

# ***Blue Lake Township***

*Kalkaska County*

## ***ZONING ORDINANCE***

Adopted: November 1, 2006

**Effective: November 16, 2006**

Including amendment effective:

**October 28, 2010**

**December 29, 2011**

**May 20, 2015**

# Blue Lake Township Zoning Ordinance

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# **Blue Lake Township Zoning Ordinance Kalkaska County, Michigan**

The Township Board of Blue Lake Township, Kalkaska County, Michigan, Ordains:

## **Article I - Introduction**

### **Section 1.01 – Title**

The Ordinance shall be known as the “Blue Lake Township Zoning Ordinance.”

### **Section 1.02 – Purpose**

The Zoning District and Regulations set forth in the Zoning Ordinance have been made in accordance with a Master Plan for the purpose of promoting the health, safety, and general welfare of the people of Blue Lake Township.

This Zoning Ordinance is designed to:

1. Conserve natural resources and real property quality and value.
2. Conserve the expenditures of tax monies and other funds for public improvements and services through their conformity with planned uses of land, resources, and properties.
3. Encourage the use of lands in accordance with their character and adaptability.
4. Avoid the overcrowding of populations.
5. Provide adequate light and air.
6. Lessen congestion on the public roads, streets, and highways.
7. Reduce hazards to life and property.

The regulations are made with reasonable consideration to:

1. Natural and developed character of each district.
2. Its peculiar suitability for particular uses.
3. General and appropriate character and trend of land, buildings, and population development.

### **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 the Public Acts of 2006.

### **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 the Ordinance shall not be affected thereby. The Township Board hereby declares that it would have passed this ordinance and each part, section, subsection, phrase, sentence and clause thereof irrespective of that fact that any one or more parts, sections, subsections, phrases, sentences or clauses be declared invalid.

## **Section 1.05 – Repeal of Previous Zoning Ordinance**

1. This ordinance repeals and replaces any previous Blue Lake Township Zoning Ordinance in its entirety.
2. The repeal of the Blue Lake Township Zoning Ordinance originally adopted in 1967, as amended through 1996, 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.

## Article II - Rules of Construction and Definitions

### Section 2.01 - Rules of Construction

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

1. The particular shall control the general.
2. The word "shall" is always mandatory and never discretionary. The word "may" is permissive.
3. Words used in the present tense shall include the future; words in the singular number shall also denote the plural and the plural shall also denote the singular.
4. A "building" or "structure" includes any part thereof.
5. The phrase "used for" includes "arranged for", "designed for", "intended for", "maintained for" and "occupied for".
6. 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.
7. "Township" shall refer specifically to Blue Lake Township.
8. The term "person" shall mean an individual, firm, corporation, association, partnership, limited liability company or other legal entity, or their agents.
9. Terms not defined shall be assumed to have the meaning customarily assigned them.
10. Any necessary interpretation of this Ordinance shall be defined by the Blue Lake Township Zoning Board of Appeals.

### Section 2.02 - Definitions

**Accessory 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 and radio reception antennas, satellite dishes and signs.

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

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

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

1. 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

2. 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 annual 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:

1. persons who appear in a state of nudity;
2. live performances that are characterized by the exposure of Specified Anatomical Areas or by Specified Sexual Activities;
3. 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
4. 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 Motel:** A hotel, motel or similar commercial establishment that:

1. 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;
2. offers a sleeping room for rent for a period of time that is less than twelve (12) hours; or
3. allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than twelve (12) hours.

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

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

**Agriculture:** The act or business of cultivating or using land and soils for the production of crops for the use of animals or humans and includes, but is not limited to, purposes related to agriculture, farming, dairying, pasturage, horticulture, floriculture, viticulture, and animal and poultry husbandry. Flower, vegetable or other gardens maintained only for the property owner(s) use and/or enjoyment are not considered agricultural.

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



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

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

**Anemometer Tower:** A structure, including all accessory facilities, temporarily erected for no more than two (2) years, on which an anemometer is mounted for the purposes of documenting whether a site has wind resources sufficient for the operation of a wind turbine generator.

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

**Appearance Ticket:** see Municipal Civil Infraction Citation.

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

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

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

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

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

**Basement:** That portion of a building which is partly or wholly below grade but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling.

**Bed and Breakfast Establishment:** Any family occupied dwelling used or designed in such a manner that certain rooms in excess of those used by the family are rented to the transient public for compensation. For the purpose of this Ordinance, the term bed and breakfast establishment also includes tourist home.

**Bedroom:** A separate room or space with a door, a closet and a window, used or intended to be used specifically for sleeping purposes.

**Board of Appeals:** As used in this Ordinance, this term means the Blue Lake Township Zoning Board of Appeals.

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

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

**Buildable Area:** That portion of a lot remaining after the minimum setback and open space requirements of this Ordinance have been complied with.

**Building Height:** The elevation measured from the highest finished grade to the highest point of the roof. No portion of the structure's roof (except chimneys) may exceed the height allowed in the specific district regulations.

**Buildable Width:** The width of a lot left for building after required side yards are provided.

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

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

**Church:** See Place of Worship.

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

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

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

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

**Drive-Thru Business:** Any restaurant, bank or business with an auto service window.

**Driveway, Private:** A private lane, which is used for vehicular ingress or egress serving one, two or three lots, parcels or site condominium units.

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

**Dwelling, Single-Family:** A detached building containing not more than one dwelling unit designed for residential use.

**Dwelling, Two-Family:** A building containing not more than two separate dwelling units designed for residential use.

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

1. The structure is produced in a factory in accordance with the National Manufactured Housing Construction and Safety Standards Act, as amended, and
2. 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
3. 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 containing three or more dwelling units designed for residential use.

**Enclosed, locked facility** means an enclosed, locked facility as defined in Section 3 of Initiated Law 1 of 2008, as amended (Michigan Medical Marihuana Act), being MCL 333.26423.

**Efficiency Unit:** A dwelling unit consisting of one room, exclusive of bathroom, hallway, closets, and the like providing not less than three hundred and fifty (350) square feet of usable floor area.

**Erected:** Includes built, constructed, reconstructed, extended, enlargement, moved upon, or any physical operation on the premises intended or required for a building or structure. Excavation, fill, drainage, and general land improvements, shall be considered part of erection.

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

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

**Essential Services:** The erection, construction, alteration, or maintenance by public utilities or municipal department or commissions of underground, surface, or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communication supply or disposal systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, traffic signals, hydrants, towers, poles, and other similar equipment, and accessories in connection therewith reasonably necessary for the furnishing of adequate service by such public utilities or municipal departments or commissions or for the public health or general welfare, but not including buildings other than such buildings as are primarily enclosures or shelters of the above essential service equipment. Telecommunication towers or facilities, alternative tower structures, wireless communication antenna and wind turbine generators are not included within this definition.

**Excavating:** Excavating shall be the earth moving, filling or removal of earth, sand, stone, gravel, or dirt.

**Family:** One or two persons or parents, with their direct lineal descendants and adopted children (and including the domestic employees thereof) together with not more than four persons not so related, living together as a single house-keeping unit. Every additional group of two or less persons in a dwelling unit shall be considered a separate family.

**Farm:** All of the contiguous neighboring or associated land operated as a single unit on which bona fide agriculture is carried on directly by the owner-operator, manager, or tenant-farmer by his own labor or with the assistance of members of his household or hired employees.

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

**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, basement and cellar area.

**Floor Area, Usable** (for the purpose of computing parking): That area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients or customers. Floor area used or intended to be used for the storage or processing of merchandise, hallways or for utilities or sanitary facilities, shall be excluded for the computation of "Usable Floor Area". All floor levels shall be counted.

**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.

**Grade, Natural:** The elevation of the ground surface in its natural state, before human alterations.

**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 residential accessory building. 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. Home occupations are regulated by **Section 3.06.1**.

**Cottage Industry:** An occupation or trade conducted within a detached residential accessory structure, which is clearly incidental and secondary to the use of the lot, and dwelling for residential purposes. Cottage industries are regulated by **Section 3.06.2**.

**Hospital:** An institution providing health services, primarily for inpatients and medical or surgical care of the sick or injured, including as an integral part of the institution, such related

facilities as laboratories, out-patient departments, training facilities, central service facilities, clinics and staff offices.

**Hotel or Motel:** A building occupied or used as a predominantly temporary abiding place by individuals or groups of individuals, with or without meals, and in which building there are more than five (5) sleeping rooms.

**Impervious Surface:** Any surface or structure incapable or highly resistant to penetration by water including, but not limited to, roofs of any type, concrete, asphalt or bituminous paving, compacted gravel, flagstone or brick patios, and driveways.

**Industrial Park:** A special or exclusive type of planned industrial area designed and equipped to accommodate a community of industries, providing them with facilities and services in attractive surroundings among compatible neighbors.

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

**Inoperable or Abandoned Motor Vehicle, Trailer or Watercraft:** Any wheeled vehicle, trailer or watercraft which by reason of dismantling, disrepair or other cause is incapable of being used as intended.

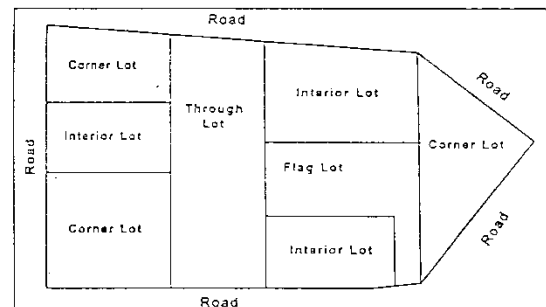
**Junkyard:** An open area where waste, used or second hand materials are bought and sold, exchanged, stored, baled, packed, disassembled or handled including, but not limited to scrap or other metals, paper, rags, rubber tires and bottles. A "Junkyard" includes automobile wrecking yards and includes any area of more than two hundred (200) square feet for storage, keeping or abandonment of junk, but does not include uses established entirely within enclosed buildings.

**Kennel:** Any lot or premises on which three (3) or more dogs, cats, or other household pets of the same species four (4) months of age or older are kept temporarily or permanently. Kennel shall also include any lot or premise where household pets are bred or sold.

**Landscape buffer:** See Buffer Strip.

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

**Lot:** The parcel of land or 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 required by this Ordinance for the district in which located, but not including any area within any abutting right-of-way or traffic lane.



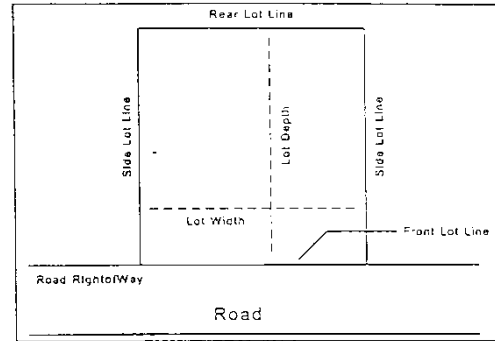
**Lot, Corner:** A lot located at the intersection of two streets or a lot bounded on two sides by a curving street, any two (2) sides of which form an angle of one hundred thirty-five (135) degrees or less.

**Lot Coverage:** The part or percent of the lot occupied by buildings or structures, including accessory buildings or structures and all impervious surfaces.

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

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

**Lot Line, Front:** In the case of an interior lot abutting upon one public or private street, the front lot line shall mean the property line separating such lot from such street right-of-way. In the case of a lot having frontage upon a lake, river or stream, the water frontage shall be considered the front lot line.



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

**Lot Line, Side:** Any property line bounding a lot that is 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

**Lot, Waterfront:** A lot having frontage directly upon a lake, river, or stream. The portion adjacent to the water is considered the water frontage. The waterfront is considered the front lot line.

**Lot Width:** The horizontal distance between the side lot lines, measured at the two (2) points where the front setback line, intersects the side lot lines.

**Lot, Zoning:** A contiguous tract of land that at the time of filing for a Zoning permit is designated by its owner or developer as a tract to be used, developed, or built upon as a unit, under single ownership or control. A Zoning Lot may not coincide with a lot of record, but may include one or more lots of record.

**Manufactured Home:** see Dwelling, Manufactured.

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

**Medical marihuana or Medical Use of Marihuana:** Marihuana 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, that meets the definition of "medical use" in Section 3 of Initiated Law 1 of 2008, as amended (Michigan Medical Marihuana Act), being MCL 333.26423.

**Mobile Home:** see Dwelling, Mobile.

**Mobile Home Park:** A parcel of land which has been planned and improved for the placement of three (3) or more mobile homes for residential dwelling use.

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

**Motel:** See Hotel.

**Municipal Civil Infraction Citation:** A written complaint 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.

**Natural Greenbelt Zone:** An undisturbed area of land paralleling the water's edge to a depth of the required zoning setback distance if not otherwise stipulated, which is retained in a natural condition and is essentially void of any structural improvements.

**Nonconforming Lot of Record:** A lot of record that legally existed on or before the effective date of this ordinance or any amendment to this ordinance and does not meet dimensional requirements of this ordinance or amendment.

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

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

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

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

1. A woman's breastfeeding of a baby whether or not the nipple or areola is exposed during or incidental to the feeding.
2. 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.
3. Sexually explicit visual material as defined in section 3 of Act No. 33 of Public Acts of 1978, being section 722.673 of the Michigan Compiled Laws.

**Nuisance Factor:** An offensive, annoying, unpleasant, or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeating invasion of any physical characteristics of activity or use across a property line which can be perceived by or affects a human being of reasonable sensibility, or the generation of an excessive or concentrated movement of people or things, such as noise; dust; heat; electronic or atomic radiation; objectionable affluent; noise or congregation of people, particularly at night.

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

**Occupancy:** means the purpose for which a dwelling unit or portion thereof is utilized or occupied.

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

**Occupancy Permit:** A permit issued by the Kalkaska County building official that certifies a structure as being completed and suitable for use and/or occupancy, and that includes approval by the Township Zoning Administrator that the project has been built in accordance with the approved plot or site plan and the Blue Lake Township Zoning Ordinance.

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

**Open Air Business:** Includes uses operated for profit, substantially in the open air, including:

1. Bicycle, utility truck or trailer, motor vehicle, boats, or home equipment sale, repair or rental services.
2. Outdoor display and sale of garages, motor homes, mobile home, snowmobiles, farm implements, swimming pools and similar activities.
3. Retail sale of trees, fruit, vegetables, shrubbery, plants, seeds, top-soil, humus, fertilizer, trellises, lawn furniture, playground equipment, and other home garden supplies and equipment.
4. Miniature golf, golf driving ranges, children's amusement park or similar recreation uses operated for profit.

**Open Space:** Land upon which no structures, parking, rights-of-way, or other improvements have or will be made and that will not be committed for future use other than outdoor recreational use.

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

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

**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.

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



**Person:** means 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.

**Planning Commission:** For the purpose of this Ordinance the term Planning Commission is deemed to mean the Blue Lake Township Planning Commission.

**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).

**Pick-up Camper:** See Recreational Unit.

**Primary caregiver** means a primary caregiver as defined by Section 3 of Initiated Law 1 of 2008, as amended (Michigan Medical Marihuana Act), being MCL 333.26423 who has registered with the Bureau of Health Professions, Michigan Department of Licensing and Regulatory Affairs or any successor agency under the Michigan Medical Marihuana Act.

**Principal Use:** The main use to which the premises are devoted and the primary purpose for which the premises exists.

**Professional Office:** The office of a professional person such as a doctor, dentist, engineer, architect, attorney, insurance or real estate agent, and the like.

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

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

**Qualifying patient** means a qualifying patient as defined by Section 3 of Initiated Law 1 of 2008, as amended (Michigan Medical Marihuana Act), being MCL 333.26423, who has registered with the Bureau of Health Professions, Michigan Department of Licensing and Regulatory Affairs or any successor agency under the Michigan Medical Marihuana Act.

