the land area located within fifty (50) feet of the ordinary high water mark of a lake or a stream abutting or traversing the property in question. Within the waterfront setback, the following development or use restrictions shall apply:

- A. No principal use structures or accessory structures shall be allowed except for steps meeting the side yard setback for the district in which they are located. Satellite dishes and television antennae are not considered accessory structures and thus are not subject to this regulation.
- B. No dredging or filling shall be allowed except where permitted by state or federal law, with appropriate permits.
- C. The use of asphalt, concrete, stone, aggregate, pavement of any sort including pervious paving blocks or materials, wood or other similar surfaces shall be limited to a single

walkway no more than six feet in width or stairs necessary for water access. Handrails along stairs are permitted.

- D. Within thirty-five (35) feet of the ordinary high water mark, a natural vegetation strip shall be established or maintained on a least seventy percent (70%) of the lake or stream frontage for any new construction or any renovation that results in an increase of the structure footprint by five hundred (500) square feet or greater. Once installed or established (either as required or voluntarily), the natural vegetation strip may be modified in accordance with the requirements, but shall not be removed. The natural vegetation strip shall be installed within 2 years of issuance of the zoning permit. The natural vegetation strip shall consist of trees, shrubs or herbaceous plants, excluding lawn. The establishment of a natural vegetation strip is encouraged, but not required for the construction of an accessory building.
- E. The use of pesticides, herbicides and fertilizers is prohibited in the natural vegetation strip (per item D above) or within thirty-five feet of ordinary high water mark for Deer Lake, except for the allowed limited use of herbicides for the eradication of poison ivy, poison sumac or poison oak. Fertilizer used in the waterfront greenbelt (50 feet), shall be zero phosphorus fertilizers.
- F. Neither septic tanks nor septic system filtration fields may be located within the waterfront greenbelt.
- G. The waterfront greenbelt and natural vegetation strip shall be shown on any plot plan or site plan submitted for approval during the process of developing a water frontage lot.

SECTION 3.20 LANDSCAPE BUFFER

- A. A landscape buffer, as defined herein, shall be required for any commercial, manufacturing or industrial use that abuts a residential use on either the side yard or rear yard, the proposed plant sizes, spacing and species shall be reviewed during the site plan approval process. At installation, all new trees shall be a minimum size of 2" caliper for deciduous trees and 5' height for evergreens. Plants shall be spaced so that an effective year-round landscape screening is reasonably anticipated to be achieved within a five year period. The landscape buffer may be reduced or waived by the Planning Commission if it were found sufficient screening is in place or already established. Open space may also be required as a condition of site plan approval.
- B. A landscape buffer shall be required for new residential, commercial, or manufacturing construction that abuts the Conservation Reserve District.

SECTION 3.21 BUILDING SPACING

A building, whether principal or accessory, shall be located no closer than ten (10) feet to any existing building. No addition to a building shall be permitted that would result in a reduction of building separation to less than ten (10) feet.

SECTION 3.22 SPECIAL EVENTS AND ACTIVITIES

This subsection is established to provide for special events and activities of a commercial nature or 'for profit' in the Resort Mixed Use, Rural Residential, Agricultural Forest and Industrial Zoning District as a means to promote agricultural tourism and other activities that feature rural character and agricultural environment of the area, while protecting and limiting the impact of such activities on the surrounding area.

- A. Typical special events and activities may include weddings, nonprofit benefits, wine and catered food events, seasonal natural events, vineyard harvest festivals, receptions, parties, picnics, barn dances, educational conferences, and agricultural research. Activities must be completed by 11 p.m. unless otherwise authorized by the Planning Commission. These activities may be permitted provided:
1. Special events and activities are limited to parcels with a size of at least ten (10) acres.
 2. Parking areas shall be off-road, forty (40) feet from all lot lines, and appropriately screened from neighboring property. Light sources shall be directed downwards and shielded to prevent light being directed off the premises.
 3. The operator must have a written statement from the Health Department indicating the maximum number of persons who can be accommodated with existing toilet facilities, and additional portable toilets must be provided for any guests exceeding the aforementioned number.
 4. Hours of operation shall be reviewed and set as a part of the site plan approval.
 5. Any music or entertainment provided for the activity must be for background purposes and not a featured item of the activity. Sound amplifiers are permitted as determined in site plan review.
 6. Special land use must be approved by the Planning Commission following a public hearing. The following information must be provided in addition to information required for special land use approval.
 - a. Location of temporary toilet facilities, which may be required.
 - b. A written description of the planned activities including:
 - 1) Type of gathering.
 - 2) Frequency and number of activities proposed in a calendar year.
 - 3) Maximum number of guests for any activity.
- B. Additional Site Plan Review Standards:
1. The Planning Commission shall review the site plan for conformance with the standards of the zoning district in which it is located; and shall establish that the following standards have been satisfied:
 - a. The size of the function and the number of expected guests on the property at one time shall be determined at the sole discretion of the Planning Commission based on parcel size, proximity to adjacent neighbors and the ability of the applicant to demonstrate that there will be no adverse impact on the neighbors from the noise, traffic, trespass, light or other impacts deemed relevant by the Planning Commission.
 - b. There is adequate provision for parking of vehicles so that there is no parking on public roads, and adequate setbacks from adjacent properties are maintained. Temporary parking areas may be approved at the sole discretion of the Planning Commission.

- c. The location and amount of time prior to an event for erection of temporary structures which are allowed and time for removal after the event, may be approved at the sole discretion of the Planning Commission.
- d. The Planning Commission shall require a planted buffer between adjacent properties and parking or building if it is determined that such a buffer is necessary to avoid adverse impacts on adjacent properties.
- 2. Any activities other than those included in the original approval must obtain a separate additional approval by the Planning Commission. The scope of the additional review will be determined by the PC at a preliminary hearing.
- C. When the special event is proposed to occur on property which is located on a shared driveway or private road, all owners of properties accessing the shared driveway or private road shall be notified in the same manner as other special use public hearing notification.

SECTION 3.23 MEDICAL USE OF MARIHUANA OR MARIJUANA

- A. **Intent and Purpose.** The purpose of this section is to implement land use regulations to address medical marihuana in Boyne Valley Township only to the extent specifically authorized by the enactment of the Michigan Medical Marihuana Act (hereinafter referred to as the “MMMA”, Initiated law 1 of 2008, as amended, MCL 333.26423, et seq, and its administrative rules, R333.101.et seq.
- B. **Regulations for Qualifying Patients.** The medical use of marijuana by a qualifying patient in that qualifying patient’s dwelling is hereby recognized as an accessory use to the principal residential use of the dwelling and can be established without a zoning permit in any zoning district, but shall be subject to the following regulations:
 - 1. The qualifying patient must be issued and at all times must maintain a valid registry identification card by the Michigan Department of Community Health under the provisions of the MMMA.
 - 2. All marijuana plants or products must be contained within the dwelling in an enclosed, locked facility that permits access only by the qualifying patient.
 - 3. If a room with windows within the dwelling is utilized to grow marijuana for medical use, any artificial lighting shall be shielded to prevent glare, must not be visible from neighboring properties, and must not be visible from adjacent streets or public ways.
- C. **Regulations for Primary Caregivers.** The medical use of marijuana by a primary caregiver is hereby authorized as a home occupation by right in any zoning district, provided that all of the following regulations are met:
 - 1. The primary caregiver must be issued and at all times must maintain a valid registry identification card by the Michigan Department of Community Health under the provisions of the MMMA.
 - 2. The primary caregiver must obtain a zoning permit under **Section 9.02** of this Ordinance.
 - 3. All marijuana plants or products must be contained within the dwelling in an

enclosed, locked facility that permits access only by the primary caregiver.

4. If a room with windows within the dwelling is utilized to grow marijuana for medical use, any artificial lighting shall be shielded to prevent glare, must not be visible from neighboring properties, and must not be visible from adjacent streets or public ways.
5. No more than one (1) primary caregiver shall be permitted to function as a home occupation servicing qualifying patients within a dwelling.
6. No more than two (2) qualifying patients may be present at any one time at a dwelling in which a primary caregiver is functioning as a home occupation.
7. Qualifying patient visits to a dwelling in which a primary caregiver is functioning as a home occupation shall be restricted to between the hours of 7 a.m. and 8 p.m.
8. No qualifying patients under the age of 18 (eighteen) shall be permitted at any time at a dwelling in which a primary caregiver is functioning as a home occupation, except in the presence of his/her parent or guardian.
9. No marijuana for medical use shall be dispensed by the primary caregiver to qualifying patients at the dwelling in which a primary caregiver is functioning as a home occupation, except when the qualifying patient resides with the primary caregiver at the dwelling. Except as provided herein, the primary caregiver shall deliver all marijuana for the medical use of such qualifying patient, and such delivery shall take place on private property away from public view. Any such delivery vehicle shall be unmarked and not bear any emblem or sign that would indicate the nature of its cargo.
10. No marijuana for medical use shall be consumed, smoked, or ingested by a qualifying patient by any method at a dwelling in which a primary caregiver is functioning as a home occupation, except when the qualifying patient resides with the primary caregiver at the dwelling.
11. A dwelling in which a primary caregiver is functioning as a home occupation shall display indoors and in a manner legible and visible to his/her qualifying patients:
 - a. A notice that qualifying patients under the age of eighteen (18) are not allowed at a dwelling in which a primary caregiver is functioning as a home occupation, except in the presence of his/her parent or guardian, and
 - b. A notice that no dispensing or consumption of marijuana for medical use shall occur at a dwelling in which a primary caregiver is functioning as a home occupation.
12. A dwelling in which a primary caregiver is functioning as a home occupation shall not have any outdoor signage that would indicate the nature of the primary caregiver services being conducted in the dwelling.
13. A dwelling in which a primary caregiver is functioning as a home occupation shall not be located within 1,000 feet of any public or private school, having a curriculum including kindergarten through twelve grade and its accessory structures.
14. A dwelling in which a primary caregiver is functioning as a home occupation shall not be located within 500 feet of a lot on which any of the following uses are

located:

- a. Any church or place of worship and its accessory structures.
 - b. Any public facility, such as parks and playgrounds.
15. The portion of a dwelling in which a primary caregiver is functioning as a home occupation, including any room or area utilized to grow marijuana for medical use, shall contain electrical service and wiring meeting the applicable requirements of the electrical code in effect in the Township.
- D. Relationship to Federal Law. Nothing within this section is intended to grant nor shall it be construed as granting immunity from federal law.

SECTION 4.01 Zoning Districts

A. Single Family Residential District R-1

1. Purpose. The purpose of this zoning district and its accompanying regulations is to provide for a stable and sound residential environment on lots of sufficient area to accommodate the safe location and use of on-site water and waste disposal systems in accordance with local Health Department requirements. It is further the purpose of this zoning district to create low and medium-density areas for single-family dwelling units, in combination with associated accessory buildings and uses.
2. Permitted and Special Land Uses, See **Section 4.02**
3. Dimensional Restrictions, See **Section 4.03**

B. Mobile Home Park Residential District R-2

1. Purpose. The purpose of this zoning district is to provide for the development of a sound and stable environment for mobile home residential development at a medium high density. Land for this district shall only be designated upon approval of an application for a mobile home park. Due to the potential for groundwater contamination based on the porous soils in Boyne Valley Township, land for this district shall only be located in areas serviced by a minimum of primary and secondary sewage treatment facilities.
2. Permitted and Special Land Uses, See **Section 4.02**
3. Dimensional Restrictions, See **Section 4.03**

C. Multiple Family Residential District R-3

4. Purpose. The purpose of this zoning district is to allow for the development of a sound and stable environment for two-family dwelling units and multiple-family dwelling units including pre-planned apartments, garden apartments or condominium apartment complexes, in combination with associated accessory buildings and uses.
5. Permitted and Special Land Uses, See **Section 4.02**
6. Dimensional Restrictions, See **Section 4.03**

D. Rural Residential District RR-1

1. Purpose. The purpose of this zoning district and its accompanying regulations is to recognize and promote a pattern of development, which will allow future development to occur while simultaneously preserving the open space and rural

character of Boyne Valley Township, while providing for low density residential use, in combination with associated accessory buildings and uses.

2. Permitted and Special Land Uses, See **Section 4.02**
 3. Dimensional Restrictions, See **Section 4.03**
- E. Resort Mixed Use District C-1
1. Purpose. The purpose of this zoning district is to provide for a mix of residential, recreation and related commercial activities to serve the tourist needs in the Township. This district recognizes this “mixed-use” characteristic of the area and is designed to authorize land uses, in combination with associated accessory buildings and uses, that insure compatibility between surrounding land uses.
 2. Permitted and Special Land Uses, See **Section 4.02**
 3. Dimensional Restrictions, See **Section 4.03**
- F. Commercial District C-2
1. Purpose. The purpose of this zoning district is to provide for a variety of business and office uses. The regulations and conditions contained in this district are designed to promote the economic viability of commercial areas by encouraging improved site development standards that will provide more safety and convenience for customers. The regulations in this district are also designed to ensure that development in the Commercial district, including associated accessory buildings and uses, will relate harmoniously to surrounding land uses.
 2. Permitted and Special Land Uses, See **Section 4.02**
 3. Dimensional Restrictions, See **Section 4.03**
- G. Industrial District I
1. Purpose. The purpose of this zoning district is to accommodate industrial uses, in combination with associated accessory buildings and uses, for the Township in such a manner that no unreasonable, noise, odor, dust, vibration or any other like nuisance shall exist to adversely affect any adjoining properties.
 2. Permitted and Special Land Uses, See **Section 4.02**
 3. Dimensional Restrictions, See **Section 4.03**
- H. Agricultural Forest District AF
1. Purpose. The purpose of this zoning district is to accommodate large tracts of land for farming, forestry and open space. The intended uses are primarily agricultural, forestry, and low density residential uses in combination with associated accessory buildings and uses; as well as other uses compatible with the rural area.

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2. Permitted and Special Land Uses, See **Section 4.02**
 3. Dimensional Restrictions, See **Section 4.03**
- I. Conservation Reserve District CR
1. Purpose. The purpose of this district and its regulations is to preserve State and Township open space, parkland and recreation uses, in combination with associated accessory buildings and uses.
 2. Permitted and Special Land Uses, See **Section 4.02**
 3. Dimensional Restrictions, See **Section 4.03**
-

SECTION 4.02 Table of Land Uses by Zoning District

P=Permitted Use SP= Special Land Use

| Land Uses | Zoning Districts | | | | | | | | | |
|---|---------------------------|------------------------------|-----------------------------|-------------------|------------------|----------------|------------|---------------------|----------------------|--|
| | R-1 | R-2 | R-3 | RR-1 | C-1 | C-2 | I | AF | CR | |
| | Single Family Residential | Mobile Home Park Residential | Multiple Family Residential | Rural Residential | Resort Mixed Use | Commercial | Industrial | Agricultural Forest | Conservation Reserve | |
| A. Residential Uses¹ | | | | | | | | | | |
| 1. Single Family Dwellings | P | P | P | P | P | P | | P | | |
| 2. Two Family Dwellings | | | P | | | | | | | |
| 3. Multiple Family Dwellings | | | P | | | | | | | |
| 4. Mobile Home Park | | P | | | | | | | | |
| 5. Motels, Hotels and Rental cabins | | | | | P | P | | P | | |
| 6. Planned Unit Developments | | | SP | | SP | SP | | SP | | |
| 7. Agricultural Labor Housing | | | | SP | | | | SP | | |
| 8. Bed and Breakfasts | SP | | SP | SP | SP | SP | | SP | | |
| 9. Accessory Dwellings | P | | P | P | | P ² | | P | | |
| 10. Acc. Building as a Principal Use | | | | P | | | | P | | |
| 11. Adult Day Care Homes | | | | | | P | | | | |
| 12. Adult Foster Care Family Home | P | P | P | P | | | | | | |
| 13. Adult Foster Care Small Group | | | | SP | | SP | | | | |
| 14. Adult Foster Care Large Group | | | SP | SP | | SP | | | | |
| 15. Assisted Living Facility | | | SP | SP | | | | | | |
| 16. Nursing or convalescent Home | | | | SP | | SP | | | | |
| 17. Residential Rehabilitation Facility | | | | SP | | SP | | | | |