**Recreational Unit:** Means a vehicular-type unit, primarily designed as temporary living quarters for recreational camping or travel use, which either has its own motive power or is mounted on or drawn by another vehicle which is self-powered. Recreation unit shall include "Travel trailers", "Camping trailer", "Motor home", "Truck camper", "Slide-in-camper", and

“Chassis-mount camper” as defined in Act 171 of the Public Acts 1970, as amended. A recreational vehicle is not a mobile home or manufactured home as defined under this ordinance or under Section 2 of the Mobile Home Commission Act.

**Recreational Vehicle:** see Recreational Unit.

**Rent or Rental:** means to permit, provide for, or offer possession or occupancy of a dwelling unit in which the owner does not reside to a person who is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license.

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

**Road Right-of-Way:** A street, alley or thoroughfare or easement permanently established for passage of vehicles which, if used to establish a lot front, provides adequate permanent access.

**Road, Private:** An area of land which is not a public road, but which is intended for passage to and from four (4) or more lots or site condominium units.

**Roadside Stand:** An accessory and temporary farm structure operated for the purpose of selling local agricultural products, primarily are raised or produced on the same farm premises or other properties under the same ownership or management.

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

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

**Seasonal Use:** Any use or activity that reasonably can or should only be conducted during certain months or seasons of a year.

**Setback:** The minimum required horizontal distance from the applicable lot line within which no buildings or structures may 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:** A business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

1. physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
2. 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.

**Shopping Center:** A group of commercial establishments, planned, developed, owned, and managed as a unit, with off-street parking provided on the property, and related in its location, size and type of shops to the trade area which the unit serves. Three or more retail stores and services, so arranged or planned, shall qualify as a shopping center for zoning purposes.

**Short Term Rental:** means any dwelling or condominium or portions thereof, in which the owner does not reside, that is available for use or is used for accommodations or lodging of guests, paying a fee or other compensation for a period of less than thirty (30) consecutive days.

**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 or for the benefit of any product, place activity, individual, firm, corporation, institution, profession, association, business or organization.

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

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

**Sign, Off Premise:** Any sign relating to subject matter not conducted on the premises on which the sign is located.

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

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

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

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

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

- Hot-air or gas-filled balloons or umbrellas used for advertising.

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

**Site Condominium Unit:** That portion of a condominium subdivision designed or intended for occupancy or use 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 a proposed development so that it may be evaluated according to the procedures set forth in this ordinance, to determine if the proposed development meets the requirements of this Zoning Ordinance.

**Special Use Permit:** A permit grant with approval by the Township Planning Commission for a use of land in a district that does not conflict with any other permitted land use in the district when such a special use is specified in this Ordinance for that district.

**Specified Anatomical Areas:** are defined as:

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

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

1. the fondling or other erotic touching of human genitals, pubic regions, buttocks or female breast;
2. sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
3. masturbation, actual or simulated; or
4. excretory functions as part of or in connection with any of the activities set forth in (1) through (3) above.

**Stable, Private:** A building or structure used to house horses, either for the property owner's private use; not for hire or sale.

**Stable, Commercial:** A structure and/or land use where horses are bred, reared, trained and/or boarded for remuneration.

**Story:** That portion of a building, other than a basement or mezzanine, included between the surface of any floor and the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it. A "mezzanine" floor shall be deemed a full story only when it covers more than fifty (50%) percent of the area of the story underneath said mezzanine, or if the vertical distance from the floor next below it to the next above it is twenty-four (24) feet or more.

**Structural Change or Alteration:** See Alterations.

**Structure:** Anything constructed or erected, the use of which requires location on the ground or attachment to something having permanent location on the ground.

**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 fully preempt municipal regulatory authority.

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

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

**Thoroughfares:** An arterial street which is intended to serve as a traffic way serving primarily the immediate Township area and serving to connect with major thoroughfares.

**Tourist Home:** See Bed and Breakfast Establishment definition.

**Trailer Coach:** See Recreational Unit definition.

**Travel Trailer:** See Recreational Unit definition.

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

**Variance:** A modification of literal provisions of this Ordinance which the Zoning Board of Appeals is permitted to grant when strict enforcement of said provision would cause practical difficulty or undue hardship owing to circumstances unique to the individual property on which the variance is sought.

**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:** The yard between a principal building and the front lot line extending across the entire width of the lot.

**Yard, Rear:** The yard between the principal building and a rear lot line extending across the entire width of the lot.

**Yard, Side:** The yard between the principal building and the side lot line extending across the entire width of the lot.

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

## Article III - General Provisions

### Section 3.01 – The Effect of Zoning

1. In order to carry out the intent of this Ordinance, no excavation, use or activity on a piece of land shall be allowed or maintained, no building or structure or part thereof shall be allowed to be used, constructed, remodeled, altered, or moved upon any property unless it is in conformance with this Ordinance, and a zoning permit has been obtained, except in the case of lawful nonconforming uses.
2. 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.
3. In the event that any lawful use, activity, building or structure which exists or has begun substantial construction at the time of the adoption of this Ordinance and is not in conformance with the provisions of the zoning district in which it is located, such use, activity, building or structure shall be considered a legal nonconforming use and be allowed to remain as such, including completion of construction.

### Section 3.02 – Accessory Buildings

1. Authorized accessory buildings may be connected to principal buildings or may be partially connected to the principal building by a roofed porch, breezeway or similar structure. For an accessory structure to be considered an attached garage, and thus not subject to the size restrictions for accessory structures (**Section 4.14**), the accessory structure and principal structure must share a common wall.
2. Where any accessory building is attached to a principal building, such accessory building shall be considered part of the principal building for purposes of determining yard dimensions.
3. A detached accessory building shall comply with all setback requirements for the district in which the accessory structure is located.
4. Mobile homes shall not be used as an accessory building.

### Section 3.03 – Animals

1. The keeping of poultry, pigs, horses and other livestock is permitted in the Agricultural, Conservation Resource, and Rural Residential districts provided the parcel of land is fifteen (15) acres or greater in size.
2. Except in the Agricultural district, such animals or animal waste shall not be kept closer than seventy five (75) feet from a neighboring residential structure. In all districts, such animals shall be fenced, managed, and the animal waste be managed in accordance with Generally Accepted Agricultural Management Practice Standards (GAAMPS), so as not to be a nuisance.

3. The keeping of wild or vicious animals is not permitted in Blue Lake Township.

### **Section 3.04 - Essential Services**

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 the Blue Lake Township, in any Use Districts.

Telecommunications 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 3.05 – Home Business**

While Blue Lake Township recognizes that many residents feel the necessity to work at home, the Township also recognizes the rights of all residents to be free from actual or potential nuisance which may be caused by non-residential activities conducted in a residential district. The intent of this section is to provide standards to ensure home occupations and cottage industries are compatible with other allowed uses in residential districts, and thus to maintain and preserve the residential character of the neighborhood.

1. Home Occupations
  - A. Home occupations shall be permitted in all zoning districts in which single-family dwellings are permitted as a matter of right, provided the standards of this Ordinance are met.
  - B. Home Occupations shall be operated in their entirety within the dwelling or an attached garage.
  - C. Home Occupations shall be conducted primarily by the person or persons occupying the premises as their principal residence. Not more than one non-resident person shall be employed at the given premises to assist with the business.
  - D. Additions to a dwelling for the purpose of conducting a Home Occupation shall be of an architectural style that is compatible with the architecture of the dwelling and shall be designed so that the addition can be used for dwelling purposes if the home occupation is discontinued.
  - E. Home Occupations shall be incidental and subordinate to the principal use of the dwelling for residential purposes and shall not detract from the residential character of the premises or neighborhood.
  - F. Home Occupations shall not result in the creation of conditions that would constitute a nuisance to neighboring property owners and the Township as a



whole. Any machinery, mechanical devices, or equipment employed in the conduct of a Home Occupation based business shall not generate noise, vibration, radiation, odor, glare, smoke, steam, or other condition not typically associated with the use of the dwelling for residential purposes.

- G. Traffic and delivery or pickup of goods shall not exceed that normally created by residential uses.
- H. The outdoor storage of goods and/or materials of any kind is prohibited. No goods or materials shall be sold that are not produced through the conduct of the Home Occupation.
- I. There shall be no parking permitted within any setback areas.
- J. No process, chemicals, or materials shall be used which are contrary to any applicable state or federal laws.

2. Cottage Industries

- A. Cottage industries may be permitted in the specified zoning district subject to review and approval by the Planning Commission. Cottage industries shall be allowed on the basis of individual merit, a periodic review of each cottage industry shall be performed to ensure the conditions of approval are adhered to. If a premise is sold, leased, or rented to a party other than the applicant, the permit shall be reviewed for compliance with the original permit by the Zoning Administrator. If any changes are necessary, the request will be reheard by the Planning Commission.
- B. Cottage industries shall be incidental and subordinate to the use of the premises for residential purposes and shall not detract from the residential character of the premises or neighborhood. Exterior evidence of such industry shall be screened.
- C. A cottage industry shall occupy not more than one building. The floor area of such a building shall not exceed the allowed maximum floor area size for an accessory building in the applicable district, unless approved by the Planning Commission based on Zoning District parcel size and adjacent uses.
- D. The outdoor storage of goods and/or materials of any kind is prohibited unless screened (by a tight-board wood fence, landscaped buffer, landscaped berm, etc.) from view from neighboring property and road rights-of-way. If required, the type of screening shall be determined at the discretion of the Planning Commission.
- E. Cottage industries shall not result in the creation of conditions that would constitute a nuisance to neighboring property owners and surrounding zoning district. Any machinery, mechanical devices or equipment employed in the conduct of a Cottage Industry shall not generate noise, vibration, radiation, odor, glare, smoke, steam, or other conditions not typically associated with the use of the premises for residential purposes.
- F. Traffic and delivery or pickup of goods shall not exceed that normally created by residential uses.

- G. Cottage industries shall be conducted only by the person or persons residing on the premises. Up to two (2) additional non-resident employees or assistants shall be allowed.
- H. To ensure that the cottage industry is compatible with surrounding residential use, a "not-to-exceed" number of vehicles that may be parked at any given time during business operations shall be established by the Planning Commission during the review and approval process.
- I. Hours of operation shall be approved by the Planning Commission.

3. Termination, Extensions, Revisions, and Inspections

- A. 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. The extension can be for no more than one (1) year.
- B. Any home business or cottage industry shall be subject to periodic review by the Zoning Administrator.

**Section 3.06 – Mobile Homes**

Mobile homes sited on individual lots shall meet the standards for yard set-backs, 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. All mobile homes shall have manufacturer's certified minimum roof load of 30 pounds per square foot.
- 4. The wheels, axles and towing assembly 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.
- 5. Mobile homes shall not be used as an accessory building.

**Section 3.07 – Natural Greenbelt**

- 1. To preserve natural resources, water quality and community scenic and recreational values, a greenbelt zone shall be established and maintained on all waterfront properties.

A. A strip of land 25 feet wide as measured landward from the *ordinary high water line* of the lake shore shall be maintained as a *natural greenbelt zone*.

1.) Trees, shrubs, and non-invasive plants (as defined by the State of Michigan Website) may be planted to protect the bank from eroding or to improve the aesthetics.

2.) Trees and shrubs may be trimmed and pruned for a better view of the water and for locating a dock and stairs.

3.) The Zoning Administrator shall approve removal of dead, diseased or damaged trees without a permit or when a tree is creating a hazard for the homeowner. The stump may be removed to below grade, but roots must remain in place to protect and stabilize the shoreline.

4.) Zoning Administrator approval shall be required for the removal of trees within the Natural Greenbelt, and such approval shall be granted if the following conditions are met:

a) Any tree in the natural greenbelt zone greater than 2" in diameter shall be considered an established tree. No more than 10% of the established trees shall be removed in a ten year period; however, selective cutting to thin smaller trees in accordance with established forestry practices may be permitted.

b) Roots from removed trees must remain in place to protect and stabilize the shoreline, unless other soil erosion methods are implemented.

c) A *site plan* has been approved, and a permit issued.

d) The *site plan* must include erosion control measures for tree removal or if the bank or shoreline is impacted. Such erosion control methods may include but are not limited to: terracing, plantings including non-invasive trees, shrubs and groundcovers.

B. No *structures* shall be located in the natural greenbelt zone. Stairs, landings and walkways where needed for access to the water require *site plan* approval and zoning permit. The site plan must include erosion control measures. Landings shall not exceed One Hundred (100) square feet in size. Stairs and walkways shall not exceed 4 feet in width. *Fences* shall not be permitted within the natural greenbelt zone.

C. Removal of established trees or altering the greenbelt without prior approval and zoning permit from the Zoning Administrator shall require a permit and a late fee. In addition, repair to the natural greenbelt zone shall be required, which may include replacement trees or other methods to control erosion and to protect the lake shore.

2. No dwelling shall be constructed on lands which are subject to flooding or on land where a minimum of four (4) feet between the finished grade level and the high ground water level cannot be met. Land may be filled to meet the minimum requirement of four (4) feet between finished grade level and high ground water level under the following conditions:
  - A. The twenty five (25) foot natural greenbelt is maintained.
  - B. No material is allowed to enter the lake or stream by erosion or mechanical means.
  - C. Fill material is a pervious material such as sand or gravel.
  - D. Application and permit must be obtained from the Zoning Administrator.
3. Violations-see Section 9.073-Penalties for other penalties.

### **Section 3.08 – Nonconformities**

1. Nonconforming Lots of Record
  - A. In any district, principal structures and customary accessory buildings may be erected on any nonconforming lot of record provided a permit for construction of a well and/or septic system is granted by the District Health Department and can meet applicable zoning district regulations. A zoning permit is required.
  - B. 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 may at the owner's discretion 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.
2. Nonconforming Use of land and/or Structures
  - A. No nonconforming use of land shall be enlarged or increased nor extended to occupy a greater area of land than was occupied at the effective date, except as otherwise provided for in this section.
  - B. No such nonconforming use of land or building shall be moved in whole or in part to any other portion of the lot or parcel occupied.
  - C. A nonconforming structure may be enlarged or altered, provided that such enlargement or alteration does not increase the nonconformity of such structure.
  - D. If a structure is destroyed by fire; an 'act of nature', or if a structure is partially destroyed (50 percent or less of the useable area of the principal structure) by any means, it shall be permitted to be reconstructed to original size and within the same spatial envelope (including the original footprint, height and bulk), such reconstruction shall be completed within twelve months. A zoning permit is required. Any enlargement shall be subject to the approval of the Zoning Board of Appeals.
  - E. Should such structure be destroyed by any means, other than fire or an 'act of nature', to an extent of more than fifty (50) percent of the usable cubic space or

floor area of the principal structure, it shall not be reconstructed except in compliance with the provisions of this Ordinance. Reconstruction of buildings(s) and/or structures on an existing non-conforming lot may be permitted after approval of the Zoning Administrator with any necessary variances approved by the Zoning Board of Appeals. A zoning permit for such reconstruction is required. Such reconstruction shall be completed within twelve months.