1. A state licensed residential facility shall be considered a residential use of property for the purpose of zoning and a permitted use in all residential zones and is not subject to a special use or conditional use permit or procedure different from those required for other dwellings in similar densities in the same zone.
2. In the Commercial District, accessory dwelling the must be associated with the business.

| Land Uses | Zoning Districts | | | | | | | | | |
|-----------|---|------------------------------|-----------------------------|-------------------|------------------|------------|------------|---------------------|----------------------|----|
| | R-1 | R-2 | R-3 | RR-1 | C-1 | C-2 | I | AF | CR | |
| | Single Family Residential | Mobile Home Park Residential | Multiple Family Residential | Rural Residential | Resort Mixed Use | Commercial | Industrial | Agricultural Forest | Conservation Reserve | |
| B. | Small Scale home-based Commercial Uses | | | | | | | | | |
| 1. | Home Occupations | | | | | | | | | |
| | Allowed within any dwelling, per Section 3.08 | | | | | | | | | |
| 2. | Cottage Industry | SP | | SP | SP | | | | | |
| C. | Public /Institutional Uses/Utilities | | | | | | | | | |
| 1. | Government Bldgs and associated Public Facilities | P | | | | | P | P | | |
| 2. | Religious Institutions / Places of Worship | SP | | SP | SP | | P | | | |
| 3. | Cemeteries | SP | | | SP | | | | | |
| 4. | Libraries and Museums | P | | P | | | P | | | |
| 5. | Public and Private Educational Facilities | SP | | | SP | | | | | SP |
| 6. | Communities Centers | P | P | P | | | P | | | |
| 7. | Public Parks and Recreation | P | | P | | P | | | | P |
| 8. | Public Docks, launch ramps | SP | | | | SP | | | SP | SP |
| 9. | Conservation Areas / Forest Preserve | | | | P | | | | P | P |
| 10. | Game Refuges | | | | P | | | | P | P |
| 11. | Public Utility Offices and Equipment Storage | SP | | | SP | | SP | SP | SP | |
| 12. | Telecommunications Towers | | | | SP | SP | | | SP | |

| Land Uses | Zoning Districts | | | | | | | | |
|--|---------------------------|------------------------------|-----------------------------|-------------------|------------------|------------|------------|---------------------|----------------------|
| | R-1 | R-2 | R-3 | RR-1 | C-1 | C-2 | I | AF | CR |
| | Single Family Residential | Mobile Home Park Residential | Multiple Family Residential | Rural Residential | Resort Mixed Use | Commercial | Industrial | Agricultural Forest | Conservation Reserve |
| D. Commercial Recreation | | | | | | | | | |
| 1. Golf courses | P | | | | P | | | | |
| 2. Riding Stables | | | | P | P | | | P | |
| 3. Ski resorts | | | | | P | | | | |
| 4. Campgrounds | | | | SP | P | SP | | SP | |
| 5. Private or Non-profit recreation | | | | SP | P | P | | SP | |
| E. Commercial | | | | | | | | | |
| 1. Medical Clinic or medical office | SP | | | | SP | SP | | | |
| 2. Veterinary hospital | | | | | | P | | | |
| 3. Commercial agriculture | | | | P | | | | P | |
| 4. Plant nurseries, tree & sod farms | | | | P | | P | P | P | |
| 5. Agricultural service | | | | SP | | P | P | P | |
| 6. Permanent roadside farm markets | | | | SP | | P | | P | |
| 7. Dog Kennels | | | | SP | | SP | SP | SP | |
| 8. Airports | | | | | P | P | | | |
| 9. Private landings strips | | | | SP | | SP | | SP | |
| 10. Junkyard | | | | | | | SP | | |
| 11. Eating/Drinking Establishments (w/o drive-through) | | | | | P | P | | | |

| Land Uses | | Zoning Districts | | | | | | | | |
|-----------|---|---------------------------|------------------------------|-----------------------------|-------------------|------------------|------------|------------|---------------------|----------------------|
| | | R-1 | R-2 | R-3 | RR-1 | C-1 | C-2 | I | AF | CR |
| | | Single Family Residential | Mobile Home Park Residential | Multiple Family Residential | Rural Residential | Resort Mixed Use | Commercial | Industrial | Agricultural Forest | Conservation Reserve |
| 12. | Drive-thru restaurants and businesses | | | | | | P | | | |
| 13. | Conference / Convention facilities | | | | | P | | | | |
| 14. | Special Events Venue | | | | SP | SP | SP | | SP | |
| 15. | Mobile Food Vending | | | | | SP | SP | SP | | |
| 16. | Retail shops (food, drug gift shop, apparel, sporting goods, copy shop, workshop without storage) | | | | | P | P | | | |
| 17. | Food processing services | | | | | | | P | | |
| 18. | Bottling works; including breweries and distilleries | | | | | SP | SP | SP | | |
| 19. | Vehicle Dealership (including new and used automobiles, motorcycles, recreational vehicles, snowmobiles, etc) | | | | | | SP | | | |
| 20. | Automobile service (fueling station, automobile washing facility, oil change, automobile repair) | | | | | | SP | SP | | |
| 21. | Building materials Sales | | | | | | P | P | | |
| 22. | Contractor office with inside storage | | | | SP | | P | P | | |
| 23. | Contractors sales office, equipment rental business with inside storage. | | | | | | P | | | |
| 24. | Freight or trucking terminal | | | | | | P | P | | |
| 25. | Personal Services (such as barber, beauty salon, laundry or dry cleaning drop-off) | | | | | P | P | | | |
| | | | | | | | | | | |

| Land Uses | | Zoning Districts | | | | | | | | |
|-----------|--|---------------------------|------------------------------|-----------------------------|-------------------|------------------|------------|------------|---------------------|----------------------|
| | | R-1 | R-2 | R-3 | RR-1 | C-1 | C-2 | I | AF | CR |
| | | Single Family Residential | Mobile Home Park Residential | Multiple Family Residential | Rural Residential | Resort Mixed Use | Commercial | Industrial | Agricultural Forest | Conservation Reserve |
| 26. | Professional or Business Office (such as real estate, bank, accounting, attorney, medical, dental or financial services) | | | | SP | P | P | P | | |
| 27. | Production, processing, assembly, manufacturing or packaging of goods or materials | | | | | | | SP | | |
| 28. | Printing, industrial and publishing | | | | | P | SP | SP | | |
| 29. | Small scale repair shops | | | | SP | | SP | P | | |
| 30. | Wholesale or commercial warehousing | | | | | | | SP | | |
| 31. | Mini warehousing/storage | | | | | | | SP | | |
| 32. | Commercial resource extraction | | | | SP | | SP | SP | SP | |
| 33. | Sexually oriented businesses | | | | | | | SP | | |
| 34. | Wind Turbine Generators | | | | | | | SP | | |

SECTION 4.03 Schedule of Regulations - DRAFT to be e-mailed prior to the meeting with copies provided at meeting

| Zoning District | District Name | Minimum Lot Area | | Maximum Height of Structure (i) (j) | | Minimum Setbacks (k) | | | Min. Dwelling Width (a) (l) |
|-----------------|------------------------------|---|--------|-------------------------------------|------------|----------------------|------------|--------|-----------------------------|
| | | Area | Width | Stories | Feet | Front | Side | Rear | |
| R-1 | Single Family Residential | 20,000 sf | 100 ft | 2.5 | 35 | 35 | 10(b) | 35 | 20 ft |
| R-2 | Mobile Home Park Residential | 5,000 sf/unit | 50 ft | 2.5 | 35 | 20 | 10 (b) | 20 | 14 ft |
| R-3 | Multiple Family Residential | (c) | NA | 3 | 35 | 40 | 30 (b) | 30 | 14 ft |
| RR-1 | Rural Residential | 1 ac | 200 ft | 2.5 | 35 (d) (h) | 35 | 15 (e) | 35 | 14 ft |
| C-1 | Resort Commercial | 1 ac | 100 ft | 2.5 | 35 (h) | 25 (f) | 25(g) | 35 (g) | 20 |
| C-2 | Commercial | 2 ac | 150 ft | 2.5 | 35 | 35 | 15 | 35 | -- |
| I | Industrial | 1 ac | 150 ft | -- | 35 | 50 | 20 (b) (g) | 25 (g) | -- |
| AF | Agricultural Forest | 1 ac | 200 ft | 2.5 | 35 (d) (h) | 35 | 15 (e) | 35 | 14 |
| CR | Conservation Reserve | Parks, forest, open space, may include structures | | | | | | | |

Footnotes:

- (a) Minimum Primary Dwelling width does not apply to an accessory dwelling, see Sec 7.02.
- (b) For corner lots, the minimum side yard setback, on the street side, shall be equal to the minimum front yard setback for the applicable district.
- (c) Density regulations for this district – Not more than four (4) dwelling units per net acre shall be permitted in this zone district, except as otherwise provided herein. There shall be a minimum of fifty (50) percent of the gross area of the proposed ‘R-3’ maintained as open space or non-profit recreational uses. The following lands will be excluded from the usable gross acreage for a particular project: 1) lands with slope greater than 20%; 2) lands where the water table is four (4) feet or less from the surface; 3) lands covered with water; and 4) lands utilized for a utility right-of-way or dedicated by easement for some other type of use.
- (d) Exception to height standards for Agricultural uses. The maximum height for permitted agricultural accessory structures that are essential and customarily used in agricultural operations associated with a farm shall be forty-five (45) feet, except that

the maximum height of silos shall be one hundred (100) feet, provided that all such agricultural accessory structures shall be no less than one hundred (100) feet from any off-site residential dwelling.

- (e) For agricultural or forest use buildings the side setback shall be increased to 25'
- (f) May be decreased based on the locations of buildings on established and adjacent lots, but shall not be less than 15'.
- (g) Side or Rear yard shall be increased to 50' when adjacent to any Residential District.
- (h) Telecommunication towers, alternative tower structures, transmission and communication towers , utility microwaves, and public utility T.V. or radio transmitting towers shall not be subject to the height regulations of tis Section, but shall be regulated pursuant to Section 7.16 of this Ordinance.
- (i) Wind Turbine Generators or Anemometer Towers shall not be subject to the height regulations of this Section, but shall be regulated pursuant to Section 3.14 Non-commercial Wind Turbine Generators and Section 7.19 Commercial Wind Turbine Generators.
- (j) Ornamental architectural features, not used for human occupancy, such as church spires, belfries, cupolas, domes, ornamental towers, flagpoles and monuments shall not be subject to the height limitations of this Section.
- (k) Chimneys, flues, cornices, eaves, gutters and similar features may extend a maximum of twenty four (24) inches into the required setback, provided the foundation location complies with the required setback.
- (l) The minimum dwelling width may be reduced when proposed as part of a Planned Unit Development and is subject to Planning Commission Approval.

SECTION 4.04 Zoning Map and Rules of Interpretation

A. Zoning Map

The areas assigned to each Zoning District and the boundaries thereof shown on the map entitled "Boyne Valley Township Zoning Map, Charlevoix 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.

B. Boundaries of Districts

1. 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 Charlevoix 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, with any amendments to the Ordinance involving changes to the official map noted and portrayed on said map.
2. The official zoning map, including legally adopted amendments, shall be designated as such by the signature of the Township Clerk. Where uncertainty exists as the exact district boundaries, the following 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.

C. Zoning of Vacated Lands

Whenever any street, alley, highway, or other public right-of-way within the Township has been abandoned by official government action, such right-of-way lands attach to and become part of the land adjoining. 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.

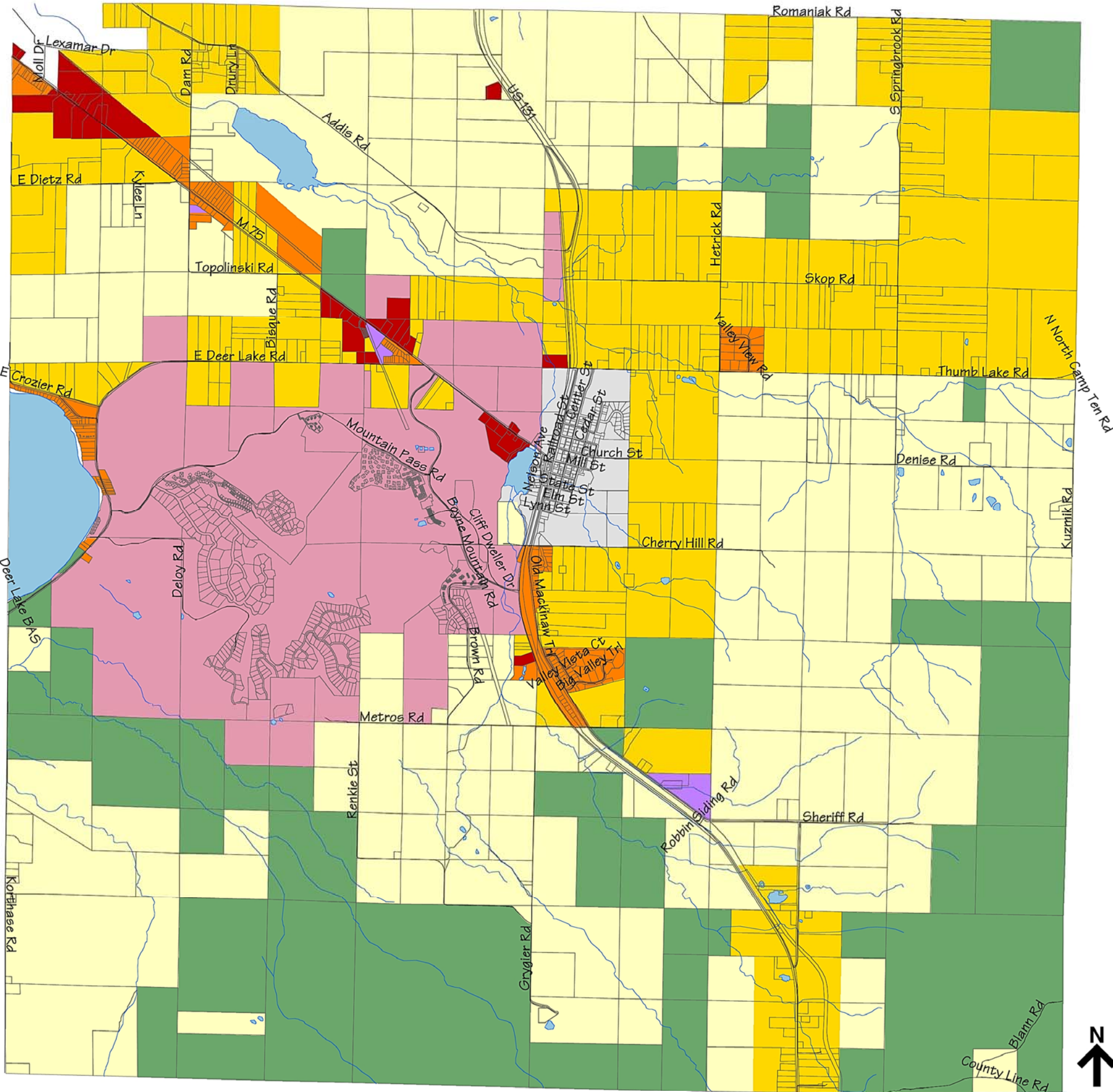
D. Zoning of Annexed Areas

Whenever any area is annexed to Boyne Valley Township, it will be zoned the same as the immediately adjacent Township parcel. If there are two parcels with different zoning classifications that are contiguous to the newly annexed parcel, the most restrictive shall apply.

E. Zoning District Changes

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

Boyne Valley Township Zoning Map



ZONING DISTRICTS

- AF: Agricultural/Forest
- C-1: Resort Mixed Use
- C-2: Commercial
- CR: Conservation Reserve
- I: Industrial
- R-1: Single Family Residential
- RR-1: Rural Residential
- Village of Boyne Falls

0 2,500 5,000 7,500
 Feet

Adopted: Dec. 12, 2016
 EFFECTIVE: JAN. 1, 2017

Data Sources:
 Charlevoix County GIS & Planning Department,
 Michigan Center for Geographic Information,
 USDA, Little Traverse Conservancy and
 M. C. Planning & Design

Prepared by: M.C. Planning & Design



SECTION 5.01 PURPOSE

It is the purpose of this article to specify standards, data requirements, and the review process which shall be followed in the preparation of site plans and plot plans as required by this Ordinance.

SECTION 5.02 APPROVAL OF SITE PLAN OR PLOT PLAN REQUIRED

- A. Planning Commission Approval for Site Plans:** Site plan approval by the Planning Commission (PC) is required prior to the issuance of a Zoning Permit, for the following land uses:
1. All new uses by right within the Resort Mixed Use (C-1), Commercial (C-2) or Industrial (I) zoning district, excluding new single family dwellings.
 2. All uses by right, excluding single family dwellings and associated accessory structures, where one or more of the following conditions exist:
 - a. The site has steep slopes (18 percent or greater), within twenty (20) feet of the proposed development activity.
 - b. The proposed development is on a site which is subject to local or state regulations concerning wetlands.
 3. All special land uses, as specified in each zoning district, including planned unit developments, whether new development or a change of use, except as otherwise specified in this Ordinance.
 4. All uses for which this Ordinance requires five (5) or more off-street parking spaces.
 5. All residential development projects with multiple single and/or two family dwellings associated with new parcel division(s) based on the Land Division Act, as amended.
 6. All condominium subdivisions subject to P.A. 59 of 1978, the Condominium Act, as amended.
 7. Expansion or renovation of an existing use, other than one-family or two family residential use, which increases the existing floor space more than twenty-five (25) percent.
 8. Any change of use, unless determined to qualify as minor change.
- B. Zoning Administrator Approval for Plot Plans:** Plot plan approval is required by the Zoning Administrator (ZA), prior to the issuance of a Zoning Permit, for all other uses not listed in **Section 5.02 (A)(1-8)** above, including any site plan amendment or change of use meeting the minor change criteria. A plot plan is required for the reopening of a business or establishment of a new business when the structure has not been used for a business for 12 months or greater. The Zoning Administrator shall review such plans in accordance with the standards specified in **Section 5.05**, and may at his/her discretion defer such a plot plan review to the Planning Commission. For existing structures proposed for reuse, the Zoning Administrator shall have the authority to waive any plot plan data requirements as specified in **Section 5.03.B.2**.

SECTION 5.03 DATA REQUIREMENTS

A. Plot Plan and Site Plan Data Required

| Required Data Description | <u>Plot Plan</u> ZA Approval | <u>Site Plan</u> PC Approval | Comments |
|--|---|---|--|
| Contact Information for Applicant and Owner (if different) | X | X | |
| General Information Vicinity sketch showing site relationship to surrounding streets and land uses within 300' | X | X | |
| PROJECT DESCRIPTION | X | X** | <i>Basic project description can NOT be waived</i> |
| Description of proposed uses of structures and land | X | X | |
| Number of dwelling units, sleeping rooms, occupants, employees (by shift), other users | X | X | |
| Number of square feet, total usable floor area | X | X | |
| Location, quantity and type of recreation and open space | | X | |
| Outdoor gatherings – description and anticipated participant levels | X | X | |
| Property Information | | | |
| Location, shape, area, dimensions | X | X | Readable scale drawing |
| Property survey (including dimensions) and legal description, prepared and sealed by a professional surveyor | | X | <i>Only the survey can be waived or modified</i> |
| Yard, open space, parking lot and space dimensions, number of parking spaces, and loading areas | X | X | |
| STREETS, DRIVEWAYS AND EASEMENTS | | | |
| Driveways, parking and vehicle stacking areas when required | X | X | |
| Drainage – county drains and site drainage | X | X | |
| Easements and deed restrictions for existing public or private rights-of-way | X | X** | <i>Can NOT be waived</i> |
| Proposed streets and alleys | X | X | |
| Proposed traffic control measures | | X | |
| UTILITIES | | | |
| Location of all utilities | | X | |
| Location of any well, septic system, drain field, and/or temporary sanitary facilities | X | X | |
| Storm drainage and storm water management plan, including drains, dry wells, catch basins, retention/detention areas, point of discharge for drain | | X | |
| Lighting – location, area of illumination, fixture type and shielding | | X | |

(Continued from previous page)

| Required Data Description <i>(cont'd)</i> | Plot Plan ZA Approval | Site Plan PC Approval | Comments |
|---|------------------------------------|------------------------------------|--------------------------|
| NATURAL RESOURCES AND FEATURES | | | |
| Natural features – such as: woodlands, floodplains, lakes, streams, steep slopes (18 percent), sensitive areas, wetlands | X | X | |
| Creeks, streams, lakes, ponds and wetland areas within 1,500 feet of property | X | X | |
| MISCELLANEOUS | | | |
| Landscaping plan – location of plants to be preserved, proposed plantings, screening, fences and lighting | | X | |
| Storage location, specifications and containment systems for chemicals, salts, or flammable materials, or hazardous materials | | X | |
| Structure Information <i>(existing and proposed)</i> | | | |
| Location, dimensions, height, bulk | X | X | |
| Proposed structure use | X | X | |
| Location and size of any waterfront structures and docks | X | X | |
| Existing man-made features – indicate which are to be retained, removed or altered. | | X | |
| Accessory structures including fences and sheds— size, location and use | X | X | |
| Trash receptacles – size, location and screening | | X | |
| Signs – type, size and location | X | X | |
| ADDITIONAL INFORMATION | | | |
| Fire and safety preplan coordinated with Fire Chief | X | X | <i>Can NOT be waived</i> |
| List of all other federal, state, and local permits and current status of required approvals | | X** | <i>Can NOT be waived</i> |
| Expected project completion schedule | | X** | <i>Can NOT be waived</i> |
| Other information deemed necessary by PC to determine compliance with this Ordinance | | X** | <i>Can NOT be waived</i> |

** Sections (or portions thereof) which shall NOT be modified or waived

Waiver Notes:

1. Planning Commission approval of a request for waiver and/or modification of data required from the applicant in no way releases the applicant from the requirements contained in this Ordinance.
2. For each request for modification or waiver of data requirements, the applicant shall provide to the Planning Commission, in writing, its rationale using findings requirements listed in **Section 5.03.B.3**.
3. Prior to submission of an application to the Zoning Administrator, the applicant shall provide a written preliminary project description to the Planning Commission seven (7) days in advance of a scheduled meeting which includes applicant's

rationale for requested data modifications or waivers. The applicant shall attend the meeting at which the request is to be considered. The Planning Commission may make a site visit.

4. The Planning Commission is under no obligation to waive or modify any data requirement.

B. Data Waivers

1. The Planning Commission may waive, in whole or in part, or modify any of the above site plan requirements, except as specified otherwise, where at least one of the findings (**Section 5.03.B.3**) is documented, including the rationale for each finding.
2. The Zoning Administrator may waive, in whole or in part, or modify any of the above plot plan requirements when the application utilizes an existing structure, except project description and fire and safety preplan, where at least one of the findings (**Section 5.03.B.3**) is documented, including the rationale for each finding.
3. Findings Requirements
 - a. The requirement is not applicable to the proposed development.
 - b. The data will serve no useful purpose and/or no good public purpose will be achieved by requiring strict conformance with the listed requirement.
 - c. Circumstances have not significantly changed on the property since the last time detailed information on the site was submitted.
 - d. Another reasonable circumstance or condition exists.

SECTION 5.04 SITE PLAN REVIEW PROCEDURES

A. Submittal, Completeness Review and Distribution of Site Plans

1. The applicant shall consult with the Zoning Administrator prior to submitting an application to review the process and determine if any additional agencies will need to review the proposed site plan.
2. Three (3) copies of the application, site plan and the required fee shall be submitted to the Zoning Administrator. The Planning Commission Chair (or designated agent(s) and/or consultants) and Zoning Administrator shall review the application and site plans for completeness.
3. If such application or plans are not complete according to **Section 5.03**, a written notice shall be provided identifying the inadequacies of the plans and any additional information required.
4. Upon determination of a complete application and site plan, a total of 12 identical sets of the application, site plan and supporting documentation shall be submitted to the Zoning Administrator. If the initial review copy is deemed complete, the ZA shall have the authority to only require up to the additional 9 sets for a total of 12 copies.
5. Upon receipt of an adequately completed application and plans, the Zoning Administrator shall record the date of their receipt and transmit five (5) copies to the Planning Commission, one (1) copy to the Township Clerk, and one (1) copy to each of the following for review and approval based on applicable codes and

adopted standards, and additional health and safety recommendations, as applicable:

- a. Boyne Valley Township Fire and Rescue chief or his/her designee
- b. Charlevoix County Road Commission and/or MDOT
- c. Charlevoix County Soil Erosion Officer
- d. Health Department of Northwest Michigan
- e. Other agencies as may be relevant, including the Department of Natural Resources or Department of Environmental Quality and the Natural Resources Conservation Service. The remaining copies shall be retained by the Zoning Administrator.

** Based on the nature and complexity of the proposed project, the ZA shall have the authority to reduce the total number of sets required to not less than seven (7).

- B. **Review:** The Planning Commission shall review the application and plans and determine their conformity with the applicable provisions of this Ordinance and the provisions of **Section 5.05**.
- C. **Action:** After conducting a review, the Planning Commission shall reject, approve, or conditionally approve the site plan, as it pertains to requirements and standards contained in the Zoning Ordinance. Any conditions required by the Planning Commission shall be stated in writing and shown on the site plan, together with the reasons, and delivered to the applicant. Decisions by the Planning Commission shall be made within sixty (60) days of the receipt of the completed application unless, in the opinion of the Planning Commission, an extension of time is necessary to adequately collect and review information pertinent to a decision. A site plan shall be approved if it contains the information required by, and is in compliance with this Ordinance, the conditions imposed pursuant to the Ordinance, other Township planning documents, other applicable ordinances, and state and federal statutes.
- D. **Approved Site Plans:** Three (3) copies of the approved site plan, with any conditions contained within, shall be maintained as part of the Township records for future review and enforcement. Each copy shall be signed and dated with the date of approval by the Chairperson of the Planning Commission and the applicant for identification of the approved plans. One (1) copy shall be returned to the applicant. If any variances from the Zoning Ordinance have been obtained from the Zoning Board of Appeals, the minutes concerning the variances, duly signed, shall also be filed with the Township records as a part of the site plan and delivered to the applicant for information and direction.

SECTION 5.05 SITE PLAN APPROVAL STANDARDS

Each site plan shall conform with the applicable provisions of this Ordinance and the standards listed below:

- A. The site plan shall comply with the Boyne Valley Township Master Plan and any other applicable Township adopted planning documents.

- B. All elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the size and type of lot, the character of adjoining property and the type and size of buildings. The site shall be so developed as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.
- C. The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree, other vegetative material, and soil removal, and by topographic modifications which result in maximum harmony with adjacent areas. Landscape elements shall minimize negative impacts. Landscaping, buffering, and screening shall conform with the requirements of this Ordinance.
- D. Special attention shall be given to proper site drainage so that removal of storm waters will not increase off-site sedimentation or otherwise adversely affect neighboring properties.
- E. The site plan shall provide reasonable, visual, and sound privacy for the proposed development, as well as the adjacent properties. Fences, walks, barriers, and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants.
- F. A fire and safety preplan review shall be required and coordinated by the applicant with the Boyne Valley Township Fire and Rescue chief or his/her designee.
- G. All buildings or groups of buildings shall be so arranged as to permit emergency vehicle access.
- H. Every building or dwelling unit shall have access to a public street, private road, walkway, or other area dedicated to common use.
- I. Walkways shall be provided, separate from the road system, where feasible.
- J. Exterior lighting shall be designed and arranged so that it is deflected away from adjacent roads and adjoining properties, and shall be directed downward so as not to unnecessarily illuminate the night sky. Flashing or intermittent lights shall not be permitted.
- K. The proposed arrangement of vehicular and pedestrian routes shall respect the pattern of existing or planned streets and nonmotorized pathways in the area. Roads, streets and drives which are part of an existing or planned street pattern which serves adjacent development shall be of a width appropriate to the traffic volume they will carry and shall have a dedicated right-of-way.
- L. All roads and streets shall be developed in accordance with County and/or Township specifications.
- M. All parking areas shall be so designed to facilitate efficient and safe vehicular and pedestrian circulation, minimize congestion at access and egress points to intersecting streets, including the use of service drives as appropriate, and minimize the negative visual impact of such parking areas.
- N. Residential and nonresidential development shall not include unnecessary curb cuts and shall use shared drives and/or service drives where the opportunity exists unless precluded by substantial practical difficulties.
- O. The site plan shall provide for the appropriate location of all necessary and proposed utilities. Locational requirements shall include underground facilities to the greatest extent feasible.

- P. Site plans shall conform to all applicable requirements of state and federal statutes, and approval may be conditioned on the applicant receiving necessary state and federal permits before the required zoning permit is issued.
- Q. The applicant shall demonstrate that reasonable precautions will be made to prevent hazardous materials from entering the environment, including:
1. Sites at which hazardous substances are stored, used or generated shall be designed to prevent spills and discharges to the air, surface of the ground, ground water, lakes, streams, rivers, or wetlands.
 2. General purpose floor drains shall only be allowed if they are approved by the responsible agency for connection to a public sewer system, an on-site closed holding tank (not a septic system), or regulated through a State of Michigan groundwater discharge permit.
 3. State and federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances shall be met. No discharges to ground water, including direct and indirect discharges, shall be allowed without required permits and approvals.

SECTION 5.06 CONFORMITY TO APPROVED SITE PLANS

Following the approval of a site plan by the Planning Commission, and the issuance of the Zoning Permit by the Zoning Administrator, the applicant shall construct the site plan improvements in complete conformity with the approved site plan. Failure to do so shall be deemed a violation of this Ordinance.

SECTION 5.07 CHANGES AND APPEALS

- A. **Amendment to the Site Plan:** No changes shall be made to an approved site plan prior to or during construction except upon mutual agreement between the applicant and the Planning Commission or Zoning Administrator, according to the following procedures:
1. **Major Changes:** Major changes or amendments to an approved Site Plan are those changes that significantly alter the approved design or layout and/or increase the intensity or impact beyond what was originally approved. Major changes shall include changes in the location or extent of walkways, vehicular circulation ways and parking areas, or exterior building and structure walls if such changes will impact the original approval standards or conditions or approval, or negatively impact neighboring properties; the number and location of accesses to public streets and alleys; an increase in the number of parking spaces; an increase in the gross floor area or heights of buildings; a reduction in the open space; and similar major changes. All major changes shall require an application process, the same as the original application approval process, and shall be approved by the Planning Commission upon finding that all of the following are met:
 - a. Such changes will not adversely affect the initial basis for granting approval;
 - b. Such changes will not adversely affect the overall project in light of the intent and purpose of such development as set forth in this Article; and

- c. Such changes shall not result in the reduction of open space area as required herein.

Minor changes to an approved Site Plan upon which the Zoning Administrator defers judgment to the Planning Commission shall be treated as a major change.

2. **Minor Changes:** Minor changes to an approved Site Plan (including a Site Plan associated with a Special Use Permit approval) which still meet all Zoning Ordinance requirements and the conditions of the original approval, in addition to not meeting the major change criteria listed in **Section 5.07.A.1** above, may be approved by the Zoning Administrator. The Zoning Administrator may at his or her discretion request the Planning Commission to review the proposed minor change.
- B. **Amendments to a Plot Plan:** The Zoning Administrator shall review proposed changes to an approved Plot Plan in accordance with the same procedures, requirements, and standards used by the Planning Commission as specified in **Section 5.05**. Changes to a Plot Plan which contain elements which require Site Plan approval according to **Section 5.02(A)** shall require that the entire project be processed as a Site Plan according to the procedures of **Section 5.04**.
- C. **Appeals:** With regard to Site Plan and Plot Plan approval decisions, an appeal may be taken to the Zoning Board of Appeals in the manner as other administrative decisions, per **Article 8**.

SECTION 6.01 PURPOSE AND INTENT

It is the intent of this Article to provide a set of procedures and standards for the review of special land uses which provide control and reasonable flexibility based on the specific uses of land or structures, and ensure that the land use or 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 uses. By such a procedure, the Planning Commission shall have the opportunity to impose conditions upon each use as deemed necessary for the protection of the public welfare. Such conditions shall be based on standards in this Ordinance.

Approval standards for special land uses are included in **Section 6.03**, Standards for Granting Special Use Permit, and additional supplemental development standards for specific development uses, including planned unit developments are included in **Article 7**, Supplemental Site Development Standards.