- F. Any nonconforming use may be carried on throughout any parts of a building that were manifestly arranged or designed for such use, but no such use shall be extended to occupy any land outside such building.
  - G. Any nonconforming use of a structure, land or structure and land, may be changed to another nonconforming use provided that the proposed use is equally or more appropriate to the district than the existing nonconforming use. A determination of "equally or more appropriate" shall be made by the Zoning Board of Appeals.
  - H. Any structure or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located and the nonconforming use may not thereafter be resumed. Changes in tenancy and ownership of nonconforming premises is permissible.
  - I. **Abandonment of Nonconforming Use or Structure**  
If a property owner has an intent to abandon a nonconforming use or structure and in fact abandons this nonconforming use or structure for a period of one (1) year, then any subsequent use of the property or structure shall conform to the requirements of this Ordinance. When determining the intent of the property owners to abandon a nonconforming use or structure, the zoning administrator shall consider the following factors:
    - 1) Whether utilities, such as water, gas, and electricity to the property have been disconnected.
    - 2) Whether the property, buildings, and grounds have fallen into disrepair.
    - 3) Whether signs or other indications of the existence of the nonconforming use have been removed.
    - 4) Whether equipment or fixtures necessary for the operations of the nonconforming use have been removed.
    - 5) Other information or actions that evidence an intention on the part of the property owner to abandon the nonconforming use or structure.
  - J. Removal or destruction of the use and/or structure shall eliminate the nonconforming status of the land (premises).
3. **Creation of Nonconforming Lots or Parcels**  
No lot area and no yard, court, parking areas or other required space shall be divided, altered, reduced or diminished as to make area or dimension less than the minimum required or more than the maximum allowed under this Ordinance, except where such reduction or expansion has been brought about by the expansion or acquisition of public right-of-ways for a street, road, or highway. If a required area is already less than the minimum required under this Ordinance, said area or dimension shall not be further divided or reduced.

4. Repairs and Maintenance  
Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.
5. Variance for Expansion or Enlargement  
A nonconforming structure may be enlarged or altered, provided that such enlargement or alteration does not increase the nonconformity of such structure.
  - A. Will not reduce the value or otherwise limit the lawful use of adjacent premises.
  - B. Will essentially retain the character and environment of abutting premises.
  - C. Will not cause, perpetuate or materially increase any nuisance aspects of the use upon adjacent uses (such as noise, glare, traffic congestion or land overcrowding).

### **Section 3.09 – Power for oil and gas companies**

To cut the noise and hydrocarbon pollution of the atmosphere, gas and oil companies shall use electricity as a source of power when power is needed for pumping.

### **Section 3.10 – Private roads**

A private road which serves more than one separately held parcel of land or more than one commercial or industrial activity shall be constructed to Kalkaska County Road Commission standards, provided, however, that while such road remains private, hard surfacing will not be required.

### **Section 3.11 - Recreational units**

Outside storage of tents, campers, travel trailers, motor homes or similar recreational vehicles is prohibited except on parcels with a primary dwelling. Temporary uses of tents, campers, travel trailers or motor homes may be permitted for 45 days per calendar year, with a permit from the Zoning Administrator. The following requirements must be met for issuance of a permit:

1. No rental of such recreational units shall be permitted.
2. Such temporary uses must observe the twenty-five (25) feet natural greenbelt zone, and the applicable zoning district setbacks from the water's edge of any river, stream, pond or lake, which is identifiable on the U.S. Geological Survey Maps of the 7.5' quadrangle series of Kalkaska County.
3. Such temporary use must have a District Health Department approved method of sewage and waste disposal.
4. Commercial storage of recreational units shall be prohibited, unless specifically allowed in the district regulations.

### **Section 3.12 – Signs**

The purpose of this section is to preserve the desirable character of Blue Lake 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 the local business places. At the same time, the Township recognizes right of residents to be free of advertising that could adversely affect property values and create an unpleasant or less than desirable atmosphere. The use and erection of all outdoor signs and media shall be subject to all state and local codes and statutes, in addition to the provisions of this ordinance.

1. Signs Not Requiring a Sign Permit: The following signs may be placed in any zoning district without a sign permit, provided such signs comply with any applicable federal or state law or regulation and are located so as not to cause a nuisance or safety hazard:
  - A. One (1) non-illuminated identification sign per use, not exceeding four (4) square feet of sign surface.
  - B. Street name signs, route markers and other traffic control signs erected or approved by state, county or township agencies when necessary to give proper directions or to otherwise safeguard the public.
  - C. Non-advertising signs erected by any organization, person, firm or corporation that is needed to warn the public of dangerous conditions and unusual hazards including but not limited to: road hazards, high voltage, fire danger, explosives, severe visibility, etc.
  - D. Non-advertising signs exclusively devoted to controlling property access (no trespassing, private property, keep out, no hunting, hiking trail, day use only, and similar instructional messages), provided the sign surface does not exceed the maximum size of two (2) square feet.
  - E. Non-advertising signs marking a historically significant place, building or area when sanctioned by a national, state or local historic organization recognized by the planning commission, provided the sign surface does not exceed the maximum allowed size of sixteen (16) square feet or the max size allowed in the zoning district whichever is less.
  - F. Signs that have been approved in conjunction with a valid site plan or zoning permit for any principal or accessory use, and signs required by federal or state agencies in connection with federal or state grant programs.
  - G. Temporary real estate signs, not exceeding four (4) square feet, on individual lots advertising a premise for sale or rent.
  - H. Directional real estate signs (not larger than two (2) square feet in area) may be placed on vacant property with property owner's approval and must be removed as soon as the property is sold.
  - I. Signs advertising sales such as garage, estate, auction, moving, and yard sales, may be posted for no more than seven (7) consecutive days and removed within twenty-four (24) hours of the end of the sale, provided the sign surface does not exceed the maximum size limitations of four (4) square feet.
  - J. Political and noncommercial signs provided the sign surface does not

exceed the maximum size limitations of subsection 2. below.

- K. All real estate signs, both on-premise and off-premise, shall be removed within seven (7) days of the sale or rental of the property

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

<u>Use District</u>	<u>Maximum Size of Sign per Side</u>
R, LR, RR	Four (4) square feet
C/R, A	Twelve (12) square feet
C/I	Twenty-five (25) square feet

- 3. In addition to the size limitations stated in **Section 3.12.2** above, the following conditions shall apply to all signs, including off-premises signs, erected in any use district:

- A. Except for the signs authorized without a sign permit pursuant to **Section 3.12.1**, no sign, except non-illuminated residential name plates, shall be erected or altered until approved by the Zoning Administrator (ZA) or authorized by the Planning Commission (PC) as part of an approved site plan. After approval, the required sign permit shall be issued by the ZA.
- B. No signs shall be located on any street corner which would obscure the vision of drivers using said streets, or conflict with traffic control signals at the intersection of any streets. No signs shall obstruct the vision of drivers at any driveway, parking lot or other route providing ingress or egress to any premises.
- C. Signs containing flashing, intermittent or moving lights are prohibited.
- D. Off-premises directory signs shall be permitted subject to review and approval of location by the Zoning Administrator. Not more than one (1) freestanding sign per three hundred (300) feet of road frontage or per lot may be allowed, except if the signs are directional signs as provided by the Michigan Department of Transportation and approved by the Zoning Administrator. No off-premises sign shall be permitted in R or LR Zoning Districts.
- E. Freestanding signs may be permitted in the front yard provided the sign is located at least fifteen (15) feet behind the front lot line. No freestanding sign shall exceed a maximum of twelve (12) feet height, measured from the ground to the top of the sign, regardless of the zoning district.
- F. Both sides of any freestanding or overhanging sign may be used for display.
- G. All directional signs required for the purpose of orientation, when established by the Township, County, State, or Federal governments, shall be permitted in all districts.
- H. No sign shall project beyond or overhang the wall, roof or any architectural feature by more than five (5) feet and shall be no less than fourteen (14) feet above the right-of-way. However, prior to the erection or overhanging of a sign in a public right-of-way, the sponsor of such sign shall receive the approval of the proper governmental agency having jurisdiction over such right-of-way.



- I. Roof position signs are specifically prohibited, when projecting above the high point of the roof.
- J. The number of signs allowed will be decided by the Planning Commission at the time of site plan review. Factors considered will include building size, location and length of street frontage and lot size, and the cumulative total sign area for on-site signs shall not exceed that allowed in the district as per **Section 3.12.2**.
- K. Advertising devices such as banners, balloons, flags, pennants, pinwheels or other devices with similar characteristics are prohibited, except when used temporarily for period not to exceed thirty (30) days to announce the opening of a new type of business or new owner.
- L. In the case of non-commercial special events, advertising devices such as banners, balloons, flags, pennants, pinwheels or other devices with similar characteristics, are permitted, for a period of not more than fourteen (14) days prior to the event and shall be removed within one (1) day of the completion of the event.
- M. Non-business related signs shall be permitted.
- N. Political signs shall be removed within five days after the election or ballot issue.
- O. The use of any lawful outdoor business or informational sign erected prior to this ordinance and in use at the date this ordinance is enacted, which does not meet these standards, may be continued. Such signs shall be designated as "Nonconforming signs. The maintenance, reconstruction, alteration, discontinuation and change in the nonconforming nature of a Nonconforming sign shall be governed by **Section 3.08 Nonconformities** of this ordinance.

**Section 3.13 – Temporary Dwelling Occupancy during Construction of a Dwelling**

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

- 1. The location shall conform to the provisions governing yard requirements of standard dwellings in the district where located.
- 2. 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 the remainder of this Ordinance.
- 3. Installation of septic system and water well shall be constructed and maintained in accordance with the standards of materials and installation recommended by District Health Department, and shall precede occupancy of the substandard dwelling.
- 4. Application for the erection and use of a substandard dwelling shall be made at the time

of zoning permit application for the permanent dwelling. On approval and delivery of the zoning permit, the applicant shall certify in a space allotted for that purpose, and on the copy retained for filing by the Township, that he has full knowledge of the limitations of the permit and the penalty pertaining thereto. No such permit shall be transferable to any other person.

5. No annexes shall be added to temporary substandard dwellings.

### **Section 3.14 – Terraces, Patios and Decks**

Paved terraces, patios, and unenclosed, uncovered porches and decks shall not be subject to yard setback requirements, with the exception of the Natural Greenbelt requirements in **Section 3.07**, provided the terrace or patio meets the following standards:

1. Is unroofed and without such walls, parapets or other forms of solid, continuous enclosure which link the paved area to the principal building to form an enclosed area which appears functionally a part of the principal building,
2. Is less than four (4") inches above the finished grade,
3. Is not closer than five (5') feet to any lot line; and
4. Has an open railing or fence not over three (3') feet high, and may have non-continuous windbreaks or visual screen fences or walls not over six (6') feet high and not enclosing more than one-half the perimeter of the paved area.

### **Section 3.15 - Vehicular Access, Parking and Loading Requirements**

1. For each dwelling, business, commercial, industrial, or similar building hereafter erected or altered, and located on a public road in the township, including buildings or structures used principally as a place of public assembly, there shall be provided and maintained suitable access and off-street parking in accordance with the following schedule:
  - A. Residential Uses: Two (2) parking spaces per dwelling unit.
  - B. 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.
  - C. Industrial Uses: one parking space for every 1,000 square foot of gross floor area.
2. Two (2) or more buildings or uses may collectively provide the required off-street parking. In which case the required number of parking spaces for the individual uses may be reduced by up to twenty-five (25%) if a signed agreement is provided by the property owners and upon approval the agreement is recorded with the register of deeds for both properties.
3. 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.

4. 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 percent (10%) 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.
5. Exits and entrances may be combined or provided separately. Approval of location of such exit and entrance shall be obtained in writing from the Kankaska 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.
6. 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.
7. All driveways shall provide an access which clears twelve feet wide and to a height of twelve feet.
8. Every building or structure engaged in loading and unloading goods shall provide space on the premises in addition to that required for parking, for the loading, unloading and standing of all vehicles to avoid undue interference with public use of any road or highway.

### **Section 3.16 – Water Supply and Sewage Disposal Facilities**

All water supply and sanitary sewage disposal systems either public or private, for any building hereafter erected, altered or moved upon any premises shall be subject to compliance with District Health Department sanitary code requirements, and shall not be located within seventy five (75) feet of high water meanderline of any water body. Plans must be submitted to and approved by the responsible agencies. The written approval of such facilities by District Health Department shall be filed with the application for a Zoning Permit.

### **Section 3.17 – Waterfront, Common Use**

All waterfront accesses (regardless of district) will conform to the minimum lot area requirements including lot width and square footage of the applicable district.

When more than two (2) families share lake frontage without residing on said frontage, such common use and/or ownership of the waterfront shall be governed by this Section. The provision herein shall apply regardless of whether access to the waterfront is gained by easement, common or joint fee ownership, single fee ownership, short or long term lease, license, site condominium unit, stock, or membership in a corporation, or any other means. All such common use waterfronts must comply with the following regulations and standards:

1. The land comprising the common waterfront shall have a minimum of 300' frontage on the water as measured at the ordinary high water mark, of at least 20 lineal feet of lake frontage per each family or parcel with legal access, and the shared waterfront parcel shall be at least 150' in depth.
2. No parking shall be permitted in common use waterfront areas.
3. No slip, mooring, boat hoist or any other means of anchorage shall be allowed.
4. Boat launch facilities are not permitted.
5. No clubhouse shall be permitted on common-use waterfront property.
6. A site plan shall be required for the development of a shared waterfront property. The Planning Commission shall approve, disapprove or approve with conditions the site plan based upon the standards pursuant to **Section 5.03**, except that the following standards shall be considered as well:
  - A. The extent of contemplated injury or nuisance, including noise, to owners or riparian, adjacent and nearby lands.
  - B. The impact upon the public's enjoyment of the navigable waters.
  - C. The effects on the navigable waters of compounding, by precedent, the impact of the proposed common waterfront uses by approval of subsequent development of similar nature.

### **Section 3.18 – Swimming Pools, Hot Tubs and Spas**

For use in this Section, "Pool" shall be defined as any structure that contains water over twenty-four (24) inches in depth and which is used, or intended to be used, for swimming or recreational bathing and which is available only to the family and/or guests of the property owner. This includes in-ground, above-ground, and on-ground swimming pools. All pools shall be regulated by this Ordinance, unless said pool is completely contained within a building that at least complies with the minimum provisions of the Zoning Ordinance, as amended.

Pools shall be permitted as an accessory use for the purposes of determining required yard spaces and maximum lot coverage, provided they meet the following requirements:

Pools on a lot used for a single family residence shall not require Planning Commission review and approval but shall require a Zoning Permit. All other pools shall be reviewed as part of a Plot Plan or Site Plan Review. The application for a Zoning Permit to erect a swimming pool shall include the name of the owner, the manner of supervision of the pool, a plot plan and location of adjacent buildings, fencing, gates, and other detailed information affecting construction and safety measures deemed necessary by the Zoning Administrator.

There shall be a minimum distance of not less than ten (10) feet between the adjoining property line, or alley right-of-way, and the outside of the pool wall. Side yard setbacks shall

apply to side yards if greater than ten (10) feet. A swimming pool may be established in the side yard of a corner lot.

There shall be a distance of not less than four (4) feet between the outside pool wall and any building located on the same lot.

Pools shall be allowed only in side or rear yards except on waterfront lots where no pool is permitted in any yard without a Special Use Permit. The Planning Commission shall ensure that views of the water from abutting property are not unreasonably obscured by the pool, a fence, or related accessory structures.

No pool shall be located in an easement.