SECTION 6.02 SPECIAL USE PERMIT PROCEDURES

Uses requiring a Special Use Permit shall be subject to the general provisions and supplemental site development standards of this Ordinance, the provisions of the Zoning District where located, and applicable provisions of this Article to prevent conflict with or impairment of the other uses or uses permitted by right of the district. Each use shall be considered an individual case.

A. **Application Procedure:**

An application for a zoning permit for any special land use or structure identified as such in a particular zoning district shall be submitted and processed under the following procedures.

1. **Pre-Application Conference:** A pre-application conference is strongly recommended to discuss the applicant's objectives and how these may be achieved under the Ordinance, before a Special Use Permit application is submitted. This conference shall be scheduled upon request by the applicant. Participants in this conference shall include the applicant, the site designer, the Zoning Administrator, the Planning Commission chair (or designee) and Township consultants, as deemed necessary by the Planning Commission Chair. The applicant may prepare a conceptual rough sketch plan for this session; however, no engineered site plans or surveys will be considered at the pre-application conference. If necessary, a site visit may be scheduled at this conference. Concepts and statements presented at the pre-application conference shall not be legally binding on any party. In order for any proposal to be formally considered, the applicant shall submit an application based on the requirements of **Section 6.02.A.2** below, after the pre-application conference.
2. **Submission of Application:**

An application with the following materials shall be submitted to the Zoning Administrator on a specific form for that purpose at least thirty (30) days prior to the meeting at which the Planning Commission first considers the Special Use Permit application:

 - a. Special Use Permit Application form supplied by the Zoning Administrator

- b. Payment of a fee, per **Section 9.04**
 - c. Site plan meeting the requirements of **Section 5.03**
 - d. Written statement of analysis regarding the estimated population holding capacity of any proposed residential land use, the anticipated impact upon community services—and infrastructure, including availability of needed sewer capacity, impact upon neighboring land uses and streets/roads, and the anticipated impact upon on-site and adjacent natural resources.
- B. **Check for Completeness and Accuracy:** Within ten (10) working days of the receipt of the submission of an application, the Planning Commission Chair (or designated agent(s) and/or consultants) and the Zoning Administrator shall determine whether it is in proper form and contains required information for a complete application for Planning Commission consideration. Once deemed to be complete, copies of the application materials shall be submitted per **Section 5.04**.
- C. **Notice Requirements for Planning Commission Public Hearings:**
The notices for all public hearings before the Planning Commission concerning requests for Special Use Permits and planned unit developments shall comply with all of the following:
1. The content of the notice shall include all of the following information:
 - a. A description of the nature of the proposed special use or planned unit development request.
 - b. A description of the property on which the proposed special use or planned unit development will be located. The notice shall include a listing of all existing street addresses within the property. Street addresses, however, 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 using tax parcel identification numbers or including a map showing the location of the property.
 - c. The time, date, and place the proposed special use or planned unit development request will be considered.
 - d. The address where written comments will be received concerning the proposed special use or planned unit development request and the deadline by which such comments must be received.
 2. The notice shall be published in a newspaper of general circulation within the Township not less than 15 days before the scheduled public hearing.
 3. The notice shall be sent by first-class mail or personal delivery, not less than 15 days before the scheduled public hearing, to the owners of the property on which the proposed special use or planned unit development will be located.
 4. The notice shall also be sent by first-class mail or personal delivery to all persons to whom real property is assessed within 300 feet of the property on which the proposed special use or planned unit development will be located and to the occupants of all structures within 300 feet of the property on which the proposed special use or planned unit development will be located not less than 15 days before the scheduled public hearing, regardless of whether the property or

occupant is located in the Township. If the name of the occupant is not known, the term “occupant” may be used in making notification under this subsection.

5. After providing the notice required under this section and without further notice, except that as required under the Open Meetings Act, the Planning Commission may adjourn from time to time a duly called public hearing by passing a motion specifying the time, date, and place of the continued public hearing.

SECTION 6.03 STANDARDS FOR GRANTING A SPECIAL USE PERMIT

Approval of a Special Use Permit shall be based on the determination that the proposal will comply with all applicable requirements of this Ordinance, including site plan review criteria set forth in **Article 5** and applicable supplemental standards for the specific use set forth in **Article 7**. The Planning Commission shall approve, or approve with conditions an application for a Special Use Permit only upon finding that the proposed special land use complies with the following standards:

A. Allowed Special Land Use

The property subject to the application is located in a Zoning District in which the proposed special land use is allowed.

B. Compatibility with Adjacent Land Uses

- a. The proposed use subject to a Special Use Permit shall be designed, constructed, operated and maintained so as not to diminish the opportunity for surrounding properties to be used and developed as zoned.
- b. 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 street or seen from any adjacent land owned by another person.
- c. If deemed necessary by the Planning Commission, the hours of operation that the special use is allowed to operate, be open or otherwise occur, shall be imposed as a condition of approval to ensure compatibility with the surrounding land uses.
- d. The proposed use is compatible with the Boyne Valley Township Master Plan.

C. Public Services

- a. The proposed special land use will not place demands on fire, police, or other public resources in excess of current capacity.
- b. The proposed special land uses will be adequately served by public or private streets/roads, water and sewer facilities, and refuse collection and disposal services.

D. Economic Well-Being of the Community

The proposed special land use shall not be detrimental to the economic well-being of the surrounding residents, businesses, landowners, and the community as a whole.

- E. Compatibility with Natural Environment
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.
- F. Compliance with Supplemental Site Development Standards
The proposed special land use complies with all applicable Supplemental Site Development Standards required under this Ordinance.
- G. Conditional Approvals
The Planning Commission may impose reasonable conditions with the approval of a Special Use Permit, pursuant to **Section 9.06** of this Ordinance.
- H. Meets the Site Plan review requirements of **Article 5** of this Ordinance.

SECTION 6.04 PERFORMANCE GUARANTEE

The Planning Commission may require an applicant to provide a performance guarantee in connection with the approval of a Special Use Permit, pursuant to **Section 9.05** of this Ordinance.

SECTION 6.05 AMENDMENT OF APPROVED SPECIAL USE PERMITS

- A. **Site Plan:** The site plan, as approved as part of the Special Use Permit, shall become part of the record of approval, and subsequent actions shall be consistent with the approved site plan. Amendments to the approved Special Use Permit, including the site plan shall comply with the application and review procedures of **Section 5.07**.
- B. **Use or Activity:** A change in the character of the use or activity from what was originally approved, shall require re-approval (see **Section 5.07** regarding major and minor site plan amendments). Changes requiring a new application and review procedure include, but shall not be limited to:
 1. The addition of land to the legal description of the original Special Use Permit;
 2. The establishment of another use or uses;
 3. The addition of more sales or service area, or the addition of dwelling units; and
 4. An expansion or increase in intensity of use.

SECTION 6.06 EXPIRATION OF APPROVED SPECIAL USE PERMIT

- A. An approved Special Use Permit shall expire one (1) year following approval by the Planning Commission, unless substantial construction has begun pursuant to the permit prior to the expiration or the property owner applies to the Planning Commission for an extension prior to the expiration of the Special Use Permit. The Planning Commission may grant one (1) extension of an approved Special Use Permit for an additional one (1) year period if it finds:
 1. The property owner presents reasonable evidence that the development has encountered unforeseen difficulties beyond the control of the property owner; and
 2. The requirements and standards for Special Use Permit approval that are reasonably related to the development have not changed.

- B. If the Special Use Permit expires pursuant to subsection A above, no work pursuant to the Special Use Permit may be undertaken until a new Special Use Permit is obtained from the Planning Commission following the procedures for a new Special Use Permit.

SECTION 6.07 REAPPLICATION

No application for a Special Use Permit which has been denied, wholly or in part by the Planning Commission shall be re-submitted for a period of one (1) year from the date of such denial, unless a rehearing is granted per **Section 9.07** of this Ordinance.

SECTION 6.08 JURISDICTION OF THE ZONING BOARD OF APPEALS

The Zoning Board of Appeals has jurisdiction to accept appeals of the decision of the Planning Commission with respect to special uses.

SECTION 6.09 SPECIAL USE PERMIT INSPECTION

The Zoning Administrator shall have the right to inspect any special use to ensure continued compliance with the conditions of the Special Use Permit.

SECTION 7.01 PURPOSE

Those Permitted uses and uses allowed by Special Use Permit enumerated in any zoning district, if included below, shall be subject to the following additional conditions and requirements. The uses listed in this article are only allowed as listed in the **Article 4: Zoning Districts and Regulations**.

SECTION 7.02 ACCESSORY DWELLING

Accessory dwelling as defined in **Article 2**, shall comply with the following regulations:

- A. Residence and Incidental Use: The accessory dwelling shall be clearly incidental to the principal residence or commercial use on the site. Accordingly, the following conditions shall be met:
 - 1. The property must be owner-occupied, i.e. either the principal residence, or commercial use or accessory dwelling must be owner occupied (or owner managed in the case of a commercial use).
 - 2. Only one (1) such accessory dwelling shall be permitted on each parcel.
 - 3. The total floor area of the accessory dwelling shall not exceed eight hundred (800) square feet.
 - 4. The accessory dwelling shall be part of a principal or accessory structure, but shall not solely constitute a separate building.
- B. Compatibility with Surrounding Land Use: The design of the accessory dwelling shall not detract from the character of the area and appearances of the principal residence or commercial structure.
- C. Parking and Access: In addition to required parking for the principal residence, or commercial use, one additional parking space shall be provided for the accessory dwelling.

SECTION 7.03 ADULT FOSTER CARE AND ADULT DAY CARE

- A. Adult Foster Care Family Home. A family home shall consist of a private residence with the approved capacity to receive not more than six (6) adults who are provided with foster care for five or more days a week and for two or more consecutive weeks. The adult foster care home licensee, whether one (1) person or two (2), shall be a member of the household and an occupant of the residence, but is not counted among the total adults.
- B. Adult Foster Care Small Group Home. An adult foster care facility with the approved capacity of not more than twelve (12) adults, excluding licensee and staff, to be provided with foster care. Any small group home shall be located at least one thousand five hundred (1,500) feet from another small or large foster care group home, adult day care center, or any substance abuse treatment center. The adult foster care small group home shall be registered and licensed as required for adult foster care under the Adult Foster Care Licensing Act, Act 218 of Public Acts of 1979, MCL 400.701 *et seq.*, as amended.
- C. Adult Foster Care Large Group Home. An adult foster care large group home is a facility with the approved capacity to receive thirteen (13) to twenty (20) adults, excluding licensee and staff, to be provided with foster care. Any large group home shall be located at least one thousand five hundred (1,500) feet from another small or large foster care group home, adult day care center, or any substance abuse treatment center. The adult foster care large group home shall be registered and licensed as required for adult foster

care under the Adult Foster Care Licensing Act, Act 218 of Public Acts of 1979, MCL 400.701 *et seq.*, as amended.

- D. Adult Day Care Homes. An adult day care home shall be registered and licensed as required for a group day care homes under the Child Care Organizations Act, Act 116 of Public Acts of 1973, MCL 722.11 *et seq.*, as amended.

SECTION 7.04 BED & BREAKFAST FACILITY

Bed and breakfast establishments shall be subject to the following regulations:

- A. Principal Residence: The operator shall live in an on-site dwelling unit when the bed and breakfast facility is in operation.
- B. Maximum Number of Units: No more than eight (8) bed and breakfast sleeping rooms shall be established.
- C. Kitchen Facilities: The bed and breakfast facility shall have centralized kitchen facilities. No kitchen facilities shall be located in the individual rooms.
- D. Building Requirements: A building used for a bed and breakfast establishment shall comply with the following minimum requirements:
1. There shall be at least two (2) exits to the outdoors.
 2. Rooms used for sleeping shall have a minimum size of one hundred (100) square feet for two (2) occupants, plus an additional thirty (30) square feet for each additional occupant. Rooms shall be designed to accommodate no more than four (4) occupants.
- E. Parking: An off-street parking spot shall be provided for bed and breakfast unit, in accordance with this Ordinance. Off-street parking in the front yard is prohibited.
- F. Other Regulations: The Bed & Breakfast facility shall meet any applicable regulations, including but not limited to District Health Department and Building Code requirements.

SECTION 7.05 BUSINESSES WITH DRIVE-THROUGH FACILITIES

- A. Sufficient stacking capacity for the drive-through portion of the operation shall be provided to ensure that waiting traffic does not extend into the public right-of-way. The stacking spaces shall be located so as not to interfere with general site circulation and egress from the property by vehicles not using the drive-through facility.
- B. The parking and maneuvering areas of the site shall be fenced and screened from the view of any abutting Residential District or use by a decorative fence or wall, or a landscaped equivalent, which shall effectively screen glare from headlights year-round.
- C. Outdoor speakers for the drive through facility shall be located in a way that minimizes sound transmission toward neighboring property and uses.

SECTION 7.06 GASOLINE / SERVICE STATION

- A. **Standards**
1. The minimum lot area shall be twenty thousand (20,000) square feet, and so arranged that ample space is available for motor vehicles, which are required to wait for services.
 2. Automobile service stations shall not be located within five hundred (500) feet of

- any school.
3. Pump islands shall be a minimum of twenty-five (25) feet from any public right-of-way or lot line.
 4. All major repair, lubrication and service work shall be done within an enclosed building.
 5. Repair vehicles or vehicles used for parts only, must be moved off the lot or stored in an enclosed building within 30 days of arrival.
 6. All outside storage areas for trash, used tires, auto parts and similar items shall be enclosed by a solid wall or fence (see **Section 3.10**).
 7. The outside storage of automobiles, trucks or trailers for a period in excess of seventy-two (72) hours, or the sale or rental thereof, is expressly prohibited without specific approval as part of the special use approval.
 8. Vacuuming activities shall be at least fifty (50) feet from any adjoining property line.
 9. All washing activities must be within a building, with the exception for special events registered with the Zoning Administrator. No vehicle wash establishment shall permit patrons to extend lines of vehicles off the premises.
 9. Lighting for parking areas or outdoor activity areas shall be shielded to prevent glare onto any property used or zoned for residential purposes, and shall comply with the provisions of **Section 3.11**.
 10. Automobile service and gasoline stations shall comply with sign provisions of this Ordinance, (**Section 3.12**).

B. Access Drives

1. No more than two (2) curb cuts shall be permitted directly from any State trunkline or County Road or more than one (1) curb cut from any other public street to provide ingress and egress.
2. The curb cuts for ingress and egress to a service station shall not be permitted at such locations that tend to create traffic hazards on the streets and roads immediately adjacent thereto. Entrances shall be no less than twenty-five (25) feet from a street intersection (measured from the street right-of-way) or from adjacent residential districts and not within ten (10) feet of any adjoining property line.
3. A minimum dimension of twenty (20) feet shall separate any two curb cuts giving access to a single street.

SECTION 7.07 JUNK AND SALVAGE MATERIAL STORAGE

- A. Junk Storage: Junk shall be stored, placed or otherwise located only within a completely enclosed building.
- B. Salvage Material Storage: Any open storage yards or areas used for the storage of salvage materials shall be entirely enclosed by an obscuring wall or fence at least eight (8) foot high (see **Section 3.10**), or a hedge of a minimum height of eight feet. No salvage yard facility (or outside junk storage yard or area) shall be nearer to the exterior boundary of the Industrial District than one hundred (100) feet.

SECTION 7.08 KENNELS AND VETERINARY CLINICS/HOSPITALS

- A. All kennels and veterinary clinics/animal hospitals shall be operated in conformance with County and State regulations.
- B. All kennels shall be on sites of at least five (5) acres.
- C. Animals shall be confined in a fenced area to preclude their approaching nearer than five hundred (500) feet to any dwelling on adjacent premises or nearer than fifty (50) feet from the property line, whichever is greater.
- D. Any fenced areas shall be screened from adjacent properties and/or streets and roads with an opaque fence or a vegetated evergreen buffer at least five (5) feet in height.
- E. The facility shall be so constructed and maintained that odor, dust, noise or drainage shall not constitute a nuisance or hazard to adjoining premises.
- F. Animals shall be kept in a soundproof building between the hours of 10 p.m. and 8a.m. All principal use activities shall occur within an enclosed main building.
- G. An adequate, enclosed method of refuse storage and disposal shall be maintained so that no public nuisance shall be created at any time.

SECTION 7.09 MOBILE FOOD VENDING

Mobile food vending use shall be allowable in the Resort Mixed Use (C-1), Commercial (C-2) and Industrial (I) zoning districts, per **Section 4.02**. Mobile food vending shall be permitted outside any street right-of way and only on private property (written consent of the property owner is required); except if specifically authorized by the Boyne Valley Township as part of an approved special event.

A temporary land use permit shall be required for the location and use of a mobile food vending unit. Such a temporary land use permit shall be issued for a period not to exceed 90 days.

Mobile food vending requirements:

- A. Provide appropriate waste receptacles at the site for public use which the vendor shall empty at its own expense. All trash and garbage originating from the operation of the mobile food vending units shall be collected and properly disposed of by the operator. Spills of food or food by-products shall be cleaned up and no dumping of gray water on the streets and roads is allowed.
- B. No mobile food vendors shall make or cause to be made any unreasonable or excessive noise.
- C. Signage in compliance with **Section 3.12**, is only allowed on the mobile food vending unit. No separate freestanding signs are permitted. When extended, awnings for mobile food vending units shall have a minimum clearance of seven (7) feet between the ground and the lowest point of the awning or support structure.
- D. No flashing, blinking or strobe lights are allowed on mobile food vending unit or related signage when the unit is parked and engaged in serving customers. All lighting shall comply with **Section 3.11**.
- E. Mobile food vending units shall be located on the site to comply with the required zoning district setback requirements.
- F. No dining area shall be allowed within ten (10) feet of the mobile food vending unit, including but not limited to tables, chairs, booths, stools, benches and stand up counters.

- G. Mobile food vending units may use electrical power from the property being occupied or an adjacent property, but only when the property owner has provided written consent.
- H. Mobile food vending hours of operation shall be confined to: 8am-9pm, when located adjacent to a residential district or use; and all other locations shall confine operations to the hours of 8am-11pm.

SECTION 7.10 MOBILE HOME PARKS

Mobile Home Parks shall be subject to the following conditions:

- A. Mobile Home Parks shall be developed and licensed pursuant to the requirements of the Michigan Manufactured Housing Commission, Public Act 96 of 1987 and any rules promulgated pursuant to this Act, as amended. This includes but is not necessarily limited to compliance with Michigan Manufactured Housing Commission regulations concerning internal streets and roads, parking requirements, fencing, screening, unit spacing and recreational and open spaces.
- B. To the extent permitted by the Michigan Manufactured Housing Commission, this Ordinance shall require all mobile homes in mobile home parks to be anchored to the ground in accordance with the standards and specifications of the manufacturer and any applicable state and federal statutes and rules.
- C. To the extent permitted by the Michigan Manufactured Housing Commission, this Ordinance shall require the underside or chassis of all mobile homes in mobile home parks to be fully skirted or enclosed with durable, weather-resistant materials, as specified by the manufacturer or as specifically manufactured for use as home skirting, and all such skirting shall be maintained in place as designed.

SECTION 7.11 MOBILE HOMES AND TRAILERS, OTHER USES

Mobile homes, travel trailers and motor homes may be used as follows:

- A. Mobile homes may be used as temporary dwellings until the owner or occupant thereof completes the construction or erection of a conventional housing unit for which a Building Permit has been issued (per **Section 3.06**), subject to the conditions of this Ordinance. The temporary dwelling shall be included on the Building Permit, and maintained as long as diligent progress is being made on the main property use, and shall be removed, or stored in compliance with this Zoning Ordinance, upon issuance of an Occupancy Permit for the main use.
- B. Mobile homes may be used as a temporary contractor's office and/or equipment shed in any district when in connection with a construction project and authorized by the Zoning Administrator.
- C. The unoccupied storage of a motor home or travel trailer, not a mobile home, on any residential property by the owner thereof shall be allowable as a permitted accessory use of the premises where there is a main use, provided such storage is confined to the rear yard when the rear yard is accessible. If the rear yard is not accessible, then storage in the side yard is permissible, if no nuisances, hazards, or blocking of views is created for the adjoining property.

SECTION 7.12 OUTDOOR DISPLAY AND STORAGE

- A. Display or storage of goods and materials on private property shall not occur in the

required side or rear yard setback areas, unless approved by the Planning Commission based on adequate screening with a fence of 90% opacity or greater, or stored in a manner so as not to impact the neighboring property.

- B. All outdoor storage yards shall be paved or provide a durable dust-free surface approved by the Planning Commission.
- C. The storage of any soil, fertilizer, or similar loosely packaged materials shall be sufficiently contained to prevent any adverse affect on adjacent properties, water bodies wetlands and drainage ways.

SECTION 7.13 PLANNED UNIT DEVELOPMENTS

- A. **Purpose:** The purpose of the Planned Unit Development is to allow design and use flexibility on a given site while at the same time protecting present and future residents and public facilities from the adverse effects of unplanned or unregulated development. This approach allows the applicant to utilize innovative designs and methods to control the effects of development rather than having rigid numerical zoning standards dictate design parameters. The burden of proving a Planned Unit Development is within the parameters and intent of this Ordinance is completely upon the applicant. The Boyne Valley Township Planning Commission is to be the judge of whether or not the design contains sufficient safeguards as to make the effects of the development compatible with the intent of this Ordinance. It is the expressed intent of this section to allow such items as setbacks, yards, parking spaces, and type of dwelling unit and use to be regulated on an overall impact or gross development basis rather than individually for each lot, use, or structure. The purpose of this section ideally allows:
 - 1. Flexibility in the regulation of land development.
 - 2. Encourage innovation in land use in variety and design, layout, and type of structures constructed.
 - 3. To achieve economy and efficiency in the use of land, natural resources, energy, and the provision of public services and utilities.
 - 4. To accomplish the objectives of the zoning ordinance through a land development project review process based on the application of site planning criteria to achieve integration of the proposed land development project with the characteristics of the project area.
 - 5. To encourage useful open space and provide better housing, employment, and shopping opportunities particularly suited to the needs of the residents of the Township.
 - 6. In approving a PUD with mixed uses, the Planning Commission may stipulate the sequence in which said uses, or portions thereof, are constructed.
- B. **Eligibility and Area Requirements:** Except to the extent that a PUD or a portion of a PUD is subject to area regulations mandated by a state agency, a PUD shall meet the following requirements:
 - 1. Permitted Uses: Planned Unit Developments shall be permitted by Zoning District subject to Special Use Permit approval, as listed in **Section 4.02**. The uses for a given PUD shall be limited to the range of uses provided for within the underlying Zoning District classification. Such uses may be placed either singularly or in combination. In Agricultural and Residential Zoning Districts (AF and R-3),

institutional and commercial uses may also be permitted upon the Planning Commission determining the proposed uses are compatible with the character of the PUD and the surrounding area, and provided the non-residential use does not exceed 20% of the PUD development area (i.e. gross land area less the protected open space). In the Commercial and Mixed Use Zoning Districts (C-1, and C-2) additional institutional and commercial uses may also be permitted on a site specific basis upon the Planning Commission determining the proposed uses are compatible with the character of the PUD and the surrounding area, and documented in the findings of fact.

2. Perimeter Setbacks: The setback maintained along the perimeter of the PUD shall equal or exceed the required setback of the underlying zoning district, provided:
 - a. Any portion of a commercial or industrial use shall maintain a perimeter setback of not less than fifty (50) feet from any adjoining or abutting property, which is in a residential zoning district.
 - b. With the exception of access drives, parking areas, lighting, sidewalks and curbing, the perimeter setback shall be landscaped.
3. Minimum Project Parcel Size: The minimum size of a parcel used for a PUD shall be of sufficient size to contain on the site, both physically and aesthetically all elements of the project and limit the effects of the development on the adjacent properties, as confirmed during the Planning Commission review.
4. Other Dimensional Regulations: To promote creativity and flexibility in site design, the Planning Commission may, subject to the following limitations, permit modification of the dimensional requirements, as required by the underlying zoning district, including but not limited to minimum lot size, density, height and setbacks within the PUD project, upon a finding that the proposed dimensional regulations will not be detrimental to the public health, safety, or welfare of future occupants of the PUD, the surrounding neighborhood, or the Township as a whole.

Any changes permitted by the Planning Commission shall be limited as follows:

- a. Residential density shall not be increased by more than thirty (30) percent of the underlying zoning district standard.
- b. Setbacks shall not be reduced by more than fifty (50) percent of the underlying zoning district requirements. Perimeter setbacks as required by the PUD regulations may not be reduced.
- c. Required parking shall not be reduced by more than sixty (60) percent of the parking normally required of the proposed use. In no case shall a single-family home; mobile or modular home, or other such detached single-family dwelling have less than two (2) on-site (off-street) parking spaces. In reducing the required parking, the Planning Commission may require the reservation of a portion of the PUD site for future parking.
- d. Height of any building and structure within a PUD project shall not exceed the height limit of the underlying zoning district, unless specifically authorized by the Planning Commission upon a finding that the proposed increase will not be detrimental to the public health, safety, or welfare of the PUD occupants, the area surrounding the PUD project site, and the Township as a whole. This increase, however, shall not exceed fifty (50) percent of the underlying zoning district height limit. In authorizing an

increase in height, the Planning Commission may require increased building setbacks and/or other conditions determined necessary to secure the public health, safety, or welfare and to ensure compatibility of the project with the surrounding area. In no case shall an increase in height be permitted if the increase will result in conditions beyond the service capability of the Township pursuant to emergency fire suppression and other emergency services

- e. Prior to approving a change in dimensional regulations, the planning commission may require the applicant to demonstrate through bona fide documentation, including but not limited to traffic impact studies, environmental impact studies, market needs assessments, and infrastructure impact studies, that the reduction will not result in significant impacts to the PUD project and PUD occupants, the surrounding area, and the Township as a whole.
5. **Open Space:** A PUD project shall have open space of no less than twenty-five (25%) percent of the entire project area. This required open space shall be dedicated to the public or set aside for the common use of the owners and users within the PUD. Dedicated open space does not include parking lots, streets and roads, and public rights-of-way, but may include flood plain areas and wetlands up to a maximum of twenty-five (25%) percent of the required open space and landscape area devoted to perimeter setbacks.
 6. **Unified Control:** The proposed development shall be under single ownership or control, such that there is a single person or entity having proprietary responsibility for the full completion of the project. The applicant shall provide sufficient documentation of ownership or control in the form of agreements, contracts, covenants, and/or deed restrictions that indicate that the development will be completed in its entirety as proposed.
 7. **Utilities:**
 - a. The parcel on which the proposed PUD shall be adequately served with water and wastewater disposal facilities.
 - b. The PUD shall provide for underground installation of all utilities.
- C. **PUD Application Requirements:** An applicant seeking approval of a PUD shall submit a complete application in accordance with the procedures as specified in Article 6-Special Use Permits and accompanied by 1) a concept plan to show how the project elements can fit on the site and 2) a narrative statement describing:
1. The objectives of the proposed PUD and how they related to the intent of the Zoning Ordinance.
 2. The relationship of the proposed PUD to the Boyne Valley Township Master Plan.
 3. Phases of development, if any, and the approximate time frame for the start and completion of each phase.
 4. Proposed master deed, deed restrictions, covenants or similar legal instruments to be used within the PUD.
 5. Anticipated dates for the start and completion of the PUD construction.
 6. The location, type and size of areas to be dedicated for common open space.

- D. **Supplemental PUD Approval Standards:** The Planning Commission shall approve or approve with conditions an application for a PUD upon finding the proposed PUD complies with the Standards set forth in **Section 6.03** Standards for Granting a Special Use Permit and the following additional standards:
1. The PUD shall be designed to preserve public vistas and existing important natural, historical and architectural features of significance within the development.
 2. The PUD shall be designed so that its pedestrian, non-motorized and automobile circulation systems are safely and conveniently integrated with those of abutting property and any linear trail or park systems intersecting or abutting such development.
 3. The PUD shall provide that vehicular and pedestrian traffic within the site shall be safe and convenient and that parking layout will not adversely interfere with the flow of traffic within the site or to and from the adjacent streets and roads. Safe and adequate access for emergency vehicles to and within the development and adequate space for turning around at street ends shall be provided.
 4. The PUD shall comply with the stormwater retention and management requirements of **Section 3.17**.
 5. The PUD shall be designed such that the phases of the development are in a logical sequence, so that any one phase will not depend upon a subsequent phase for adequate access, public utility services, drainage or erosion control.
 6. The PUD shall meet the standards of other governmental agencies, where applicable.

SECTION 7.14 PUBLIC BUILDINGS, INSTITUTIONS AND PLACES OF WORSHIP

- A. Public buildings (except public works garages and storage yards), places of worship, public schools, private schools and their local supporting service uses, shall be permitted provided the arrangement of property uses shall minimize the impact on scenic views, and if feasible, the site design shall mitigate negative impacts related to building size, noise, lighting and traffic.
- B. Any uses of church structures or properties for such other purposes as recreation, day care centers, group housing, and the like, shall be separately considered as part of the conditions to granting or denying a special use permit in residential districts.

SECTION 7.15 RESIDENTIAL REHABILITATION FACILITY

Any residential rehabilitation facility having more than twelve (12) but not more than twenty (20) adults shall be located at least one thousand five hundred (1,500) feet from any other residential rehabilitation facility, transitional or emergency shelter, rooming house, or small or large adult foster care facility. The facility shall comply with all State of Michigan requirements, as applicable.

SECTION 7.16 RESOURCE MINING AND EXTRACTION OPERATIONS

- A. From and after the effective date of this Ordinance, it shall be unlawful for any person, firm, corporation, partnership, or any other organization or entity to strip greater than 2,000 cubic yards of topsoil, sand, clay and gravel or similar material, or to use lands for filling within the Township without first submitting a site plan and procuring approval from

the Planning Commission.

- B. A separate site plan approval will not be required for excavation or fill activities associated with building construction pursuant to a duly issued zoning permit. However, where sand, gravel, topsoil, or other substances are removed from the site where found and taken to another site, site plan approval is needed for the receiving site.
- C. A separate site plan shall be required for each separate excavation and fill site, except as otherwise specified in this Ordinance. In addition to the site plan requirements listed in **Section 5.03**, a site plan prepared under this section shall also include:
1. Names and addresses of parties interested in said premises setting forth their legal interest in said premises.
 2. Full legal description of the premises where operations are proposed.
 3. Detailed proposal as to method of operation, what type of machinery or equipment will be used, and estimated period of time that such operation will cover.
 4. Detailed statement as to exactly what type of material is proposed to be extracted or deposited.
 5. Proposed method of filling excavation and/or other means to be used to allow for the reclamation of lands to a usable purpose.
 6. Detailed documentation that no very serious consequences would result from the extraction of natural resources from the property based consideration of the following factors, as applicable:
 - a. The relationship of extraction and associated activities with existing land uses.
 - b. The impact on existing land uses in the vicinity of the property .
 - c. The impact on property values in the vicinity of the property and along the proposed hauling route serving the property, based on credible evidence.
 - d. The impact on pedestrian and traffic safety in the vicinity of the property and along the proposed hauling route serving the property.
 - e. The impact on other identifiable health, safety, and welfare interests in the local unit of government.
 - f. The overall public interest in the extraction of the specific natural resources on the property.
 7. Such other information as may be reasonably required by the Planning Commission to base an opinion as to whether the site plan should be approved or not.
- D. The sand and gravel operations application shall provide information to confirm compliance with the following standards:
1. Hours of Operation: The operation of mechanical equipment of any kind shall be limited by the day and/or the hour. Site Specific Hours of Operation for mining, processing and reclamation activities must be approved, but shall not exceed the following schedule Monday through Saturday, excluding legal holidays, during the following times:

- a. Mining or extracting operations, and processing and stockpiling of aggregates shall occur only between the hours of 7:00 a.m. and 6:00 p.m.
 - b. Loading and hauling operations shall occur only between the hours of 7:00 a.m. and 8:00 p.m.
 - c. Equipment maintenance and repair shall occur only between the hours of 7:00 a.m. and 9:00 p.m.
2. Screening: Fences, berms, walls, and visual screening devices may be required, if necessary, in the opinion of the Planning Commission, to protect adjoining properties and/or ensure the health, safety and welfare of persons in the vicinity of the site. Factors of safety and aesthetics shall be addressed.
 3. Dust, Debris: All processing equipment and activities and all storage areas shall be treated, covered, muffled, or otherwise controlled to prevent excessive dust, debris, or other impacts beyond the property line. Any trucks hauling material to or from the site shall be enclosed or covered to prevent materials from blowing or falling out of the trucks.
 4. Groundwater Impact: Extractive operations shall be managed and designed so as to not cause any negative impact on groundwater and potable water supply, whether as a result of contamination or reduction in the rate and volume of flow.
 5. Street Impact:
 - a. Extractive operations shall be managed and designed so as to have minimum negative impact on existing streets and roads. The truck route to be utilized in the accessing of the extraction site shall be designated and subject to approval by the Planning Commission.
 - b. Dust caused by truck traffic of the entrance drive to be treated as needed with dust suppression material.
 6. No Very Serious Consequences: Extractive operations shall be designed and managed so that no very serious consequences shall result from the mining operation, based on the standards set forth in *Silva V Ada Township, 416 Mich 153 (1982)*.
- E. Reclamation Plan. A reclamation plan, which shall include all information required by any State or federal agency having jurisdiction and which includes the following:
1. Description and location of each phase, number of acres included in each phase, estimated starting and termination dates for each phase and the amount of time that will be required to complete the entire reclamation operation. All areas shall be reclaimed progressively as the mining in that area is completed. Reclaimed areas shall be reasonably natural and inconspicuous, lacking in hazards and in a condition that the area can be reused for an allowable use in the district in which the site is located. All slopes and banks shall be graded to angles that do not exceed those found in the natural topography of the surrounding areas, and the banks shall be treated to prevent erosion.
 2. Provisions for grading, drainage (especially agricultural field tiles) revegetation, and stabilization that will minimize soil erosion, sedimentation and public safety problems.
 3. Description of proposed future land uses.
 4. Description of plans for disposition of all structures, streets and roads, drains

- or related facilities after cessation of the extractive operation.
5. A plan for disposal or treatment of all harmful or toxic materials found in any formations penetrated by the extractive operation or produced during the processing of minerals on the site and of chemicals or materials used during the extractive, processing or reclamation operations.
 6. All information required as part of a reclamation plan that is required by state or federal law.