An outdoor pool, including an in-ground, above-ground, or on-ground pool, hot tub, or spa shall be provided with a barrier to discourage unsupervised access that complies with all of the following:

- A. "Barrier" shall mean fences or similar structures.
  - B. Such barrier shall be situated so as to completely enclose the pool or the yard in which the pool is placed. Such barrier may include building walls which abut the pool area, provided that the entire perimeter of the pool area is secured.
  - C. The top of such barrier shall be at least forty-eight (48) inches above finished grade level measured on the side of the barrier which faces away from the swimming pool.
  - D. The maximum vertical clearance between finished grade level and the barrier shall be two (2) inches measured on the side of the barrier which faces away from the pool structure.
  - E. Where the top of the pool structure is above finished grade level, such as an above-ground pool, the barrier shall be at finished grade level, such as the pool structure or shall be mounted on top of the pool structure.
  - F. Where the barrier is mounted on top of the pool structure, the maximum vertical clearance between the top of the pool structure and the bottom of the barrier shall be four (4) inches.
  - G. Openings in the barrier shall not allow passage of a four (4) inch sphere.
  - H. Such barriers shall be equipped with a self-closing and self-latching gate. Latching devices are to be located at a minimum height of four (4) feet above the ground.
7. Lighting: No lights shall be erected, operated or maintained in connection with a swimming pool in such a manner as to create an annoyance or hazard to surrounding properties.
  8. Overhead wiring: Service drop conductors and other open overhead wiring shall not be located above a swimming pool.

9. Sanitation: Any swimming pool shall not be used unless adequate public health measures are periodically taken to insure that the use thereof will not cause the spread of disease. The swimming pool shall be kept clean and the water used there shall be filtered and sterilized by chlorination or other means accepted by the County Public Health Department. Sanitation standards as now or any time adopted by the State Department of Health or the County Health Department to protect the public health shall be conformed with.
10. A spa or hot tub shall be covered with an approved safety cover or be drained after each use.

### **Section 3.19 Medical Marihuana**

1. Intent and Purpose. The purpose of this section is to implement land use regulations to address medical marihuana in Blue Lake 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, MCL 333.26423, et seq, and its administrative rules, R333.101.et seq).
2. Regulations for a Qualifying Patient. A qualifying patient shall be permitted the medical use of marihuana, as an accessory use to the principal residential use of the dwelling, without a zoning permit, but shall be subject to the following regulations:
  - A. The qualifying patient must be issued and maintain a currently valid Michigan medical marihuana registry identification card, as issued by the Bureau of Health Professions, Michigan Department of Licensing and Regulatory Affairs or any successor agency under the provisions of the MMMA, or must be issued and maintain a currently valid registry identification card, or its equivalent, that is issued under laws of another state, district, territory, commonwealth or insular possession of the United States that allows the medical use of marihuana for the qualifying patient to whom it is issued.
  - B. The qualifying patient shall comply at all times with the MMMA and the General Rules of the Bureau of Health Professions, Michigan Department of Licensing and Regulatory Affairs or any successor agency, as amended.
3. Regulations for Primary Caregivers. A primary caregiver shall be permitted the medical use of marihuana as a primary caregiver as defined and in compliance with the General Rules of the Bureau of Health Professions, Michigan Department of Licensing and Regulatory Affairs or any successor agency, Michigan Admin Code, R 333.101 through R 333.133 (the General Rules), the Michigan Medical Marihuana Act, PA 2008, Initiated Law 1, MCL 333.26421 et seq ("the Act") and the requirements of this section, and shall ONLY be allowed as a home occupation. No zoning permit shall be required, but this type of home occupation shall be subject to the State regulations and the additional requirements of this Ordinance.

Nothing in this section, or in any companion regulatory section adopted in any other provision of this Ordinance, is intended to grant, nor shall they be construed as granting immunity from prosecution for growing, selling, consuming, using, distributing or possessing of marihuana.

Since federal law is not affected by the Act or the General Rules, nothing in this section

or in any companion regulatory section adopted in any other provision of this Ordinance is intended to grant, nor shall they be construed as granting immunity from criminal prosecution under federal law. Except as superseded by the State regulations and associated rules or by the additional requirements of this section, primary caregivers shall also be subject to the regulations for all home occupations (Section 3.05). The following additional requirements for a Primary Caregiver as a home occupation shall apply:

- A. The medical use of marihuana shall comply at all times and in all circumstances with the Michigan Medical Marihuana Act and the General Rules of the Bureau of Health Professions, Michigan Department of Licensing and Regulatory Affairs or any successor agency, as they may be amended from time to time.
  - B. All medical marihuana plants and product shall be kept in an enclosed, locked facility, (per MMMA) within the dwelling or within an attached garage that permits access only by the primary caregiver.
  - C. No more than one (1) primary caregiver per dwelling unit shall be permitted. The dwelling unit shall be the principal dwelling of the primary caregiver. The medical use of marihuana shall comply at all times with the MMMA and General Rules of the Bureau of Health Professions, Michigan Department of Licensing and Regulatory Affairs or any successor agency, as they may be amended from time to time.
  - D. Medical marihuana shall be delivered to the qualifying patient where the qualifying patient resides and 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. In addition, all medical marihuana delivered to a qualifying patient shall be packaged so the public cannot see or smell the marihuana. Pick up of medical marihuana from the primary caregiver's home occupation is prohibited. Transactions relating to compensation of costs associated with assisting a qualifying patient are prohibited from occurring at the primary caregiver's home occupation.
  - E. A dwelling at which a primary caregiver of medical marihuana is functioning as a home occupation shall have no sign related to the use as a primary caregiver, including but not limited to any symbol portraying or representing a marihuana plant or portion thereof, may be visible from outside the dwelling.
4. Violations and enforcement.
- A. Information concerning any alleged violation of the provisions of the MMMA and associated rules shall be directed to appropriate state and/or local law enforcement agencies for investigation and/or enforcement.
  - B. Only infractions pertaining to the unique requirements of this Ordinance and not governed by the MMMA shall fall under the jurisdiction of Blue Lake Township, (per Section 9.07 Blue Lake Township Zoning Ordinance).
  - C. Disclosure of identifying information required by a provision of this Zoning Ordinance that conflicts with the confidentiality rules as set forth in Section 6(h) [or any other provision] of the MMMA shall not apply.

### **Section 3.20 Short Term Rentals**

1. Registration Requirements.  
No person shall rent or cause to be rented a dwelling unit or efficiency dwelling unit within

Blue Lake Township for a period less than thirty (30) days without first registering with the Township Zoning Administrator pursuant to the requirements of this Ordinance.  
A registration fee may be charged.

2. Approval Standards

A. The appearance and use of the dwelling shall not conflict with the single family residential character of the neighborhood. The structures shall be properly maintained and kept in good repair, in order that the use in no way detracts from the general appearance of the neighborhood. Garbage must be bagged and kept in a closed container and disposed of on a regular weekly schedule.

B. The Maximum occupancy will be based on the capacity of the sanitation system as defined by Kankaska County Health Department. No external sanitary facilities will be allowed.

C. The owner shall provide ample off street parking to accommodate occupant's vehicles.

D. Garbage must be bagged and kept in a closed container and disposed of on a regular weekly schedule.

E. The owner shall keep on file with the Township the name and telephone number of a contact person who shall be responsible for responding to questions or concerns regarding the operation of the short-term rental. This information must be kept current. This information also shall be posted in a conspicuous location within the dwelling unit. The contact person should be available to accept telephone calls on a 24 hour basis in case of emergencies.

F. The Owner or a Managing Agency or Agent or Contact shall provide the tenant or lessees of a Short-term Residential Rental with the following information and rules prior to occupancy of the Premises and Post such information in a conspicuous place within the dwelling on the premises:

(a) The name of the Contact Person, and a telephone number at which they may be reached on a twenty-four hour basis.

(b) Garbage disposal rules and days of disposal along with the location of the receptacle.

(c) Lake rules and regulations.

(d) No External Sanitary Facilities *or sleeping facilities* will be allowed.

(e) All parking must be off street

(f) Road End Usage and Public Access rules which Blue Lake will provide to operator.

(g) Pets need to be confined to the property except when on a leash.

(h) Campfires shall be in designated "fire pit" areas away from water's edge, trees, and property lines. Fires must be attended at all times and properly extinguished after use.



- (i) No fireworks will be allowed except in accordance with State and local laws.
- (j) Tenants of a property used for Short-Term Rental use shall not create a nuisance or interfere with the quiet, comfort or repose of a reasonable person's normal sensitivity
- (k) All activities must adhere to the local and state laws and shall not encroach on neighboring properties.
- (l) An occupant may be cited or fined by the Township, in addition to any other remedies available by law, for violating any provisions of the Ordinance.

## Article IV – Zoning Districts

### Section 4.01 – Classification of Districts

For the purposes of this Ordinance, Blue Lake Township is hereby divided into the following Zoning Districts:

C/R	Conservation Resource District
A	Agricultural District
RR	Rural Residential District
R	Residential District
LR	Lakeshore Residential District
C/I	Commercial and Industrial District
SC	Stream Corridor District

### Section 4.02 Zoning Map

The areas assigned to each Zoning District and the boundaries thereof shown on the map entitled "Blue Lake Township Zoning Map, Kalkaska County, Michigan" are hereby established, and said map and all proper notations and other information shown thereon are hereby made a part of this Zoning Ordinance.

### Section 4.03 Boundaries of Districts

Unless otherwise specified, the boundary lines of the Zoning Districts shall be interpreted as following along section lines, or customary subdivisions of sections, or centerlines of highways or streets, or the shoreline of waterways, or property lines of legal record at the office of the Kalkaska 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.

The official zoning map, including legally adopted amendments, shall be designated as such by the signature of the Township Clerk. Where uncertainty exists as to the exact district boundaries, the following shall prevail:

1. 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.
2. Boundaries indicated as approximately following lot lines shall be considered to follow said lot lines.
3. Where the application of the above rules leave a reasonable doubt as to the exact location of a district boundary, the provisions of the more restrictive district shall govern the entire parcel in question, unless determined otherwise by the Zoning Board of Appeals.

### Section 4.04 Zoning of Vacated Areas

Whenever any street, alley, highway, or other public right-of-way within the Township have 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.

#### **Section 4.05 Zoning of Filled Areas**

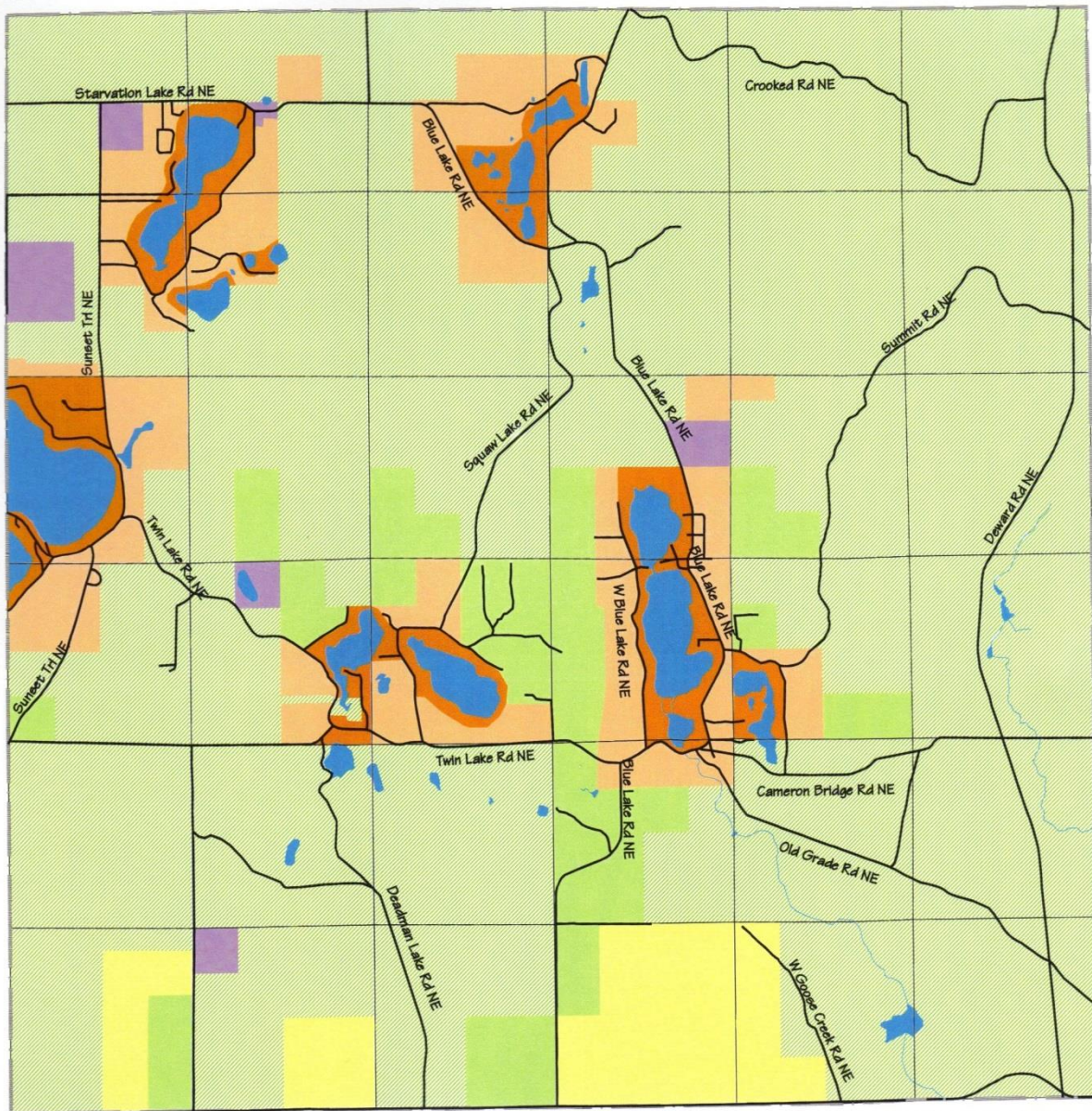
Whenever, after appropriate permits are obtained, any fill material is placed in any lake or stream so as to create a usable or buildable space, such fill area shall take on the Zoning District and accompanying provisions of the land abutting said fill area. No use on any lake or stream shall be allowed which does not conform to the Ordinance provisions on the property from which said property emanates. No fill material shall be placed in any lake or stream within the Township unless appropriate permits are obtained from the Michigan Department of Environmental Quality.

#### **Section 4.06 Zoning District Changes**

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

# Blue Lake Township Zoning Map

## Kalkaska County, Michigan

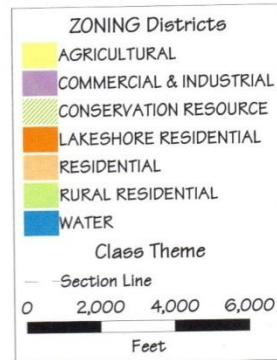


Data Sources: Michigan Department of Natural Resources



Adopted: November 1, 2006  
 Effective: November 16, 2006

Prepared by:  
 M. C. Planning & Design  
 with assistance from Richard Deuell



## **Section 4.07 Conservation Resource District (CR)**

The following provisions shall apply to the Conservation Resource District (CR).

### **Section 4.07.1 - Intent**

The land uses in this district are intended to promote the proper use, enjoyment and conservation of water, land, topographic and forest resources of the Township particularly adapted to recreational and forest uses. The provisions of this section also recognize the gradual extension of other property uses into the district, and the importance of adopting good standards to guide such developments. If properly integrated, the inclusion of such uses is provided for by special approval.

### **Section 4.07.2 - Permitted Uses**

1. Dwelling, single family
2. Parks, playgrounds, recreational areas and community centers
3. Conservation areas for fauna and flora
4. Forest management
5. Production of forest products
6. Home occupation
7. Accessory buildings and uses customarily incidental to the above permitted uses

### **Section 4.07.3 - Uses Subject to Special Use Permit**

Special approval use of lands and premises, and the erection and use of buildings and structures shall, after the effective date of this Ordinance, be limited to the following uses and shall be subject to the provisions of **Section 6.02 Uses Subject to Special Use Permit** and the applicable portions of **Article VII: Supplemental Site Development Standards**.

1. Recreation Camps
2. Common use waterfront
3. Sand and gravel extraction
4. Wind Turbine Generators
5. Towers and antennae facilities
6. Accessory buildings and uses customarily incidental to the above special uses

### **Section 4.07.4 - Dimensional Regulations**

Structures and uses in the Conservation Resource District are subject to the area, height, bulk and placement requirements in **Section 4.14 Schedule of Regulations**.

## **Section 4.08 Agricultural District (A)**

The following provisions shall apply to the Agricultural District (A).

### **Section 4.08.1 – Intent**

The Agricultural District is designed to promote the use of agricultural and rural areas of the Township in a manner that will retain the basic attractiveness of the natural resources and provide enjoyment for both visitors and the community at large. The intent of the District is to maintain the suitable areas of the Township for agriculture purposes and to allow some multiple uses of marginal farm lands.

### **Section 4.08.2 - Permitted Uses**

1. Dwelling, single family
2. Dwelling, farm
3. Farms
4. Roadside stand
5. Tree farms, tree crops and forestry
6. Forest management
7. Stable, private
8. Parks, playgrounds, community centers and recreation facilities
9. Public buildings, institutions and places of worship
10. Public utility buildings without storage yards
11. Home occupations
12. Accessory buildings and uses customarily incidental to the above permitted uses

### **Section 4.08.3 - Uses Subject to Special Use Permit**

Special approval use of lands and premises, and the erection and use of buildings and structures shall, after the effective date of this Ordinance, be limited to the following uses and shall be subject to the provisions of **Section 6.02 Uses Subject to Special Use Permit** and the applicable portions of **Article VII: Supplemental Site Development Standards**.

1. Stables, commercial
2. Recreation camps
3. Kennels or veterinary clinics/hospital
4. Nursery, flower, plant or garden shops
5. Sand and gravel extraction
6. Towers and antennae facilities
7. Wind turbine generators
8. Planned Unit Development
9. Cottage Industry
10. Accessory buildings and uses customarily incidental to the above special uses

### **Section 4.08.4 - Dimensional Regulations**

Structures and uses in the Agricultural District are subject to the area, height, bulk and placement requirements in **Section 4.14 Schedule of Regulations**.



## **Section 4.09 Rural Residential District (RR)**

The following provisions shall apply to the Rural Residential District (RR).

### **Section 4.09.1 – Intent**

The Rural Residential District is designed to promote the use of wooded and rural areas of the Township in a manner that will retain the basic attractiveness of the natural resources and provide enjoyment for both visitors and the community at large. The intent of the District is to provide for the rural Township areas to be used for large lot residential purposes and to allow some multiple uses of marginal farm-forest lands.

### **Section 4.09.2 - Permitted Uses**

1. Dwelling, single family
2. Stable, private
3. Parks, playgrounds, community centers and recreation facilities
4. Public buildings, institutions and places of worship
5. Home occupations
6. Accessory buildings and uses customarily incidental to the above permitted uses. Accessory structure shall not be permitted prior to construction of the principal structure.

### **Section 4.09.3 - Uses Subject to Special Use Permit**

Special approval use of lands and premises, and the erection and use of buildings and structures shall, after the effective date of this Ordinance, be limited to the following uses and shall be subject to the provisions of **Section 6.02 Uses Subject to Special Use Permit** and the applicable portions of **Article VII: Supplemental Site Development Standards**.

1. Sand and gravel extraction
2. Planned Unit Development (PUD)
3. Cottage Industry
4. Accessory buildings and uses customarily incidental to the above special uses. Accessory structure shall not be permitted prior to construction of the principal structure.

### **Section 4.09.4 - Dimensional Regulations**

Structures and uses in the Rural Residential District are subject to the area, height, bulk and placement requirements in **Section 4.14 Schedule of Regulations**.

## **Section 4.10 Residential District (R)**

The following provisions shall apply to the Residential District (R).

### **Section 4.10.1 - Intent**

The Residential District is designed to accommodate and encourage single family residential development and associated uses, in keeping with the residential goals and objectives specified in the Blue Lake Township Master Plan. The permitted uses are intended to provide for residential and related uses and those compatible with such, with the intent to keep residential areas relatively quiet and free from detrimental influences.

The provisions of this section also recognize with the gradual extension of other property uses into the district, such as those provided for under the "Uses Subject to Special Use Permit"; there is a need for careful consideration based on sound standards as provided for through the Special Use Permit approval process.

### **Section 4.10.2 - Permitted Uses**

1. Dwelling, single family
2. Parks, playgrounds, community centers
3. Public buildings, institutions and places of worship
4. Home occupation
5. Accessory buildings and uses customarily incidental to the above permitted uses. Accessory structure shall not be permitted prior to construction of the principal structure.

### **Section 4.10.3 - Uses Subject to Special Use Permit**

Special approval use of lands and premises, and the erection and use of buildings and structures shall, after the effective date of this Ordinance, be limited to the following uses and shall be subject to the provisions of **Section 6.02 Uses Subject to Special Use Permit** and the applicable portions of **Article VII: Supplemental Site Development Standards.**

1. Sand and gravel extraction
2. Planned Unit Development
3. Cottage Industry
4. Accessory buildings and uses customarily incidental to the above special uses. Accessory structure shall not be permitted prior to construction of the principal structure.

### **Section 4.10.4 - Dimensional Regulations**

Structures and uses in the Residential District are subject to the area, height, bulk and placement requirements in **Section 4.14 Schedule of Regulations.**



## **Section 4.11 Lakeshore Residential District (LR)**

The following provisions shall apply to the Lakeshore Residential District (LR).

### **Section 4.11.1 - Intent**

The land uses in this district are intended to promote the proper use, enjoyment and conservation of water, land, and topographic resources of the Township.

### **Section 4.11.2 - Permitted Uses**

1. Dwelling, single family
2. Home occupations
3. Parks, playgrounds and recreation facilities
4. Accessory buildings and uses customarily incidental to the above permitted uses. Accessory structure shall not be permitted prior to construction of the principal structure.

### **Section 4.11.3 - Uses Subject to Special Use Permit**

Special approval use of lands and premises, and the erection and use of buildings and structures shall, after the effective date of this Ordinance, be limited to the following uses and shall be subject to the provisions of **Section 6.02 Uses Subject to Special Use Permit** and the applicable portions of **Article VII: Supplemental Site Development Standards**.

1. Common use waterfront
2. Accessory buildings and uses customarily incidental to the above special uses. Accessory structure shall not be permitted prior to construction of the principal structure.

### **Section 4.11.4 - Dimensional Regulations**

Structures and uses in the Lakeshore Residential District are subject to the area, height, bulk and placement requirements in **Section 4.14 Schedule of Regulations**.

## **Section 4.12 Commercial and Industrial District (C/I)**

The following provisions shall apply to the Commercial and Industrial District (C/I).

### **Section 4.12.1 - Intent**

The Commercial and Industrial District is designed to provide sites for a diversity of small and moderate scale business types and is located so as to serve local passer-by traffic and local needs.

### **Section 4.12.2 - Permitted Uses**

1. Dwelling, single-family
2. Dwelling, two family
3. Dwelling, multi-family
4. Parks, playgrounds and recreation facilities
5. Public buildings, institutions and places of worship
6. Public utility buildings without storage yards
7. Business and professional services
8. Professional Offices
9. Banks/financial services
10. Nursery, flower, plant or garden shops
11. Retail Sales
12. Home occupations
13. Cottage industry
14. Accessory buildings and uses customarily incidental to the above permitted uses

### **Section 4.12.3 - Uses Subject to Special Use Permit**

Special approval use of lands and premises, and the erection and use of buildings and structures shall, after the effective date of this Ordinance, be limited to the following uses and shall be subject to the provisions of **Section 6.02 Uses Subject to Special Use Permit** and the applicable portions of **Article VII: Supplemental Site Development Standards**.

1. Motel and Hotel
2. Bed & Breakfast establishments
3. Manufactured Home Development
4. Adult foster care facilities
5. Restaurant and bars
6. Medical clinics, and rest, convalescent and nursing homes
7. Kennels, or veterinary clinic/hospital
8. Gasoline/service Station
9. Automobile repair shop or garage
10. Boat, motor or related marine repair establishments
11. Dry boat storage
12. Warehousing and storage buildings
13. Contractor's equipment storage yard
14. Public utility buildings with outside storage
15. Gas storage facilities
16. Production, processing, assembly, manufacturing or packaging of goods or materials such facilities may include testing, repair, storage, distribution and sale of such products

17. Sawmills and other mills
18. Sand and gravel extraction
19. Sexually orientated businesses
20. Towers and antennae facilities
21. Accessory buildings and uses customarily incidental to the above special uses

#### **Section 4.12.4 - Dimensional Regulations**

Structures and uses in the Commercial and Industrial District are subject to the area, height, bulk and placement requirements in **Section 4.14** *Schedule of Regulations*.

## **Section 4.13 Stream Corridor District (SC)**

### **Section 4.13.1 - Intent**

The purpose of this district is to provide for the preservation and enhancement of waterways, through regulation of uses and activities of land within four hundred (400) feet of rivers and streams designated as "Natural Rivers". The Upper Manistee River Natural River Zoning is administered by the DNR. The Act allows for local governments to adopt waterfront protection measures, which are compatible with the DNR requirements. In situations where there is no local zoning or the zoning authority does not provide waterfront protection regulations in the zoning ordinance, the DNR will administer the rules of the Act.

**Section 4.14 - Schedule of Regulations**

**Blue Lake Township**

Zoning District	Name	Minimum Lot Area		Max. Dwelling Ht.	Minimum Dwelling Unit Sizes		Max. % of Lot Coverage	Minimum Yard Setbacks			Maximum Accessory Building Sizes			
		Area	Width		Main Floor Area (k)	Width		Front	Side	Rear	Area	Height		Distance From R.O.W.
												Grade to Peak	Side-wall	
C/R	Conservation Resource	40 acres	160 feet road front	2 ½ Stories 35 feet (e) (g) (h)	768 sq ft	24 feet (a)	NA	40 feet	15 feet	15 feet	6000 sq ft.	35 feet	16 feet	40 feet
A	Agricultural	15 acres	160 feet road front	2 ½ Stories 35 feet (e) (g) (h)	768 sq ft	24 feet (a)	NA	40 feet	15 feet (c)	15 feet	6000 sq ft.	21 feet (f)	16 feet	40 feet
RR	Rural Residential	2.5 acre	160 feet road front	2 ½ Stories 35 feet (e)	768 sq ft	24 feet (a)	50%	40 feet	8 feet	15 feet	1200 sq ft (i)	23 feet	12 feet	40 feet
R	Residential	1.5 acres	160 feet road front	2 ½ Stories 35 feet (e)	768 sq ft	24 feet (a)	50%	40 feet	8 feet	15 feet	1200 sq ft (i)	23 feet	12 feet	40 feet
LR	Lakeshore Residential	20,000 sq ft	100 feet at shore	2 ½ Stories 35 feet (e)	768 sq ft	24 feet (a)	50%	30 feet (b)	8 feet	30 feet	1200 sq ft (i)	21 feet	12 feet	20 feet
C/I	Commercial and Industrial	2.5 acres	160 feet road front	2 ½ Stories 35 feet (e) (g) (h)	768 sq ft	24 feet (a)	40%	40 feet (d)	15 feet	15 feet	6000 sq ft	35 feet	16 feet	40 feet

R.O.W.– (Road) Right-Of-Way

## Footnotes to Schedule of Regulations:

- a. Minimum dwelling width shall be for at least 67% of its length excluding the area associated with an attached garage, open porch or other attached structure.
- b. Setback for all structures and fences shall be measured from high water meander line of lakeshore.
- c. Side yard setbacks for accessory building shall be reduced to five (5) feet, unless adjacent to R.O.W. then a fifteen (15) foot setback is required.
- d. Setback from R.O.W. may be designed or used for parking of automobiles.
- e. Maximum height allowed shall be 2 ½ stories or 35 feet, whichever is greater and walk-out basements for dwellings shall be excluded from the height measurement.
- f. Exceptions to height standards for Agricultural Uses. The maximum height of 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 accessory farm structures shall be located at least one hundred (100) feet from any residential dwelling other than the dwelling on the lot or parcel where the accessory farm structures are located.
- g. Towers, antennae facilities, 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 this Section, but shall be regulated pursuant to **Section 7.01.14** of this ordinance.
- h. Commercial Wind Turbine Generators or Anemometer Towers shall not be subject to the height regulations of this Section, but shall be regulated pursuant to **Section 7.01.15** of this ordinance.
- i. Accessory structure shall not be permitted prior to construction of the principal structure in RR, R, LR.
- j. Reserved for future Use.
- k. For the purpose of determining the main floor area, the floor area shall be measured to the exterior load bearing walls provided such walls are a minimum of 6 feet 6 inches in height, as measured from the finished floor to the finished ceiling. If the exterior load bearing walls have a height of less than 6 feet 6 inches, then the minimum main floor area shall be based only on the floor area with height of at least 6 feet and 6 inches, as measured from the finished floor to the finished ceiling.

## Article V: SITE PLAN REVIEW

### Section 5.01 – Purpose

The purpose of this article is to specify the documents and/or drawings required, to ensure that a proposed land use or development activity is in compliance with this ordinance, other local ordinances, and state and federal statutes and regulations. Furthermore, its purpose is to ensure that development taking place within the Township is properly designed, safe, efficient, environmentally sound, and designed in such manner as to protect adjacent properties from substantial adverse impacts.

### Section 5.02 – Plot Plan

A plot plan shall be required for all Zoning Permits applications for which a detailed Site Plan (per **Section 5.03**) is not required. The Plot Plan, drawn to scale, to show the following:

1. The shape, location and dimensions of the lot, drawn to scale. The scale shall be of such size as deemed adequate by the Zoning Administrator to make a judgment that the application meets the requirements of this ordinance. When deemed necessary by the Zoning Administrator, a survey may be required.
2. The location, shape and size of all buildings or other structures to be erected, altered or moved onto the lot and of any building or other structure already on the lot, shall be drawn to scale. Total first floor square footage and an elevation drawing of the proposed building(s) shall be required by the Zoning Administrator in order to measure the height of the proposed structures, and ensure compliance with the ordinance.
3. The location and configuration of the lot access and driveway, drawn to scale.
4. The existing and intended use of the lot and of all such structures upon it, including, in residential areas, the number of dwelling units the building is intended to accommodate.
5. Other information concerning the lot or adjoining lots that may be essential for determining whether the provisions of this Ordinance are being observed.

### Section 5.03 – Site Plan Review (All Districts)

Required site plans give the Planning Commission an opportunity to review development proposals in a concise and consistent manner. The use of the site plan ensures that the physical changes in the property meet with local approval and that development actually occurs as it was planned and represented by the developer.

1. Circumstances Requiring a Site Plan: Site plans are required for the following uses:
  - A. All new uses and/or structures except for one individual, one-family residential unit, associated accessory structures to one-family residential unit, and accessory buildings as a principal use, provided all requirements are met.
  - B. Expansion or renovation of an existing use, other than one-family residential use, which increases the existing floor space more than twenty five (25) percent.

- C. Changes of use for an existing structure or lot.
  - D. Any special use permit.
  - E. Other uses as required by this Ordinance.
2. Pre-application Conference: The Zoning Administrator, Planning Commission Chair and/or Planning Commission shall have the authority to conduct a pre-application meeting with the applicant/developer to assist them in understanding the Site plan review process, and other ordinance requirements; and to provide insight as to what portions of their proposed development may be of special concern to the Planning Commission.