SECTION 7.17 SEXUALLY ORIENTED BUSINESSES

- A. **Purpose and Intent:** The purpose and intent of the Sections of this Ordinance pertaining to the regulation of sexually oriented businesses is to regulate the location and operation of, but not to exclude, sexually oriented businesses within the Township, and to minimize their negative secondary effects. It is recognized that sexually oriented businesses, because of their very nature, have serious objectionable operational characteristics that cause negative secondary effects upon nearby residential, educational, religious and other similar public and private uses. The regulation of sexually oriented businesses is necessary to ensure that their negative secondary effects will not contribute to the blighting or downgrading of surrounding areas and will not negatively impact the health, safety and general welfare of Township residents. The provisions of this Ordinance are not intended to offend the guarantees of the First Amendment to the United States Constitution or to deny adults access to sexually oriented businesses and their products, or to deny sexually oriented businesses access to their intended market. Neither is it the intent of this Ordinance to legitimize activities that are prohibited by Township ordinance, state or federal law. If any portion of this Ordinance relating to the regulation of sexually oriented businesses or referenced in those sections is found to be invalid or unconstitutional by a court of competent jurisdiction, the Township intends said portion to be disregarded, reduced and/or revised so as to be recognized to the fullest extent possible by law. The Township further states that it would have passed and adopted what remains of any portion of this Ordinance relating to regulation of sexually oriented businesses following the removal, reduction or revision of any portion so found to be invalid or unconstitutional.
- B. **Standards:**
1. No sexually oriented business shall be permitted in a location in which any principal or accessory structure, including signs, is within one thousand feet (1000') of any principal or accessory structure of another sexually oriented business.
 2. No sexually oriented business shall be established on a parcel that is within five hundred feet (500') of any parcel zoned R-1, R-2, and R-3.
 3. No sexually oriented business shall be established on a parcel within five hundred feet (500') of any residence, park, school, child care organization, or place of worship. The distance between a proposed sexually oriented business and any residence, park, school, child care organization, place of worship, or other 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 specific area, setback, frontage, height, bulk, density or other dimensional requirements of the zoning district in which it is located.

5. The proposed use must meet all applicable written and duly promulgated standards of Boyne Valley Township and of 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 to be visible from neighboring properties or the adjacent streets and roads.
7. Any sign or signs proposed for the sexually oriented business must comply with the provisions of this Ordinance relating to the regulation of signage, 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 two (2) 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 streets and roads or a neighboring property.
10. Hours of operation shall be limited to 8:00 AM to 12:00 AM, Monday through Saturday.
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, except 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.

C. Application and Appeal Processes:

1. The Planning Commission shall adhere to the following procedures when reviewing a special approval application for a sexually oriented business. 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 **Section 6.03** and **Section 7.14.B(1-12)**. 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 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.

2. Prompt judicial review of adverse determination: If the Planning Commission denies a special approval 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. The Township shall within three (3) business days of receipt of such written notice do the following:
 - a. File a petition in the Circuit Court for the County of Charlevoix 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 Township 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.
 - c. In the event that the applicant does not waive notice and/or does not request an early hearing on the Township's application for permanent injunction, it shall nevertheless be the duty of the Township to seek the earliest possible hearing date under Michigan law and the Michigan Court Rules.
 - d. The filing of written notice of intent to contest the Planning Commission's denial of a special approval 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 Township's petition, a show-cause hearing has not been scheduled.

SECTION 7.18 STORAGE FACILITIES

Commercial storage uses as allowed in Resort Mixed Use (C-1), Commercial (C-2) and Industrial (I) zoning districts, including mini-storage, shall meet the following regulations:

- A. All proposed storage buildings nearest to the primary access street shall be located on the site approximately perpendicular to the street; landscape screening shall be required to provide effective year-round landscape screening to shield storage buildings from bordering public streets and roads upon installation of proposed plant materials unless specifically waived by the Planning Commission based on site topography and/or existing vegetation. Also see **Section 3.20**.
- B. Proposed storage buildings shall be positioned to the rear of other approved non-

storage or non-warehousing buildings, e.g., retail or office uses, or, the storage buildings shall be set back at least one hundred (100) feet from public street right-of-way lines.

- C. Nothing in this section shall prohibit or inhibit storage space as a necessary accessory use to any principal commercial use of the property, and these standards do not apply to internal streets and roads within a planned industrial or commercial park.
- D. Storage facilities for building materials, sand, gravel, stone, lumber, storage of contractor's equipment and supplies, shall be within an enclosed building or behind an obscuring wall or fence on those sides abutting any Residential District and on any yard abutting a public thoroughfare.

SECTION 7.19 TELECOMMUNICATION TOWERS & ALTERNATIVE STRUCTURES

- A. **Purpose and Intent:** The purpose and intent of this Section pertaining to wireless telecommunications towers, structures and antennas is to establish general guidelines for the location of wireless telecommunication towers, alternative tower structures and antennas. The Township recognizes that it is in the public interest to permit the location of wireless telecommunication towers, alternative tower structures and antennas within the Township. The Township also recognizes the need to protect the scenic beauty of Boyne Valley Township 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:

- 1. Protect residential areas from potential adverse impact of towers and antennas;
- 2. Encourage the location of towers in nonresidential areas;
- 3. Minimize the total number of towers throughout the community;
- 4. Encourage the joint use of new and existing tower sites rather than the construction of additional towers;
- 5. Encourage developers of towers and antennas to configure them in a way that minimizes their adverse visual impact;
- 6. Enhance the ability of providers of telecommunication services to provide such services to the community quickly, effectively, and efficiently;
- 7. Consider the public health and safety of telecommunication towers and alternative tower structures; and avoid potential damage to adjacent property from tower failure.

- B. **Application Requirements:**

- 1. The following information shall be provided in support of an application to construct a wireless telecommunication tower:
 - a. Certification from a Michigan licensed professional engineer as to the manner in which the proposed wireless telecommunication tower is designed to collapse.
 - b. A map depicting the existing and known proposed location of wireless telecommunication facilities, including wireless telecommunication antenna attached to alternative tower structures, within 2.5 miles surrounding Boyne Valley Township as well as within the proposed service area radius.

- c. The name, address, and telephone number of the person to contact regarding site maintenance or other notification purposes. This information shall be periodically updated by the tower owner.
 - d. A statement which indicates the applicant's intent to allow the co-location of other antenna, provided that the cost of modifying the existing tower is borne by the co-locating entity and reasonable compensation is paid by the co-locating entity.
2. The Planning Commission shall within 14 days of receiving the application determine whether the application is administratively complete and the required fee has been paid. If the Planning Commission fails to make this determination within the 14-day period, the application shall be deemed administratively complete.
 3. If, before the expiration of the 14-day period, the Planning Commission notifies the Applicant that the application is not administratively complete, specifying the information necessary to make the application complete, or notifies the Applicant that the required fee has not been paid, specifying the amount due, the 14-day period is tolled until the Applicant rectifies the specified deficiencies.
 4. The Planning Commission may delegate its review of the application to determine completeness to the Zoning Administrator.
- C. **Decision:** The Planning Commission shall approve or deny the application not more than 90 days after the application is administratively complete. If the Planning Commission fails to act within the 90-day period, the application shall be deemed approved and the Planning Commission shall be considered to have made any determination required for approval.
- D. **Evidentiary Requirements:** The applicant must demonstrate that no existing 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, alternate tower structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:
1. No existing towers or alternative tower structures are located within the geographic area that meets applicant's engineering requirements.
 2. Existing towers or alternative tower structures are not of sufficient height to meet applicant's engineering requirements.
 3. Existing towers or alternative tower structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
 4. 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.
 5. 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.
 6. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

7. 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.
- E. **Setbacks:** The following setback requirements shall apply to all towers for which a special use permit is required.
1. Towers must be set back a distance equal to at least seventy-five percent (75%) of the height of the tower from any adjoining lot line.
 2. Guys and accessory buildings or structures must satisfy the minimum zoning district setback requirements.
- F. **Security fencing:** Towers and attendant accessory structures shall be enclosed by security fencing not less than six feet (6') in height and shall also be equipped with an appropriate anti-climbing device.
- G. **Landscaping:** The following requirements shall govern the landscaping surrounding towers for which a special use permit is required.
1. 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 feet (4') wide outside the perimeter of the compound.
 2. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived.
 3. 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.
- H. **State or Federal Requirements:** The applicant must demonstrate that any proposed tower meets or exceeds current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this ordinance shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- I. **Aesthetics:** Towers and antennas shall meet the following requirements:
1. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
 2. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
 3. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as

to make the antenna and related equipment as visually unobtrusive as possible.

4. 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 periods of interruption of the primary power.
- J. **Lighting:** Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views. No strobe lights shall be allowed.
- K. **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.
- L. **Interference with Residential Reception:** Towers shall be located so that they do not interfere with television and radio reception to neighboring residential areas.
- M. **Signs:** No signs other than signs required pursuant to federal, state, or local law or ordinance shall be allowed on an antenna or tower.
- N. **Spacing: Towers.** Towers shall be located no closer than one (1) mile from an existing telecommunication tower or alternative tower structure, as measured in a straight line between the base of the existing tower and the proposed base of the proposed tower.
- O. **Spacing: Residences.** A tower shall not be located within two hundred feet (200') or three hundred percent (300%) 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.
- P. **Removal of Abandoned Antennas and Towers:** Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within ninety (90) days of receipt of notice from the Township notifying the owner of such abandonment. Along with said removal, said owner shall restore the site of said 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 said ninety (90) day shall be grounds to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower. 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 use permit given pursuant to this section.

SECTION 7.20 TRANSPORTATION FREIGHT/ TRUCK TERMINALS

- A. Minimum lot size shall be five (5) acres.

- B. The minimum setback for use and structures other than employee and customer parking shall be fifty (50) feet from the street right-of-way and thirty-five (35) feet from side or rear property lines.
- C. The lot location shall be such that at least one (1) property line abuts a paved primary street. The access driveways for all vehicles shall be directly from said thoroughfare.
- D. Access driveways shall be located at least fifty (50) feet from the right-of-way of nearest intersection of any street or any other driveway.
- E. Repair of vehicles shall be done within a totally enclosed building.
- F. The temporary storage of vehicle parts, inoperable vehicles and/or storage shall be within an enclosed building or screened from view by passersby or neighboring properties.
- G. Truck parking and staging areas shall be fenced and screened from the view of any abutting Residential District or use by a decorative fence or wall, or a landscaped equivalent.
- H. A landscape buffer may be required along property lines.
- I. Lighting for parking areas or outdoor activity areas shall comply with the Outdoor Lighting regulations of **Section 3.11**.

SECTION 7.21 COMMERCIAL WIND TURBINE GENERATORS

Commercial wind turbine generators and anemometer towers shall be permitted in the Conservation Reserve (CR), Agricultural Forest (AF), Commercial (C-2) and Industrial (I) districts pursuant to a special use permit obtained following the procedures of Article 6 of this Ordinance and the requirements of this subsection.

A. Application Requirements

In addition to the application requirements of Article 6 of this Ordinance, an application for a special use permit for a commercial wind turbine generator or for an anemometer tower shall include all of the following information, unless expressly indicated otherwise. If the zoning administrator determines that all required information was not supplied, he or she shall send written notification to the Applicant of the deficiencies. The application for the wind turbine generator or anemometer tower shall not proceed until all required information has been supplied.

1. A site plan meeting all of the requirements of Article 5 of this Ordinance.
2. A detailed analysis by a qualified registered engineer describing the specific commercial wind turbine generator structure(s) or anemometer tower proposed and all phases for implementing the development, if any.
3. A study prepared by a qualified registered engineer documenting that the site of the commercial wind turbine generator has sufficient wind resources for the proposed wind turbine generator equipment. Provided, however, this application requirement shall not apply to an anemometer tower.
4. A resume or other written summary of the education, experience, and other qualifications of all experts providing information concerning the commercial wind turbine generator or anemometer tower project.

5. A detailed written statement, with supporting evidence, demonstrating how the proposed commercial wind turbine generator or anemometer tower will comply with all of the applicable standards for approval specified in this Ordinance.
6. Written documentation establishing whether the location of a proposed commercial wind turbine generator on the site will create shadow flicker on any existing structures located off the property on which the wind turbine generator will be constructed, and if so, the extent and duration of the shadow flicker on these existing structures and neighboring properties, and the steps to be taken to minimize the shadow flicker on these existing structures. Provided, however, this application requirement shall not apply to an anemometer tower.
7. Written documentation that the applicant has notified the FAA and any other applicable state and federal regulatory agencies of the proposed commercial wind turbine generator or anemometer tower.
8. Written documentation that the applicant has notified the operators of any microwave or communication link towers or similar facilities of a proposed commercial wind turbine generator when the proposed location of the wind turbine generator is within the line of sight between two or more microwave or communication link towers or similar facilities. Provided, however, this application requirement shall not apply to an anemometer tower.
9. Elevation drawings, computer generated photographic simulations or other images, or other visual aids that depict how the commercial wind turbine generator tower and all accessory structures or anemometer tower will appear as constructed on the proposed site from vantage points north, south, east, and west of the commercial wind turbine generator tower or anemometer tower. Provided, however, this application requirement shall not apply to an anemometer tower.
10. Any additional information reasonably deemed necessary by the Planning Commission to determine compliance with the standards for approving a commercial wind turbine generator or an anemometer tower specified in this Ordinance and the impact of the proposed wind turbine generator or anemometer tower on adjacent properties, public infrastructure, and the township as a whole. This information may take the form of, but is not limited to, traffic impact analyses, environmental impact assessments, and/or information from officials representing federal, state, or county departments or regulatory agencies.

B. Standards for Approval of Wind Turbine Generators and Anemometer Towers

The Planning Commission shall approve, or approve with conditions, an application for a commercial wind turbine generator or for an anemometer tower only upon a finding that the proposed wind turbine generator or anemometer tower complies with the standards contained in Section 6.03 of this Ordinance and all of the following applicable standards:

1. Sufficient Wind Resources. The proposed site shall have documented annual wind resources sufficient for the operation of the proposed wind turbine generator; provided, however, this standard shall not apply to an anemometer tower. No commercial wind turbine generator shall be approved without submission of a wind resource study documenting wind resources on the site over a minimum of one year.
2. Minimum Site Area. The minimum site area for a commercial wind turbine generator or an anemometer tower erected prior to a wind turbine generator shall

be as necessary to meet required setbacks and any other standards of this ordinance.