This conference shall not be mandatory, but is recommended of small and large projects alike. It is recommended for large projects that a pre-application conference be held several months in advance of the desired start of construction. Such an advance conference will allow the applicant/developer time to prepare the needed information for the Planning Commission to make a proper review. In no case, however, shall any representations made by the Planning Commission at the pre-application conference be construed as expressing a position on whether the site plan should be denied, approved, or approved with conditions.

3. Site Plan Data Required: Each site plan submitted shall contain the following information unless specifically waived, in whole or in part by the Township Planning Commission. The Planning Commission can waive any or all of the below site plan requirements, when it finds those requirements are not applicable to the proposed development.
- A. The name and address of the property owner.
  - B. The date, north arrow, scale and name of the individual or firm responsible for preparing said plan. The scale must be at least one (1) inch = fifty (50) feet for parcels under three (3) acres and not less than one (1) inch = one hundred (100) feet for parcels three (3) acres or more.
  - C. A certified survey of the property prepared and sealed by a professional licensed surveyor, showing at a minimum the boundary lines of the property, to include all dimensions and legal description.
  - D. The location of all existing structures and all proposed uses or structures on the site, including proposed drives, walkways, signs, exterior lighting, adequate parking for the proposed uses (show the dimensions of a typical parking stall and parking lot), loading and unloading areas, if necessary, common use areas and recreational areas and facilities. An elevation drawing of the proposed building(s) shall be required in order to review the proposed building bulk and verify height.
  - E. The location and width of all abutting rights-of-way, easements and utility lines within or bordering the subject project.
  - F. The location of existing environmental features, such as watercourses, wetlands, shorelines, man-made drains, mature specimen trees, wooded areas or any other unusual environmental features.



- G. The location and identification of all existing structures, lighting, signs, ingress drives, roads, and parking within a two hundred (200) foot radius of the site, including road names.
- H. The existing zoning district in which the site is located and the zoning of adjacent parcels.
- I. The location of all existing and proposed landscaping as well as all existing and proposed fences or walls.
- J. The location, size and slope of all surface and subsurface drainage facilities.
- K. Summary tables, cross-sections and/or floor plans should be included with site plans for proposed structures, giving the following information:
  - 1) The number of units proposed, by type, including a typical floor plan for each unit.
  - 2) The area of the proposed units in square feet, as well as area dimensions of driveways and staging areas.
  - 3) Typical elevation drawings of the front and rear of each building.
- L. The topography of the existing and finished site shall be shown by contours or spot elevations. Where the existing slope on any part of the site is ten percent (10%) or greater, contours shall be shown at height intervals of two (2) feet or less.
- M. Generalized soil analysis data, which may include data prepared by the Kankaska County Soil Conservation District regarding the soils and their adaptability to the use. More detailed information may be required where the Planning Commission determines that the site and use warrant a more critical review of soils.
- N. All site plans shall comply with the terms of the Kankaska County Soil Erosion Sedimentation and Stormwater Runoff Control Ordinance. It shall be the applicant's responsibility to provide documentation of compliance of this county Ordinance.
- O. Anticipated hours of operation for proposed use. The Planning Commission may impose reasonable limits to hours of operation as a condition of site plan approval when warranted to assure compatibility with surrounding land uses.
- P. Impact Statement  
The statement shall address itself to the following as applicable to the type of use:
  - 1) A complete description of the proposed development including: areas of the site, the number of lots or units; and the number and characteristics of the population impact such as density, elderly persons, school children, tourists, family size, income, and related information as applicable.
  - 2) Expected demands on community services, and how these services are to be provided, to specifically include: school classroom needs, volume of sewage for treatment, volume of water consumption related to ground water reserves or community system capacity, change in traffic volume on adjacent streets and other factors that may apply to the particular development.

- 3) Statements relative to the impact of the proposed development on soil erosion, shoreline protection, wildlife habitat, air pollution, water pollution (ground and surface), noise and the scale of development in terms of the surrounding environment.

4. Application Submittal Procedures:

- A. Ten (10) copies of the proposed site plan, plus one reduced size (8 ½" x 11") file set of the site plans. All site plans and required additional or related information, shall be presented to the Zoning Administrator by the petitioner or property owner or his designated agent at least thirty (30) days prior to the Planning Commission meeting at which the site plan will be considered. The Zoning Administrator shall review the application and information submitted to determine if all required information was supplied. 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 site plan approval shall not proceed until all required information has been supplied. Once a complete application meeting the requirements of this ordinance has been submitted, the Zoning Administrator shall cause the submittal to be placed on the agenda of the next regular Planning Commission meeting.
- B. The Planning Commission may distribute the site plan to the following agencies or any other agency deemed appropriate for comment prior to consideration for approval.
  - 1) The Kankaska County Planning Department
  - 2) The Kankaska County Soil Erosion and Sedimentation Control Officer
  - 3) The Kankaska County Drain Commissioner
  - 4) The Kankaska County Road Commission and, if appropriate, the Michigan Department of Transportation
  - 5) District Health Department
  - 6) Local fire and ambulance service providers
- C. Application fees as determined pursuant to **Section 9.05** of this Ordinance shall be paid when the application and site plan are submitted to cover the estimated review costs.
- D. Where the applicant is dependent upon the grant of any variances by the Zoning Board of Appeals, said favorable action by the Zoning Board of Appeals shall be necessary before the site plan approval can be granted, or the site plan may be approved subject to favorable action by the Zoning Board of Appeals.
- E. The applicant or his/her representative shall be present at each scheduled review or the matter shall be tabled for a maximum of two consecutive meetings due to lack of representation.

5. Standards for Granting Site Plan Approval:

- A. The Planning Commission shall approve, or approve with conditions, an application for a site plan only upon a finding that the proposed site plan complies with all applicable provisions of this Ordinance and the standards listed below, unless the Planning Commission waives a particular standard upon a finding that the standard is not applicable to the proposed development under consideration and the waiver of that standard will not be significantly detrimental

to surrounding property or to the intent of the Ordinance. The Planning Commission's decision shall be in writing and shall include findings of fact, based on evidence presented on each standard. These standards are listed in subsection 1-12 listed below.

- 1) All elements of the site plan shall be designed so that there is a limited amount of change in the overall natural contours of the site and shall minimize reshaping in favor of designing the project to respect existing features of the site in relation to topography, the size and type of the 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.
- 2) The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal, and by topographic modifications which result in smooth natural appearing slopes as opposed to abrupt changes in grade between the project and adjacent areas.
- 3) Special attention shall be given to proper site drainage so that removal of storm waters will not adversely affect neighboring properties.
- 4) The site plan shall provide reasonable, visual and sound privacy for all dwelling units located therein. Fences, walls, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants.
- 5) All buildings or groups of buildings shall be so arranged as to permit emergency vehicle access by some practical means to all sides.
- 6) Every structure or dwelling unit shall have access to a public street, private road, walkway or other area dedicated to common use.
- 7) Walkways shall be provided, separate from the road system, where feasible.
- 8) All loading and unloading areas and outside storage areas, including areas for the storage of trash, which face or are visible from residential districts or public thoroughfares, shall be screened, by a vertical screen consisting of structural or plant materials no less than six feet in height.
- 9) Exterior lighting shall be arranged as follows:
  - a) It is deflected away from adjacent properties.
  - b) It does not impede the vision of traffic along adjacent streets.
  - c) It does not unnecessarily illuminate night skies.
- 10) The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets and pedestrian or bicycle pathways in the area. 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.
- 11) All streets shall be developed in accordance with the Township private road standards, or if a public road, the County Road Commission specifications.
- 12) Site plans shall conform to all applicable requirements of state and federal statutes and the Blue Lake Township Master Plan, and approval may be conditioned on the applicant receiving necessary state and

federal permits before the actual zoning permit authorizing the special land use is granted.

- B. The Planning Commission shall seek the recommendations of the Fire Chief, the Kalkaska County Road Commission, the County Health Department, and the Michigan Department of Natural Resources, where applicable.
6. Approval Site Plan: If approved by the Planning Commission, three (3) copies of the site plan shall be signed and dated by both the applicant and Zoning Administrator or Planning Commission Chair. One signed and dated site plan shall be provided to the applicant; one shall be retained by the Zoning Administrator as part of the Township's permanent zoning file, and; one copy shall be made part of the Planning Commission's permanent record of proceedings on the site plan.
7. Conformity to Approved Site Plan Required. Following approval of a site plan by the Planning Commission, 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.
8. Amendment of Approved Site Plan:  
Amendment of an approved site plan shall be permitted only under the following circumstances:
- A. The owner of property for which a site plan has been approved shall notify the zoning administrator of any desired change to the approved site plan. Minor changes may be approved by the zoning administrator upon determining that the proposed revision(s) will not alter the basic design and character of the site plan, nor any specified conditions imposed as part of the original approval. Minor changes shall include the following:
- 1) Reduction of the size of any building and/or sign.
  - 2) Movement of buildings and/or signs by no more the ten (10) feet.
  - 3) Landscaping approved in the site plan that is replaced by similar landscaping to an equal or greater extent.
  - 4) Changes in floor plans that do not exceed five (5%) percent of the total floor area and which do not alter the character of the use or increase the amount of required parking.
  - 5) Internal re-arrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design.
  - 6) Changes related to item 1) through 5) above, required or requested by Blue Lake Township, Kalkaska County, or other state or federal regulatory agencies in order to conform with other laws or regulations; provided the extent of such changes does not alter the basic design and character of the site plan, nor any specified conditions imposed as part of the original approval.
  - 7) All amendments to a site plan approved by the zoning administrator shall be in writing. After approval by the zoning administrator, the Applicant shall prepare a revised site plan showing the approved amendment. The revised site plan shall contain a list of all approved amendments and a place for the zoning administrator to sign and date all approved amendments.

- B. An amendment to an approved site plan that cannot be processed by the zoning administrator under subsection (A) above shall be processed in the same manner as the original site plan application.
9. Expiration of Site Plan:
- A. The site plan shall expire unless substantial construction of an approved site plan improvement has begun within 365 days of approval. Thirty days prior to expiration of an approved final site plan, an applicant may make application to the Planning Commission for a one year extension of the site plan at no fee. The Planning Commission shall grant the requested extension for an additional one year, if it finds good cause for the extension and that the zoning regulations governing the site plan approval have not changed since the approval.
- B. Any subsequent re-submittal shall be processed as a new request with new fees.
10. Conditional Approvals. The Planning Commission may impose reasonable conditions with the approval of a site plan, pursuant to **Section 9.03** of this Ordinance.
11. Performance Guarantee Required. The Planning Commission may require an applicant to provide a performance guarantee in connection with the approval of a site plan, pursuant to **Section 9.06** of this Ordinance.
12. As-Built Site Plan. Upon completion of the installation of required improvements as shown on the approved site plan, the property owner shall submit to the Zoning Administrator two (2) copies of an "as-built" site plan, certified by the engineer or surveyor, if such professional prepared the original site plan, at least one week prior to the anticipated occupancy of any building. The Zoning Administrator shall circulate the as built plans to the officials listed in **Section 5.03.4.B** that provided comments to the planning commission during the initial review process for review and further comments. Any further comments shall be submitted to the Zoning Administrator within seven (7) days of sending the as built plans. After receiving the comments or the expiration of the seven (7) day comment period, whichever comes first, the Zoning Administrator may make the final inspection of the project to determine whether the project conforms to the approved site plan.

## Article VI: USES SUBJECT TO SPECIAL USE PERMIT

### Section 6.01 – General Requirements

Uses requiring special use permit, as listed in individual districts, (Article IV), shall be subject to the general provisions and supplemental site development standards of this Ordinance, the provisions of the zoning district where located in addition to applicable provisions of this Article to prevent conflict with or impairment of the other uses or uses permitted by right of the district. Each use shall be considered an individual case.

### Section 6.02 – Uses Subject to Special Use Permit

1. Applications:

Application shall be submitted through the office of the Zoning Administrator, to the Planning Commission, on a form provided for that purpose, and shall include the following:

- A. Site plan prepared under the requirements of **Section 5.03 – Site Plan Review (All Districts) - Site Plan Data Required.**
- B. Name and address of applicant and owner of the premises.
- C. Description of proposed use, including parking facilities, if required, and any exceptional traffic situation the use may occasion.
- D. A statement by applicant appraising the effect on the neighborhood.
- E. Application fees as determined pursuant to Section 9.05 of this Ordinance shall be paid when the application and site plan are submitted to cover the estimated review costs.

2. Public Hearings:

A public hearing shall be held for all special use permit requests. The secretary of the Planning Commission shall provide notice of the special use permit request and public hearing as required by the Michigan Zoning Enabling Act, Act 110 of the Public Acts of 2006. The notice shall be given not less than 15 days before the date the application will be considered. The notice shall describe the nature of the special use permit request, indicate the subject property, state when and where the special use permit request will be considered, and when and where the written comments will be received concerning the request. Notices shall be provided as follows:

- A. One notice shall be published in a newspaper which circulates generally in the Township.
- B. Notice shall be sent by mail or personal delivery to the owners of the subject property.
- C. Notice shall be sent by mail or personal delivery to the owners of property within 300 feet of the boundary of the subject property.

- D. Notice shall be sent by mail or personal delivery to all the occupants of structures within 300 feet of the boundary of the subject property. If a structure contains more than one dwelling unit or spatial area, one occupant of each dwelling unit or spatial area shall receive notice. In the case of a structure containing more than 4 dwelling units or other distinct spatial areas, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.

3. Standards for granting Special use permit:

The Planning Commission shall approve, or approve with conditions an application for a special land use permit only upon finding that the proposed special land use complies with all 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
  - 1) 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.
  - 2) The proposed special land use shall not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on other conforming properties in the areas by reason of traffic, noise, smoke, fumes glare, odors, or the accumulation of scrap material that can be seen from any public road or seen from any adjacent land owned by another person.
- C. Public Services
  - 1) The proposed special land use shall not place demands on fire, police, or other public resources in excess of current capacity.
  - 2) The proposed special land uses shall be adequately served by public or private streets, 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 shall 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 Specific Standards  
The proposed special land use complies with all applicable specific standards required under this Ordinance.

4. Amendment of Approved Special Use Permits:

Amendment of an approved special use permit shall be permitted only under the following circumstances:

B. The owner of property for which a special use permit has been approved shall notify the zoning administrator of any desired change to the approved special use. Minor changes may be approved by the zoning administrator upon determining that the proposed revision(s) will not alter the basic design and character of the special land use, nor any specified conditions imposed as part of the original approval. Minor changes shall include the following:

- 1) Reduction of the size of any building and/or sign.
- 2) Movement of buildings and/or signs by no more than ten (10) feet.
- 3) Landscaping approved in the special use that is replaced by similar landscaping to an equal or greater extent.
- 4) Changes in floor plans that do not exceed five (5%) percent of the total floor area and which do not alter the character of the use or increase the amount of required parking.
- 5) Internal re-arrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design.
- 6) Changes related to item 1) through 5) above, required or requested by Blue Lake Township, Kankaska County, or other state or federal regulatory agencies in order to conform with other laws or regulations; provided the extent of such changes does not alter the basic design and character of the special land use, nor any specified conditions imposed as part of the original approval.
- 7) All amendments to a special land use approved by the zoning administrator shall be in writing. After approval by the zoning administrator, the Applicant shall prepare a revised site plan showing the approved amendment. The revised site plan shall contain a list of all approved amendments and a place for the zoning administrator to sign and date all approved amendments.

B. An amendment to an approved special use permit that cannot be processed by the zoning administrator under subsection (A) above shall be processed in the same manner as the original special land use application.

5. Expiration of Approved Special Use Permit:

1. 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.
6. Inspection:  
The Zoning Administrator shall have the right to inspect any special use permit use, to ensure continued compliance with the conditions of the special use permit.



## ARTICLE VII: SUPPLEMENTAL SITE DEVELOPMENT STANDARDS

### Section 7.01 Supplemental Site Development Standards

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

#### 1. **Bed and Breakfast Establishments:**

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

- A. Bed and Breakfast Establishment as an Accessory Use: The bed and breakfast establishment shall be clearly incidental to the principal residence.
- B. Principal Residence: The dwelling unit shall be the principal residence of the operator, and the operator shall live in the dwelling unit when the bed and breakfast facility is in operation.
- C. Maximum Number of Units: No more than four (4) bed and breakfast sleeping rooms shall be established.
- D. Kitchen Facilities: There shall be no separate cooking facilities for the bed and breakfast establishment, other than those, which serve the principal residence. Food may be served only to those persons who rent a room in the bed and breakfast facility.
- E. 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 and additional thirty (30) square feet for each additional occupant. Rooms shall be designed to accommodate no more than four (4) occupants.
  - 3) Each sleeping room shall be equipped with a smoke detector.
- F. Parking: An off-street parking spot shall be provided for bed and breakfast unit, in accordance with this Ordinance.
- G. The number of bathrooms and septic system size shall meet District Health Department requirements.

#### 2. **Campgrounds:**

- A. A minimum lot size shall be fifteen (15) acres.
- B. The lot shall provide direct vehicular access to a public road. The term "lot" shall mean the entire campground or travel trailer park.
- C. Each campground shall be provided with at least one (1) public phone.

- D. All sanitary stations, privies, or any sanitary facilities shall be located at least one hundred (100) feet from property lines.
- E. Campground perimeter shall be completely screened by natural terrain, neatly finished and well-maintained wooden fence or masonry wall, or by well maintained live evergreens.
- F. Campsites shall be located at least fifty (50) feet from property lines.
- G. All campgrounds and trailer courts shall comply with State of Michigan Health Department requirements.
- H. No Recreational Vehicle shall be stored, unoccupied, for a period of more than one week.

3. **Cemeteries:**

- A. Location: No portion of any cemetery that is located in a wetland shall be developed or platted for gravesites.
- B. Accessory Buildings: A crematorium, mausoleum, columbarium, or other accessory building may be permitted within a cemetery provided that any such building shall be designed and located in accordance with a cemetery master plan, which shall be subject to Planning Commission Approval.
- C. Setbacks: No building or structures containing bodies or remains, other than subterranean graves, shall be located closer than fifty (50) feet to the boundary line of any residential or commercial district.

4. **Gasoline / Service Station:**

- A. Minimum lot width shall be one hundred twenty (120) feet for a service station, repair garage and one hundred (100) feet for a filling station.
- B. An automobile service station building, repair garage or main building for a filling station shall be located not less than forty (40) feet from the road right-of-way or less than fifty (50) feet from the side or rear lot line of any adjoining residential property or less than twenty-five (25) feet from the side or rear lot line of adjoining commercial or industrial property.
- C. No ingress or egress to an automobile service station, public garage or filling station, shall be closer than twenty-five (25) feet from any intersection or residential property line abutting the property on which such facility is located.
- D. All lubrication equipment, hydraulic hoists and pits shall be completely enclosed within a building. All gasoline pumps shall be located not less than fifty (50) feet from any lot line and shall be arranged so that motor vehicles may be provided easy egress and ingress to and from the adjoining road, and so that no portion of the vehicle while it is stopped for service, shall overhang onto a sidewalk, curb, road or public right-of-way.

- E. At gasoline dispensing facilities, when adjoining residential property, a masonry wall at least five (5) feet in height shall be constructed parallel to the property line of such residential property. All masonry walls shall be protected by a fixed curb or other barrier to prevent vehicular contact.
- F. All outside storage areas for trash, used tires, auto parts and similar items shall be enclosed by a masonry wall at least five (5) feet in height. Outside storage or parking of disabled, wrecked or partially dismantled vehicles shall be allowed for a period not to exceed fifteen (15) days.
- G. All on site lighting, including the illumination of signs, shall be directed or shaded downward so as not to interfere with the vision of persons on the adjacent highways or adjacent property and shall not be of a flashing, moving or intermittent type.
- H. On a corner lot, both road frontage sides shall conform to all applicable front yard regulations of this ordinance.

5. **Kennels or Veterinary Clinic/Hospital:**

- A. All kennels shall be operated in conformance with County and State regulations and shall be on sites of at least fifteen (15) acres. Veterinary clinics or hospitals shall be located on sites of at least two and a half (2.5) acres in size.
- B. 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, which ever is greater.
- C. Any fenced areas shall be screened from adjacent properties and/or roads with an opaque fence or a vegetated evergreen buffer at least five (5) feet in height.
- D. The facility shall be so constructed and maintained that odor, dust, noise or drainage shall not constitute a nuisance or hazard to adjoining premises.
- E. Animals shall be kept in a soundproof building between the hours of 10 p.m. and 8 a.m.
- F. All principal use activities shall occur within an enclosed main building.

6. **Manufactured Home Developments:**

Manufactured home developments shall be subject to the following conditions:

- A. Manufactured home developments 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 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.
- D. Prior to the location of a manufacture home or mobile home, proof of age and snowload capacity shall be submitted to the Zoning Administrator for verification of compliance with this ordinance.

7. **Planned Unit Development, PUD**

A. Intent and Purpose

As used in this section, “planned unit development” (or PUD) means cluster zoning, planned development, community unit plan, planned residential development, and other planned development. The purposes of a PUD are:

- 1) 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.
- 2) To permit flexibility in the regulation of land development.
- 3) To encourage innovation in land use in variety and design, layout, and type of structures constructed.
- 4) To achieve economy and efficiency in the use of land, natural resources, energy, and the provision of public services and utilities.
- 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.

B. Use and Area Regulations.

- 1) Permitted Uses. Planned unit developments shall be permitted in the **Agricultural and Residential Districts** – (A, RR, R) except as noted, PUD uses 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. Institutional and commercial uses determined by the Planning Commission to be compatible with the character of the PUD and surrounding neighborhood may also be permitted.

In approving a PUD with mixed uses, the Planning Commission may stipulate the sequence in which said uses, or portions thereof, are constructed.

- 2) Area Regulations. 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 area regulations.
  - a) Perimeter Setbacks. The setback maintained along the perimeter of the PUD shall equal or exceed the required setback of the underlying zoning district, provided:
    - (i) Any portion of a commercial or industrial use shall maintain a perimeter setback of not less than twenty (20) feet from any adjoining or abutting property which is in a residential zoning district.
    - (ii) With the exception of access drives, parking areas, lighting, sidewalks and curbing, the perimeter setback shall be landscaped.
  - b) Open Space. A PUD project shall have open space of no less than twenty (20%) 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, roads, and public rights-of-way, but may include flood plain areas and wetlands up to a maximum of thirty (30%) percent of the required open space and landscape area devoted to perimeter setbacks.
  - c) Height Regulations. The height of all buildings and structures within a PUD project shall not exceed the height limit of the underlying zoning district; provided, however, the Planning Commission may authorize an increase in height 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.

For purposes of this subsection, the height of a building or structure shall be measured from the average grade of the

property at the base of the building or structure to the highest point of the building or structure.

- d) Other Dimensional Regulations. To promote creativity and flexibility in site design, the Planning Commission may, subject to the following limitations, reduce the other dimensional regulations, as required by the underlying zoning district, including but not limited to minimum lot size, density, 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 reductions by the Planning Commission shall be limited as follows:

- (i) Residential density shall not be reduced by more than thirty (30) percent of the underlying zoning district standard.
- (ii) 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.
- (iii) 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.

Prior to approving a reduction in dimensional regulations, the planning commission may require the applicant to demonstrate through bonafide 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.

C. Planned Unit Development Eligibility Requirements.

To be eligible for a planned unit development, a parcel shall meet all of the following:

- 1) The parcel shall be ten (10) acres or more in area. Provided, however, if the proposed PUD will contain a mixture of residential and non-residential uses, the parcel shall be fifteen (15) acres or more in area. For purposes of this subsection, recreational amenities, and commercial activities customarily



- incidental to a residential use shall not be considered non-residential uses.
- 2) The parcel on which the proposed PUD will be located shall be under single ownership, or the PUD application shall be filed jointly by all property owners.
  - 3) The proposed uses within the PUD shall be consistent with the Blue Lake Township Master Plan for the subject parcel.
- D. Pre-application Conference. – See **Section 5.03.2**.
- E. PUD Application Requirements.
- An applicant seeking approval of a PUD shall submit a complete application to the zoning administrator. The zoning administrator shall then forward the application to the Planning Commission for its review under the procedures of this section. The application shall include all of the following:
- 1) A completed application form, supplied by the zoning administrator.
  - 2) Payment of a fee as established by resolution of the Township Board.
  - 3) A narrative statement describing:
    - a) The objectives of the proposed PUD and how they relate to the intent of the zoning ordinance as described in subsection (A), above.
    - b) The relationship of the proposed PUD to the Blue Lake Township Master Plan.
    - c) Phases of development, if any, and the approximate time frame for the start and completion of construction of each phase.
    - d) Proposed master deed, deed restrictions, covenants or similar legal instruments to be used within the PUD.
    - e) Anticipated dates for the start and completion of the PUD construction.
    - f) Substantial benefits to the community provided by the proposed PUD.
    - g) The location, type, and size of areas to be dedicated for common open space.
  - 4) Copies of the development plan as required under **Article V: Site Plan Review**. If the PUD is to be developed in phases, the development plan shall show all phases. The development plan shall contain the following information in addition to that listed in **Article V: Site Plan Review and Article VI: Uses Subject to Special Use Permit**:
    - a) Required setbacks of the zoning districts.
    - b) Area of subject property to be covered by buildings.
    - c) Location and type of sanitary sewage disposal system.
    - d) Proposed methods of surface water drainage, including surface and subsurface facilities.
    - e) Location and type of proposed lighting on the site.
    - f) Percentage of the total site devoted to open space, the location of

- open space and the proposed uses of that open space.
        - g) Areas to be used for open space and recreation
- F. Public Hearing on PUD Request; Notice. – See **Article VI: Uses Subject to Special Use Permit**
- G. Planning Commission Review of PUD  
Following the public hearing the Planning Commission shall review the PUD application and shall approve, deny, or approve with conditions the PUD application based on the standards for PUD approval contained in subsection (8) below. The Planning Commission’s decision shall be in writing and shall include findings of fact, based on the evidence presented at the public hearing, on each standard.
- H. Standards for PUD Approval; Conditions; Waiver of PUD Standards.  
As a Use Subject to Special Use Permit, a PUD shall be subject to the review and approval procedures specified in **Article V: Site Plan Review, and Article VI: Uses Subject to Special Use Permit** and the following:
  - 1) General Standards. The Planning Commission shall approve, or approve with conditions, a PUD application if the Planning Commission finds that the proposed PUD meets all of the following:
    - a) The planned unit development shall be consistent with the Blue Lake Township Master Plan.
    - b) The planned unit development shall be designed to preserve public vistas and existing important natural, historical, and architectural features of significance within the development.
    - c) The planned unit development 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.
    - d) The planned unit development shall not result in any greater storm water runoff to adjacent property after development, than before. The open space shall be provided with ground cover suitable to control erosion, and vegetation which no longer provides erosion control shall be replaced.
    - e) The design of the planned unit development shall exhibit a reasonably harmonious relationship between the location of buildings on the site relative to buildings on lands in the surrounding area; and there shall be a reasonable architectural and functional compatibility between all structures on the site and structures within the surrounding area. It is not intended that contrasts in architectural design and use of facade materials is to

be discouraged, but care shall be taken so that any such contrasts will not be so out of character with existing building designs and facade materials so as to create an adverse effect on the stability and value of the surrounding area.

- f) The design of the planned unit development shall ensure that outdoor storage of garbage and refuse is contained, screened from view, and located so as not to be a nuisance to the subject property or neighboring properties.
- g) The planned unit development shall be designed such that phases of development are in a logical sequence, so that any one phase will not depend upon a subsequent phase for adequate access, public utility services, drainage or erosion control.
- h) Nothing here in shall relieve the PUD applicant from complying with all applicable local, state and federal regulations.

I. Conditions. – See **Section 9.03**.

J. Continuing Adherence to Approved PUD Application.

Any property owner who fails to develop and maintain an approved PUD according to the approved PUD application and conditions, if any, shall be deemed in violation of the provisions of this Ordinance and shall be subject to the penalties provided in this Ordinance.

K. Recording of Action.

The applicant shall record an affidavit acceptable to the township attorney with the Kankaska County Register of Deeds that contains the full legal description of the project site, specifies the date of final township approval, specifies the description or identification number which the township has assigned to the PUD project, and declares that all improvements will be carried out in accordance with the approved PUD application. If the Planning Commission approves an amendment to the PUD, the applicant shall record an amended affidavit acceptable to the township attorney that contains all of the information described above, describes the amendment, specifies the date the Planning Commission approved the amendment, and declares that the improvements will be carried out in accordance with the approved PUD, as amended. Finally, all deed restrictions and easements shall be duly filed with the Kankaska County Register of Deeds and copies of recorded documents filed with the zoning administrator.

L. Amendment of an Approved Planned Unit Development. – See **Section 6.02.4**

M. Expiration of Approved PUD; Extension.

- 1) An approved PUD shall expire one (1) year following final approval by the Planning Commission, unless substantial construction has begun on the PUD project prior to that time or the property owner applies to the

Planning Commission for an extension prior to the expiration of the PUD. The Planning Commission may grant one (1) extension of an approved PUD for an additional one (1) year period if it finds:

- a) The property owner presents reasonable evidence that the development has encountered unforeseen difficulties beyond the control of the property owner; and
- b) The PUD requirements and standards that are reasonably related to the development have not changed.
- c) If the PUD approval expires pursuant to subsection (A) above, no work pursuant to the PUD plan may be undertaken on the project until a new PUD approval is obtained from the planning commission following the procedures for a new PUD application. In addition, if the PUD approval expires, the property shall again be subject to the zoning classification of the property which existed prior to the PUD approval as if no PUD approval had ever been granted.

N. Performance Guarantee. – See **Section 9.06**.

8. **Public Buildings, Institutions and Places of Worship:**

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.

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 permit in residential districts.

9. **Recreation Camps:**

Recreation camps, recreation lodges and resorts for either profit or non-profit shall be subject to the following conditions:

- A. The use is established on a minimum site of fifteen (15) acres.
- B. All outdoor activity areas, parking lots, main buildings and accessory buildings are located at least 100 feet from all property lines. The resulting 100 foot yard shall be maintained as a buffer area wherein all natural tree/shrub cover is retained in healthful growing conditions. Planted greenbelts may be required by the Planning Commission as deemed necessary.
- C. The recreational camp use shall not locate within the confines of a platted subdivision intended for single residential occupancy or parcels which are deemed by the Planning Commission to be a logical extension of such a platted area.

10. **Sand and Gravel Extraction**

- 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 building 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. Site plan application. A separate site plan shall be required for each separate excavation or fill site. In addition to the site plan requirements listed in **Section 5.03.3 Site Plan Data Required**, 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) 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) *Noise, 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. Noise levels shall not exceed 70 dBA at 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) *Road Impact*
  - a) Extractive operations shall be managed and designed so as to have minimum negative impact on existing roadways. 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.

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, 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.

11. **Sexually Oriented Business**

The purpose and intent of the section 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 which 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 and 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 which 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.