3. Setbacks. Each proposed commercial wind turbine generator or anemometer tower shall meet the following applicable setback requirements:
 - a. Each commercial wind turbine generator shall be setback from any adjoining lot line and any adjoining public or private road right-of-way or easement a distance equal to 1,500 feet. The setback shall be measured from the outermost point on the base of the wind turbine generator. The Planning Commission shall reduce this setback to the shortest distance, not less than 735 feet, where the proposed commercial wind turbine generator meets standards 6), 7), and 8) below.
 - b. Each anemometer tower shall be setback from any adjoining lot line and any adjoining public or private road right-of-way or easement a distance equal to the height of the anemometer tower. The setback shall be measured from the outermost point on the base of the anemometer tower.
 - c. For any newly proposed commercial wind turbine generator a wind access buffer equal to a minimum of five (5) rotor diameters shall be observed from any existing off-site wind turbine generator tower.
4. Maximum Height.
 - a. The maximum commercial wind turbine generator tower height or the height of an anemometer tower erected prior to a commercial wind turbine generator shall be 300 feet.
 - b. The Planning Commission may approve an increased height for a commercial wind turbine generator tower or an anemometer tower, not to exceed 400 feet, if all of the following conditions are met:
 - i. The need for the increased height is the result of a stand of trees, existing land forms, or structures that would substantially hinder the operation of the commercial wind turbine at the normal height limitation.
 - ii. The increased height is the minimum necessary to achieve a reasonable rate of return on the operation of the commercial wind turbine generator given the documented wind speeds and other site conditions. A reasonable rate of return is not equivalent to maximizing economic return to the operator. The Planning Commission shall not grant the increased height if economic return is not met due to the use of inefficient equipment that does not utilize current commercial technologies.
 - iii. The increased height will not result in increased intensity on lighting of the tower due to FAA requirements.
5. Minimum Rotor Wind Vane or Blade Clearance. The lowest point of the arc created by rotating wind vanes or blades shall be fifty (50) feet on a commercial wind turbine generator. Additional clearance may be required by the Planning Commission if potential safety concerns are identified.
6. Maximum Noise Levels. Any proposed wind turbine generator shall produce sound levels that are no more than fifty (50) decibels as measured on the dB(A)

scale at the property lines of the site in question. Provided, however, this standard shall not apply to an anemometer tower.

7. Maximum Vibrations. Any proposed wind turbine generator shall not produce vibrations beyond the property lines of the site in question of such intensity, duration, frequency or character which annoy, disturb, or cause or tend to cause adverse psychological or physiological effects on any reasonable person of normal sensitiveness. Provided, however, this standard shall not apply to an anemometer tower.
8. Blade Throw. The potential blade and ice throw from any commercial wind turbine generator shall not cross the property lines of the site in question. Provided, however, this standard shall not apply to an anemometer tower.
9. Rotational Controls. All commercial wind turbine generators shall be equipped with controls to limit the rotational speed of the blades within design limits for the specific wind turbine generator. Provided, however, this standard shall not apply to an anemometer tower.
10. Transmission Lines. The on-site electrical transmission lines connecting the commercial wind turbine generator to a public utility electricity distribution system shall be located underground. Provided, however, this standard shall not apply to an anemometer tower.
11. Interference with Residential Reception. All commercial wind turbine generators and any anemometer tower shall be constructed and operated so that it does not interfere with television, radio, or microwave reception in neighboring areas. If degradation of television, radio, or microwave reception occurs as the result of the wind turbine generator or anemometer tower, the developer shall pay to correct the television, radio, or microwave reception.
12. State or Federal Requirements. All commercial wind turbine generators and any anemometer tower shall meet or exceed any standards and regulations of the FAA, the Michigan Public Service Commission, National Electric Safety Code, and any other agency of the state or federal government with the authority to regulate wind turbine generators or other tall structures in effect at the time the special use permit is approved.
13. Aesthetics and Lighting. All commercial wind turbine generators and any anemometer tower shall meet the following requirements:
 - a. The wind turbine generator or anemometer tower shall, subject to any applicable standards of the FAA, be a neutral color so as to reduce visual obtrusiveness. Excessively bright or neon colors are not acceptable. The Planning Commission, however, may approve an alternate color if the wind turbine generator or anemometer tower is located within an avian migratory route or if an alternate color would otherwise benefit the neighborhood.
 - b. A commercial wind turbine generator shall be a monopole or monotube style construction (as distinguished from a lattice-style tower) and shall not utilize guy wires. A temporary anemometer tower (to be removed within three years) may utilize a lattice-style tower and/or may utilize guy wires. Safety marking and/or physical barriers for all guy wires anchors may be required by the Planning Commission. Any anemometer tower which is to remain for greater than three (3) years shall be monopole or monotube

- style construction (as distinguished from a lattice-style tower) and shall not utilize guy wires.
- c. Commercial wind turbine generator or anemometer tower shall not be artificially lighted unless required by the FAA. Where the FAA requires lighting, the lighting shall be the lowest intensity allowable under FAA regulations, the fixtures shall be shielded and directed to the greatest extent possible to minimize glare and visibility from the ground, and no strobe lighting shall be permitted, unless expressly required by the FAA. Unless the FAA requires otherwise, the lighting shall be a nonpulsating or nonblinking red light.
 - d. Each wind turbine generator or anemometer tower shall be sited on the property in a location that reduces to the maximum extent possible any adverse impacts on significant view corridors from adjacent properties, while at the same time maintaining contact with economically viable wind resources.
 - e. Each commercial wind turbine generator or an anemometer tower shall have no advertising painted on or attached to the tower or any other structure of the wind turbine generator.
 - f. Each wind turbine generator tower shall be designed to aesthetically complement the color and design of any existing wind turbine generator tower within a one-mile radius. The Planning Commission may require design changes in order to lessen the visual clutter associated with the siting of multiple wind turbines with non-complementary, inconsistent design within sight of each other.
14. Sign. A commercial wind turbine generator or anemometer tower shall have posted on the site in a visible, easily accessible location a sign no more than four (4) square feet in area displaying an address and telephone number for emergency calls. The emergency telephone number shall allow a caller to contact a responsible individual to address emergencies at any time during or after regular business hours and on weekends or holidays. Provided, however, this standard shall not apply to a noncommercial wind turbine generator.
 15. Access limitation. The commercial wind turbine generator or anemometer tower shall be designed and constructed in such a manner that access is limited, to the extent possible, to authorized personnel only. Provided, however, this standard shall not apply to a noncommercial wind turbine generator.
 16. Shadow Flicker. All commercial wind turbine shall be designed and sited in such a manner to minimize shadow flicker expected to fall on a roadway and on any existing structures located off the property on which the wind turbine generator is constructed. Provided, however, this standard shall not apply to an anemometer tower.
 17. Removal of Abandoned or Unsafe Wind Turbine Generators or Anemometer Towers. Any wind turbine generator or anemometer tower that is not mechanically capable of operating for more than 4,380 hours over any twelve (12) month period or sits idle for more than 12 months shall be considered abandoned. Any tower found to be unsafe or not in compliance with the special land use conditions related to noise or shadow flicker placed upon it by the Planning Commission, shall be found to be in violation of the special land use permit. The owner of any wind

turbine generator tower or anemometer tower that is abandoned or in violation of the special land use permit shall remove the same within ninety (90) days of receipt of notice from the Township of such abandonment or violation. In addition to removing the wind turbine generator, or anemometer tower, the owner shall restore the site of the wind turbine generator or anemometer tower to its original condition prior to location of the wind turbine generator or anemometer tower, subject to reasonable wear and tear. Any foundation associated with a wind turbine generator or anemometer tower shall be removed to a minimum depth of four (4) feet below the final grade, the location of the remaining foundation shall be recorded with the Charlevoix County Register of Deeds and site vegetation shall be restored. Failure to remove an abandoned wind turbine generator or anemometer tower within the ninety (90) day period provided in this subsection shall be grounds for the Township to remove the wind turbine generator or anemometer tower at the owner's expense.

SECTION 8.01 Purpose

In order that the objectives of this Ordinance may be fully and equitably achieved, that a means shall be provided for competent interpretation of this Ordinance, that the health, safety and welfare of the public be secured, and that justice be done, there is hereby established a Boyne Valley Township Zoning Board of Appeals. The Zoning Board of Appeals (ZBA) shall perform its duties and exercise its powers as provided in the Michigan Zoning Enabling Act 110, of Public Acts of 2006, as amended.

SECTION 8.02 Membership

- A. The Township Board shall appoint a Zoning Board of Appeals consisting of three (3) members. Each member of the Zoning Board of Appeals shall serve for a term of three (3) years, except that for the first appointments two (2) members shall serve for a term of two (2) years and one (1) member shall serve for a term of one (1) year. Members of the zoning Board of Appeals shall be electors of the Township residing within the Township.
1. The first member shall be a member of the Township Planning Commission for the terms of his/her office.
 2. The remaining members must be selected from the electors of the Township residing outside of incorporated cities and villages and shall be representative of the population distribution and of the various interests present in the Township. One (1) member may be a member of the Township Board.
 3. An elected officer of the Township shall not serve as chairman. An employee or contractor of the Township Board may not serve as a member or an employee of the Board of Appeals.
- B. The Township Board may appoint not more than two (2) alternate members for the same term as regular members to the Zoning Board of Appeals. An alternate member may be called on a rotating basis to serve as a member of the Zoning Board of Appeals in the absence of a regular member if the regular member will be unable to attend 1 or more meetings. An alternate member may also be called to serve as a member for the purpose of reaching a decision on a case in which the member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision has been made. The alternate member shall have the same voting rights as a regular member of the Zoning Board of Appeals.

SECTION 8.03 Meetings

Meetings of the Board of Appeals shall be held at the call of the Chairman and at such other times as such Board may determine or specify in its rules of procedure. All hearings conducted by said Board shall be open to the public. The Board of Appeals shall adopt its own rules of procedure and keep a record of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating said fact; and shall file a record of its proceedings in the office of the Township Clerk, and shall be a public record. The concurring vote of a majority of the members of the Board of Appeals shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator, or to decide in favor of an applicant any matter upon which they are required to pass under this Ordinance or to effect any variation of this Ordinance.

The Board of Appeals shall not conduct business unless a majority of those Board of Appeals regular members are present.

SECTION 8.04 Jurisdiction

- A. An appeal concerning the administration of the provisions of this Ordinance may be taken to the Board of Appeals within the timeframe defined in the general rules and procedures adopted by the Zoning Board of Appeals. If such a timeframe is not specified, appeals shall be filed within thirty (30) days of the decision of the Zoning Administrator from which the appellant seeks relief.
- B. The ZBA may hear appeals made by any person who alleges he or she has been aggrieved by a decision of the Zoning Administrator.
- C. The ZBA may grant variances as provided for in **Section 8.06 – Dimensional Variances**.
- D. The ZBA may also interpret the location of zoning district boundaries and may hear and decide the following interpretation matters:
 - 1. To determine the meaning of zoning ordinance provisions when ambiguity exists in those provisions.
 - 2. To classify a proposed use of land or use of a structure that is not expressly provided in this Ordinance (an unlisted property use). In determining the proper classification of an unlisted property use, the Zoning Board of Appeals shall consider the characteristics of the proposed unlisted property use in relation to similar and comparable uses listed in any zoning district and in relation to the requirements of the township master plan. Once classified, the unlisted property use shall be subject to all applicable regulations pertaining to similar uses in the zoning district in which placed, including the regulations pertaining to uses subject to special use permit approval, if classified as such a use by the Zoning Board of Appeals.
- E. An appeal may be made by any person, firm or corporation, or by any Officer, Department or Board of the Township. The appellant shall file with the Board of Appeals, on blanks or forms to be furnished by the Zoning Administrator, a notice of appeal specifying the grounds for the appeal.
- F. The Zoning Administrator shall transmit to the Board of Appeals all the papers constituting the record upon which the action appealed from was taken. The final decision of such appeal shall be in the form of a resolution reversing, modifying or affirming, wholly or partly, the decision or determination appealed from. Reasons for the decision must be stated.
- G. Any person may provide written correspondence or may appear and testify at the hearing either in person or by duly authorized agent or attorney.
- H. The ZBA has no jurisdiction to hear appeals from Planning Commission decisions concerning planned unit developments, or stop or suspend temporarily.

SECTION 8.05 Stay

An administrative appeal to the Zoning Board of Appeals and an appeal of a decision by the Zoning Board of Appeals to circuit court stays (or suspends) all proceedings of the action

appealed from, including the effectiveness of any zoning permit issued, unless the Zoning Administrator certifies to the Zoning Board of Appeals after such appeal has been filed that a stay would cause imminent peril to life or property, in which case the proceedings shall not be stayed, unless ordered stayed by the Zoning Board of Appeals or the circuit court. Provided, however, this section shall not apply to an administrative decision to take enforcement action for alleged violations of this Ordinance.

SECTION 8.06 Dimensional Variances

The ZBA may grant dimensional variances when the applicant demonstrates in the official record of the hearing that the strict enforcement of this Ordinance would result in practical difficulty. To establish practical difficulty, the applicant must establish all of the following:

- A. The need for the requested variance is due to unique circumstances or physical conditions of the property involved that do not apply generally to other properties in the surrounding area, such as narrowness, shallowness, shape, water, or topography and is not due to the applicant's personal or economic hardship.
- B. The need for the requested variance is not the result of action of the property owner or previous property owners (self-created).
- C. That strict compliance with regulations governing area, setback, frontage, height, bulk, density or other dimensional requirements will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome.
- D. Whether granting the requested variance would do substantial justice to the applicant as well as to other property owners in the district, or whether granting a lesser variance than requested would give a substantial relief to the property owner and be more consistent with justice to other property owners.
- E. That the requested variance will not cause an adverse impact on surrounding property, property values, or the use and enjoyment of property in the neighborhood or zoning district.

SECTION 8.07 Zoning Board of Appeals submittal

The applicant is required to submit six (6) copies of surveys, plans and data as required under Article VI: Site Plan Review, or other information deemed reasonably necessary for making any informed decision on his or her appeal.

SECTION 8.08 Conditions of Approval

The ZBA may impose such conditions or limitations in granting a variance as deemed necessary to protect the character of the area, as provided for in **Section 9.06 –Conditions**.

SECTION 8.09 Exercising Powers

In exercising the above powers, the Board of Appeals may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such

order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the Zoning Administrator from whom the appeal is taken.

SECTION 8.10 Public Hearing Notice Requirements

Following receipt of a written request concerning an appeal of an administrative decision, a request for an interpretation of the zoning ordinance or a request for a variance, the Zoning Board of Appeals shall hold a public hearing, after giving the following applicable notice:

- A. For an appeal of an administrative decision, a notice stating the time, date, and place of the public hearing shall be published in a newspaper of general circulation within the township and shall be sent to the person filing the appeal and to the zoning administrator or other administrative agency or official whose decision is being appealed no less than fifteen (15) days before the public hearing.
- B. For a request seeking an interpretation of the zoning ordinance, a notice stating the time, date, and place of the public hearing shall be published in a newspaper of general circulation within the township and shall be sent to the person requesting the interpretation no less fifteen (15) days before the public hearing.
- C. For a variance request, a notice stating the nature of the variance being requested and the time, date, and place of the public hearing shall be published in a newspaper of general circulation within the township and shall be sent to the person requesting the variance no less than fifteen (15) days before the public hearing.
- D. In addition to the above notice requirements, when the matter before the Zoning Board of Appeals involves a specific parcel, a notice stating the nature of the appeal, interpretation request, or variance being requested and the time, date, and place of the public hearing shall be sent by first class mail or personal delivery to all persons to whom real property is assessed within 300 feet of the boundary of the property in question and to the occupants of all structures within 300 feet of the boundary of the property in question, not less than fifteen (15) days before the public hearing.

SECTION 8.11 Miscellaneous

No order of the Board of Appeals permitting the erection or alteration of a building shall be valid for a period longer than two (2) years, unless a building permit for such erection or alteration is obtained within such period and substantial construction has occurred.

SECTION 9.01 Zoning Administration

- A. The provisions of this Ordinance shall be administered and enforced by the Township Zoning Administrator, appointed by the Township Board for such term and subject to such conditions and at such rate of compensation as said Board shall determine as reasonable.
- B. The Zoning Administrator shall have the power to grant Zoning Permits and to make inspections of buildings or premises necessary to carry out his/her duties in the enforcement of this Ordinance. It shall be unlawful for the Zoning Administrator to approve any plans or issue any Permits for the excavation or construction until such plans have been inspected in detail and found to conform to this Ordinance.
- C. The Zoning Administrator shall under no circumstances be permitted to make changes to this Ordinance or to vary the terms of this Ordinance in carrying out the duties of Zoning Administrator.
- D. The Zoning Administrator shall not refuse to issue a Permit when conditions imposed by this Ordinance are met by the applicant despite violations of contracts, such as covenants or private agreements that may occur upon the granting of said Permit.
- E. The Township Board may also appoint a Deputy Zoning Administrator.

SECTION 9.02 Zoning Permit and Application

- A. No building or structure subject to the provisions of this Ordinance shall hereafter be erected, structurally altered (as related to the exterior of the building or structure), reconstructed, used for a different purpose, or moved until a Zoning Permit application has been filed with the Township Zoning Administrator and a Zoning Permit has been issued by the Zoning Administrator, except as otherwise permitted for in this ordinance. Re-roofing, siding and/or window replacement for existing building do not require a Zoning Permit. No Zoning Permit shall be required for the continuation of any lawful use of any building or structure in existence as of the adoption date of this Ordinance. No Zoning permit shall be required for an accessory structure less than 200 square feet in size, but the location of the accessory structure shall comply with the applicable district setbacks.
- B. 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:
 - 1. A Site Plan, if required or a Plot Plan with the required information as specified in **Article 5**.
 - 2. Properties under two (2) acres in size may be required to submit a legal property survey, sealed by a professional surveyor (not a mortgage survey). The Zoning Administrator shall have the authority to require such a survey of the affected area in the cases where there may be encroachment on the setbacks by the proposed structures or when the exact locations of lot lines are not known.
 - 3. Copies of permits or waivers of permits by other agencies as may be required by statute and/or by the Zoning Administrator of this Ordinance.
 - 4. Such other information as may be required to determine compliance with the

Ordinance.

- C. 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 Charlevoix County Building Department.
- D. The location of the property boundaries and all structures shall be staked on the ground for Zoning Administrator approval prior to the issuance of the Zoning Permit.
- E. Any Zoning Permit under which substantial construction has not started or if no substantial construction has been done in the furtherance of the zoning permit, the zoning permit will expire after twelve (12) months from date of issuance. Prior to the expiration of the Zoning Permit, upon application the applicant shall be granted one one-year extension.
- F. No Zoning Permit shall be valid until the required fees have been paid. Except for an accessory building or structure less than 200 square feet in size, which does not require a zoning permit pursuant to Section 9.02.A of this Ordinance, 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 Board.
- G. Upon issuance of the Zoning permit, a copy of the permit and the application, including any drawings shall be transmitted to the Assessor.
- H. Prior to commencing any work on site, any zoning permit required by this Zoning Ordinance shall be displayed in a conspicuous place on the premises facing the nearest street and shall be continuously so displayed until all work is completed.

SECTION 9.03 Inspections

No zoning permit will be issued by the Zoning Administrator without first conducting a site inspection. It is the responsibility of the applicant to have all applicable property lines and building sites marked on the ground and to notify the Zoning Administrator of such.

SECTION 9.04 Fees

- A. To assist in defraying the costs of investigating, reviewing, and administering zoning applications, appeals, rezoning requests from individual property owners, and other types of decisions which result in extra costs to the Township, the Township Board may from time to time adopt by resolution a fee schedule establishing basic zoning fees, such as those fees related to the following:
 - 1. Zoning permits
 - 2. Special land use permits
 - 3. Ordinance interpretations by the Zoning Board of Appeals: appeals of administrative interpretation or request for interpretation. Appeals and requests for interpretation initiated by the Township Board, the Planning Commission, or the Zoning Administrator shall not be subject to a zoning fee.
 - 4. Classification of unlisted property uses.
 - 5. Requests to change a non-conforming use to another non-conforming use.
 - 6. Requests for variances from the Zoning Board of Appeals.

7. Requests for rezoning of property by individual property owners or amendments to the zoning ordinance text. Rezoning of property or text amendments initiated by the Township Board, the Planning Commission, or the Zoning Administrator shall not be subject to a zoning fee.
8. Site plan reviews.
9. Any other discretionary decisions by the Planning Commission or Zoning Board of Appeals.

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.

- B. 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 or advisable, 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, prior to the scheduled hearing date, 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 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 9.05 Performance Guarantee

In connection with the construction of improvements through site plan approval or special land use approval, the Planning Commission may require the applicant to furnish the Township with a performance guarantee in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Township in an amount equal to the estimated costs associated with the construction of public and site improvements. Public improvements mean by way of example and not limitation roads, parking lots, and water and sewer systems which are located within the development or which the applicant has agreed to construct even though located outside the development. Site improvements mean landscaping, buffering, and the completion of conditions imposed by the Planning Commission, which are located within the development. For purposes of this section, the costs covered by the performance guarantee shall include all of the following: (1) the purchase, construction, and/or installation of the improvements, (2) architectural and engineering design and testing fees and related professional costs, and (3) an amount for contingencies consistent with generally accepted engineering and/or planning practice. The performance guarantee shall be deposited with the Township Clerk at or before the time the Township issues the permit authorizing the development, or if the development has been approved in phases, then the performance guarantee shall be deposited with the Township Clerk prior to the commencement of construction of a new phase. The performance guarantee shall ensure completion of the public and site improvements in accordance with the plans approved by the Planning Commission. Any cash deposit or certified funds shall be refunded for the development or each phase of a multi-phase development in the following manner:

- A. One-third of the cash deposit after completion of one-third of the public and site improvements;
- B. Two-thirds of the cash deposit after completion of two-thirds of the public and site improvements; and
- C. The balance at the completion of the public and site improvements.

Any irrevocable bank letter of credit or surety bond shall be returned to the applicant upon completion of the public improvements. If a development is to be completed in phases, then the Planning Commission may require the applicant to furnish a performance guarantee as provided in this section for each phase of the development. If an applicant has contracted with a third-party to construct the public and site improvements and the third-party has provided a bond meeting the requirements described above and the bond also names the Township as a third-party beneficiary of the bond, then the Planning Commission may accept that bond as meeting all or a portion of the performance guarantee required by this section.

SECTION 9.06 Conditions

The Planning Commission and Zoning Board of Appeals may attach reasonable conditions on discretionary zoning decisions under their jurisdiction. These conditions may include those necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Any conditions imposed, however, shall meet all of the following requirements:

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

SECTION 9.07 Rehearing Process

- A. Final Decisions: Except as provided in this section, a decision of the Planning Commission or Zoning Board of Appeals shall be final. The Planning Commission or Zoning Board of Appeals may grant a rehearing under exceptional circumstances for any decision made by it. Exceptional circumstances shall mean any of the following:
 - 1. The applicant who brought the matter before the Planning Commission or Zoning Board of Appeals made misrepresentations concerning a material issue, which was relied upon by the Planning Commission or Zoning Board of Appeals in reaching its decision.
 - 2. There has been a material change in circumstances regarding the Planning Commission or Zoning Board of Appeals' findings of fact, which occurred after the public hearing.
 - 3. The Township attorney by written opinion states that in the attorney's professional opinion the decision made by the Planning Commission or Zoning Board of Appeals or the procedure used in the matter was clearly erroneous.
- B. Rehearing Procedure: A rehearing may be requested by the applicant or by the Zoning Administrator, or a rehearing may be granted by the Planning Commission or Zoning Board of Appeals on its own motion.
 - 1. A request for a rehearing which is made by an applicant must be made within twenty-one (21) days from the date of approval of the Planning Commission's or Zoning Board of Appeals' minutes regarding the decision for which the rehearing is being requested.
 - 2. A request for a rehearing made by the Zoning Administrator or a rehearing granted by the Planning Commission or Zoning Board of Appeals on its own motion may be granted at any time as long as the applicant has not been prejudiced by any delay.
 - 3. Whenever the Planning Commission or Zoning Board of Appeals considers granting a rehearing, it shall provide written notice to the applicant that a rehearing will be considered. The notice may be served upon the applicant by first class mail at the applicants' last known address, or may be served personally on the applicant. The notice must be served at least nine (9) days before the time set for the hearing if served by mail, or at least seven (7) days before the time set for the hearing if served by personal service. Service by mail shall be complete upon mailing. In addition to serving the above notice on the applicant, all other notice requirements for the type of decision being heard shall be completed before the Planning Commission or Zoning Board of Appeals holds a hearing at

which it considers whether to grant a rehearing.

4. If the Planning Commission or Zoning Board of Appeals grants a rehearing, then the rehearing shall not be held until all notice requirements for the type of decision being reheard have been satisfied.

SECTION 9.08 Violations and Penalties

- A. Nuisance per se: Any land, dwellings, buildings or structures, including tents and trailer coaches, used, erected, altered 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 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 the ensure compliance with the plans and conditions of the zoning permit or approved site plan. The Zoning Administrator, or other official designated by the Township Board, shall exercise this right of inspection by consent of the person having the right of possession of the land, building, and/or structure or and part thereof, or by administrative search warrant issued by a court of competent jurisdiction.
- C. Penalties
 1. Any person, partnership, limited liability company, corporation, association or other entity 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 and shall be subject to a fine of not more than Five Hundred and 00/100 (\$500.00) Dollars. Every day that such violation continues may constitute a separate and distinct offense under the provisions of this Ordinance. Nothing in this section shall exempt the offender from compliance with provisions of this Ordinance or prohibit the Township from seeking additional and/or equitable relief from any court to ensure compliance with the provisions of this ordinance.
 2. The Township Zoning Administrator is hereby designated as the authorized Township official to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court. The Township Board may also designate from time to time other officials to issue municipal infraction citations on behalf of the Township in connection with alleged violations of this ordinance.
 3. In addition to or in lieu of enforcing this Ordinance, as a municipal civil infraction, the Township may initiate proceedings in the any court of competent jurisdiction to abate, eliminate, or enjoin the nuisance per se or any other violation of this Ordinance.
- D. Stop Work Order: If construction or land uses are being undertaken contrary to a zoning permit, the zoning enabling act, or this ordinance, the zoning administrator or deputy of the zoning administrator or any other official authorized by the Township Board is authorized to post a stop work order on the property at a suitable location, such as at an entrance, in order to prevent the work or activity from proceeding in violation of the ordinance.

A person shall not continue, or cause or allow to be continued, construction or uses in a violation of a stop work order, except with permission of the enforcing agency to abate a dangerous condition or remove the violation, or except by court order. If an order to stop

work is not obeyed, the enforcing agency may apply to the circuit court for an order enjoining the violation of the stop work order. This remedy is in addition to, and not in limitation of, any other remedy provided by law or ordinance, and does not prevent criminal or civil prosecution for failure to obey the order.

SECTION 9.09 Conflicting Regulations

In the interpretation of this Ordinance, this Ordinance shall control unless there exists a conflict with any other Township ordinances, in which case the more stringent regulations will rule.

SECTION 10.01 Amendment of this Ordinance

- A. The Township Board of Trustees is authorized and empowered to cause this Zoning Ordinance to be amended, supplemented, or changed, pursuant to the authority and according to the procedures set forth in the Michigan Zoning Enabling Act, Act 110 of Public Acts 2006, as amended.
1. The regulations and provisions stated in the text of this Ordinance and the boundaries of zoning districts shown on the Boyne Valley Township Zoning Map may be amended, supplemented or changed by action of the Township Board of Trustees following a recommendation from the Township Planning Commission.
 2. Proposals for amendments, supplements or changes may be initiated by the Township Board of Trustees on its own motion, by the Township Planning Commission or by petition of one (1) or more owners of property to be affected by the proposed amendment.
 3. The procedure to be followed for initiating and processing an amendment shall be as follows:
 - a. Each petition by one (1) or more persons for an amendment shall be submitted by application to the Zoning Administrator on a standard form provided and shall be accompanied by the fee as prescribed by the Township Board of Trustees. No part of such fee shall be returnable to a petitioner if the public hearing is held.
 - b. The Zoning Administrator shall notify, in writing, the Township Clerk and Chair of the Planning Commission at or before the time s/he transmits the amendment request to the Planning Commission.
 - c. 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.
 - d. Before ruling on any proposal the Planning Commission shall conduct at least one (1) public hearing, notice of the time and place of which shall be given by publication in a newspaper of general circulation in the Village, not less than fifteen (15) days before the date of such hearing. Not less than 15 days notice of the time and place of such hearing shall also be given by mail to each public utility company, railroad, and airport manager within the zone affected who have registered to receive such notices. The notices shall include the places and times at which the tentative text and any map of the Zoning Ordinance may be examined and shall be verified by an affidavit of mailing or personal service.
- If an individual or several properties (10 or fewer adjacent properties) are proposed for re-zoning, owners of the property (or properties) shall be given notice of the proposed re-zoning not less than 15 days prior to the hearing. Notice shall also be sent to all persons who own property within 300 feet of the subject property (or properties) and to occupants of all structures within 300 feet of the property (or properties).

If eleven or greater properties are proposed for re-zoning, a general notice of the public hearing on the matter shall be provided. Notice of the time and place of the public hearing, shall be given by publication in a newspaper of general circulation in the Village, not less than fifteen (15) days before the date of such hearing.

- e. The Planning Commission shall review and apply the following standards and factors in the consideration of any re-zoning request.
- 1) Is the proposed rezoning consistent with the Boyne Valley Township Master Plan?
 - 2) Is the proposed rezoning reasonably consistent with surrounding uses?
 - 3) Will there be an adverse physical impact on surrounding properties?
 - 4) Will there be an adverse effect on property values in the adjacent area?
 - 5) Have there been changes in land use or other conditions in the immediate area or in the community in general which justify rezoning?
 - 6) Will rezoning create a deterrent to the improvement or development of adjacent property in accord with existing regulations?
 - 7) Will rezoning grant a special privilege to an individual property owner when contrasted with other property owners in the area or the general public (i.e. will rezoning result in spot zoning)?
 - 8) Are there substantial reasons why the property cannot be used in accordance with its present zoning classifications?
 - 9) Is the rezoning in conflict with the planned use for the property as reflected in the master plan?
 - 10) Is the site served by adequate public facilities or is the petitioner able to provide them?
 - 11) Are there sites nearby already properly zoned that can be used for the intended purposes?
 - 12) The community should evaluate whether other local remedies are available.
- f. 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.
- g. The Planning Commission shall submit a final report/recommendation to the Township Board of Trustees along with a summary of the comments received at the public hearing.

- h. The Township Board of Trustees may hold additional public hearings if it considers it necessary or otherwise required. Notice of the hearing to be held by the Township Board of Trustees shall be given in the same manner as required under subsection 10.01A.3.d, above. The Township Board of Trustees shall grant a hearing on a proposed ordinance provision to a property owner who requests a hearing by certified mail, addressed to the Township Clerk. The Township Board of Trustees may adopt any proposed amendment, or refer back to the Planning Commission for a further report as prescribed by Section 401 of Public Act No 110 of 2006, as amended.
- i. Once adopted by the Township Board of Trustees, amendments to this Ordinance shall be filed with the Township Clerk, and one (1) notice of adoption shall be published in a newspaper of general circulation in the Township within fifteen (15) days after adoption.
- j. No application for a rezoning which has been denied by the Township shall be resubmitted for a period of one (1) year from the date of the last denial, except on grounds of newly discovered evidence or proof of changed conditions found upon inspection by the Township Planning Commission to be valid.

SECTION 10.02 Enactment and Effective Date

- A. This Ordinance was adopted on December 12, 2016 by the Boyne Valley Township Board of Trustees and will be effective January 1, 2017. The foregoing Zoning Ordinance and Zoning Map were presented at an initial public hearing on October 17, 2016 and at a second public hearing before the Planning Commission on November 29, 2016.
- B. Amendments or revision to this Ordinance or Map of Zoning Districts shall become effective on the eighth day after publication unless a later date is specified.