- A. No sexually oriented business shall be permitted in a location in which any principal or accessory structure, including signs, is within one thousand (1,000) feet of any principal or accessory structure of another sexually oriented business.
- B. No sexually oriented business shall be established on a parcel which is within one thousand (1,000) feet of any parcel zoned Lakeshore Residential (LR), Residential (R), or Rural Residential (RR).
- C. No sexually oriented business shall be established on a parcel within five hundred (500) feet of any residence.
- D. The proposed use shall conform to all specific density and setback regulations, etc. of the zoning district in which it is located.
- E. The proposed use must meet all applicable written and duly promulgated standards of Blue Lake Township and other governments or governmental agencies having jurisdiction, and that to the extent required, the approval of these governments and/or governmental agencies has been obtained or is reasonably assured.
- F. 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 adjacent roadways.
- G. Any sign or signs proposed for the sexually oriented business must comply with the provisions of this Ordinance, and shall not otherwise include photographs, silhouettes, drawings, or pictorial representations of any type, or include animated or flashing illumination.
- H. 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.”

- I. No product or service for sale or gift, or any picture or other representation of any product or service or gift, shall be displayed so as to be visible from the nearest adjoining roadway or a neighboring property.
- J. Hours of operation shall be limited to 12:00 PM (noon) to 12:00 AM. (Midnight)
- K. Any booth, room, or cubicle available in any sexually oriented business, excepting an adult motel, used by patrons for the viewing of any entertainment characterized by the showing of Specified Anatomical Areas or Specified Sexual Activities:
  - 1) Shall be handicap accessible to the extent required by the Americans With Disabilities Act;
  - 2) Shall be unobstructed by any door, lock, or other entrance and exit control device;
  - 3) 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;
  - 4) Is illuminated by a light bulb of wattage of no less than 25 watts;
  - 5) Has no holes or openings in any side or rear walls.
- L. Review Procedures for Sexually Oriented Businesses  
The Planning Commission shall adhere to the following procedures when reviewing a special approval application for a sexually oriented business.
  - 1) If the Planning Commission determines that a special approval application for a sexually oriented business is not complete when it is first presented to the Planning Commission, it shall provide written notice by first class mail within five (5) business days of said determination detailing the items required to complete the application. Upon payment of a new filing fee, the applicant may resubmit the amended application for review by the Planning Commission for completeness.
  - 2) If the Planning Commission determines that the application is complete, it shall within sixty (60) days of said determination make and adopt specific findings with respect to whether the proposed sexually oriented business is in compliance with the standards designated in **Section 7.01.11 (A-K)**. If the Planning Commission has not made and adopted findings of fact with respect to a proposed sexually oriented business and either approved or denied the issuance of a special approval for the same within sixty (60) days of its determination that a completed application has been filed, then the special approval shall be deemed to have been approved.
  - 3) 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 have within five (5) business days of the receipt of such written notice to do the following:



- a) File a petition in the Circuit Court for the County 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 ten (10) business days or as soon thereafter as is possible after the filing of such petition. In the event the applicant appears at or before the time of such show-cause hearing, waives the notice otherwise provided by Michigan Court Rules, and requests that at the time set for such hearing the Court proceed to hear the case under applicable rules of civil procedure for the issuance of such permanent injunction on its merits, the Township shall be required to waive its application for preliminary injunction and shall join in such request.

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

The filing of written notice of intent to contest the Planning Commission's denial of a special 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 the Township's petition, a show-cause hearing has not been scheduled.

12. **Stables, Commercial:**

- A. Commercial stables shall be on sites of at least fifteen (15) acres in size.
- B. Commercial facilities for horseback riding shall be subject to the review and approval of the Planning Commission, who shall find that animal housing facilities are located at least three hundred (300) feet from any off-premises residential structure.

13. **Storage Facilities:**

- A. Storage uses and facilities, including mini-storage, shall meet the following regulations:
  - 1) All proposed storage buildings nearest to the primary access road shall be located perpendicular to the road; landscape screening may be required by the Planning Commission per subparagraph 3) of this section.
  - 2) Proposed storage buildings are positioned to the rear of other approved non-storage or non-warehousing buildings, e.g., retail or office uses, or, the storage buildings are set back at least one hundred (100) feet from

- public road right-of-way lines.
- 3) Effective year-round landscape screening is required to shield storage buildings from bordering public roads upon installation of proposed plant materials.
  - 4) 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 roads within a planned industrial or commercial park.
  - 5) 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.

#### 14. **Towers and Antennae Facilities**

Antenna towers and masts for cellular phone and other personal or business communications services authorized as a special use by the Planning Commission. Antenna towers and masts erected and operated as a residential accessory use, and not more than fifty (50) feet in height as measured between the tower's base at grade and its highest point erected, are exempt from the provisions of this Section.

##### A. **Application Requirements**

In addition to the application requirements of **Article VI: Uses Subject to Special Use Permit** of this Ordinance, an application for a special use permit for a tower or antennae facility 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 tower or antennae facility shall not proceed until all required information has been supplied.

- 1) Documentation that clearly establishes legal ownership of the tower and a signed commitment that the applicant, its agents, successors, and assigns shall report to the Planning Commission any changes in the legal ownership of the tower within thirty (30) days of the effective date of the change.
- 2) An analysis of alternative options, such as co-locations and documentation that a new tower is necessary.
- 3) A visual impact analysis, depicting the anticipated visual appearance of the tower from important vantage points in the surrounding area. Visual impact analysis methods to be approved by the zoning administrator.

##### B. **Standards for Approval of Tower or Antennae Facilities**

The Planning Commission shall approve, or approve with conditions, an application for a tower or antennae facility only upon a finding that the proposed tower or antennae facility complies with the standards contained in **Section 6.02.3 Standards for granting Special Use Permit** of this Ordinance and all of the following applicable standards:

- 1) A tower or antennae shall not exceed the minimum height necessary to serve its intended functions. Tower height shall not exceed two hundred feet.

- 2) Equivalent service can not be provided by locating the antennae on an existing tower or other tower in the Township or neighboring community.
- 3) The floor area and height of the tower and an ancillary building shall be the minimum necessary for such equipment.
- 4) The size, type, color and exterior materials shall be aesthetically and architecturally compatible with the surrounding area. Landscape screening may be required by the Planning Commission to accomplish screening of ancillary equipment buildings.
- 5) The tower or antennae facility 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.
- 6) The tower, subject to any applicable standards of the FCC and FAA, shall be painted 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 tower or antennae facility is located within an avian migratory route or if an alternate color would otherwise benefit the neighborhood.
- 7) All tower and antennae facilities shall meet or exceed any standards and regulations of the Federal Communications Commission (FCC), Federal Aviation Administration (FAA), and any other agency of the State or Federal government with authority to regulate towers or other tall structures in effect at the time the special use permit is approved.
- 8) The tower shall be available on reasonable terms, for use by others, including personal or business communications service providers, and/or local government agencies, provided such use does not interfere with the owner/operator's reasonable use of the tower.
- 9) A deposit of funds in Escrow or an insurance bond may be required by the Planning Commission to assure the removal of towers and masts as prescribed in this Section. If required, such escrow deposit or insurance bond shall be in an amount equal to one and one-quarter (1.25) times the estimated cost of removal of the tower at the time of approval. Such escrow deposit or bond shall be maintained by successor owners.
- 10) The owner of any tower which ceases to operate for its original use, or is abandoned for any reason, shall remove the tower within three months of receipt of notice from the Township. If the cost exceeds the amount held in escrow, the current owner shall be responsible for additional costs.
- 11) No tower or supporting appurtenant structures shall be closer to any property line than a distance equal to 1.5 the height of the tower measured from the tower base at grade to the highest point on the structure or antennae.

C. Zoning Board of Appeals Jurisdiction

The Zoning Board of Appeals shall have no jurisdiction over a decision made by the Planning Commission to approve, approve with conditions, or deny an application for special use approval to erect and maintain cellular phone and other personal and business communications antenna towers.

15. **Wind Turbine Generators**

Commercial wind turbine generators, private wind turbine generators, and anemometer towers shall be permitted in the Conservation Resource district and Agricultural districts pursuant to a special use permit obtained following the procedures of Article VI of this Ordinance and the requirements of this subsection.

A. **Application Requirements**

In addition to the application requirements of **Article V: Site Plan Review** of this Ordinance, an application for a special use permit for a wind turbine generator (both commercial and private) 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 V: Site Plan Review** 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. Provided, however, this application requirement shall not apply to a private wind turbine generator.
- 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 a private wind turbine generator and 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. Provided, however, this application requirement shall not apply to a private wind turbine generator.
- 5) A detailed written statement, with supporting evidence, demonstrating how the proposed wind turbine generator (commercial and private) 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 wind turbine generator (both commercial and private) 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 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 wind turbine generator (both commercial and private) 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 wind turbine generator (both commercial and private) 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 a private wind turbine generator and an anemometer tower.
- 10) Any additional information reasonably deemed necessary by the Planning Commission to determine compliance with the standards for approving a wind turbine generator (both commercial and private) 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 wind turbine generator (both commercial and private) 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 6.02.3 Standards for granting Special Use Permit** 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. No private wind turbine generator shall be approved without submission of a wind resource study documenting wind resources on the site over a minimum of one month.
- 2) Minimum Site Area.

- a) 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.
  - b) The minimum site area for a private wind turbine generator or an anemometer tower erected prior to a private wind turbine generator shall be three (3) acres.
- 3) Setbacks. Each proposed wind turbine generator (both commercial and private) 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 b, c, and d 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) Each private wind turbine generator shall be set back from any adjoining lot line and from a public or private road right-of-way or easement a minimum distance equal to one and one-half (1.5) times the height of the private wind turbine generator tower. The setback shall be measured from the outermost point on the base of the wind turbine generator.
  - d) For any newly proposed wind turbine generator (both commercial and private) 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.
  - c) The maximum height of a private wind turbine generator tower or the height of an anemometer tower erected prior to a private wind turbine generator shall be 110 feet.
- 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 and twenty-five (25) feet on a private 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 wind turbine generator (both commercial and private) 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 wind turbine generators (both commercial and private) 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 a private wind turbine generator or an anemometer tower.
- 11) Interference with Residential Reception. All wind turbine generators (both commercial and private) 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 wind turbine generators (both commercial and private) 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 wind turbine generators (both commercial and private) 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 painted 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 private turbine generator or anemometer tower may be a lattice-style tower and may utilize guy wires.
  - c) The 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 wind turbine generator (both commercial and private) 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 private 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 authorize personnel only. Provided, however, this standard shall not apply to a private wind turbine generator.
- 16) Shadow Flicker. All wind turbine generators (both commercial and private) 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 three (3) feet below the final grade 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.

## Article VIII – Zoning Board of Appeals

### Section 8.01 – Zoning Board of Appeals

1. Creation and Membership:

The Zoning Board of Appeals (ZBA) shall perform its duties and exercise its powers as provided in the Michigan Zoning Enabling Act, Act 110 of the Public Acts of 2006, and in such a way that the objectives of this Ordinance shall be observed, public safety secured, and justice done. The Board shall consist of three (3) members, appointed by the Township Board.

A. The first member shall be a member of the Township Planning Commission for the terms of his/her office.

B. 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.

C. 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.

D. 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 to sit as a regular member of the Zoning Board of Appeals in the absence of a regular member if a regular member is absent from or unable to attend two (2) or more consecutive meetings of the Zoning Board of Appeals or for a period of more than thirty (30) consecutive days. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member having been 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.

2. 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 or 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 members qualified to sit for a particular matter are present to constitute a quorum, regardless of whether the members are regular members or alternate members.

3. 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 8.01.5 – Dimensional Variances**.
- D. The ZBA may also interpret the location of zoning district boundaries and may interpret the provisions of this Ordinance.
- 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 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 special approvals, planned unit developments, or stop or suspend temporarily.
- I. Unlisted Property Uses: When the proposed use of land or use of a structure is not specified in this Ordinance, the Zoning Board of Appeals shall have the power upon written request of the property owner or zoning administrator to classify the 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 is 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.

4. 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.

5. 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.

6. Zoning Board of Appeals submittal:

The applicant is required to submit eight (8) 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.

7. 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 9.03 – Conditions**.

8. 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.

9. 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 than 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.

10. 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.

No order of the Board of Appeals permitting the use of a building or premises shall be valid for a period longer than two (2) years unless such use is established within such period; provided, however, that where such use permitted is dependent upon the erection or alteration of a building, such order shall continue in force and effect if a building permit for said erection or alteration is obtained within such period of erection or alteration is started and substantial construction has occurred.

11. Review by Circuit Court

- A. **Circuit Court Review:** The decision of the Zoning Board of Appeals shall be final. However, any party having an interest affected by an order, determination or decision of the Zoning Board of Appeals may obtain a review thereof both on the facts and the law, in the Circuit Court; provided that application is made to the Court within thirty (30) days after the delivery of a final decision.

- B. Standards for Review: The Circuit Court shall review the record and decision of the Zoning Board of Appeals to insure that the decision:
- 1) Complies with the constitution and laws of the State.
  - 2) Is based upon proper procedure.
  - 3) Is supported by competent, material, and substantial evidence on the record.
  - 4) Represents the reasonable exercise of discretion granted by the Board of Appeals.
- C. Inadequate Record: If the Court finds the record of the Zoning Board of Appeals inadequate to make the review required, or that additional evidence exists which is material and with good reason was not presented to the Board of Appeals, the Court shall order further proceedings before the Board of Appeals on conditions which the Court considers proper. The Board of Appeals may modify its findings and decision as a result of the new proceedings, or may affirm its original decision. Any supplementary record and decision shall be filed with the Court.
- D. Authority of Court: As a result of the review required by this Section, the Court may affirm, reverse, or modify the decision of the Zoning Board of Appeals.

## **Article IX – Administration and Enforcement of Ordinance**

### **Section 9.01 – Zoning Administrator**

The provisions of this Ordinance shall be administered and enforced by a Township Zoning Administrator, appointed by the Township Board of Trustees for such term and subject to such conditions and at such rate of compensation as said Board shall determine as reasonable.

The Zoning Administrator shall have the power to grant Zoning Permits and to make inspections of buildings or premises necessary to carry out his 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.

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.

The Zoning Administrator shall not refuse to issue a Permit when conditions imposed by this Ordinance are complied with by the applicant despite violations of contracts, such as covenants or private agreements that may occur upon the granting of said Permit.

### **Section 9.02 – Zoning Permit**

1. No building or structure subject to the provisions of this Ordinance shall hereafter be erected, structurally altered, reconstructed, used, or moved, nor shall any excavation, exceeding 100 cubic yards or filling of land commence 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 provided for in this ordinance. No Zoning Permit shall be required for 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 120 square feet in size or less.
2. The application shall be signed by the owner of the premises or his agent and shall certify that all provisions of this Ordinance and other applicable laws and requirements are to be complied with. Any application requiring approval from the Planning Commission must be submitted not less than thirty (30) days prior to a scheduled meeting for consideration at that Planning Commission meeting. The application shall be accompanied by:
  - A. A site plan, if required, or a sketch in duplicate, in a scale sufficient to clearly detail— as determined by the Zoning Administrator, the location and dimensions of the premises including the boundary lines of all parcels of land under separate ownership contained therein; the size, dimensions, location on the premises, and height of all buildings, structures or other impervious surfaces in existence, to be erected and/or altered; the width and alignment of all abutting streets, highways, alleys, utility locations, easements and public open spaces; the front yard dimensions of the nearest building on both sides of the proposed building or structure; the location and dimensions of sewage disposal facilities both on adjoining land or lots and those to be erected on the lot under consideration; and the location of all wells on adjoining lands or lots and those to be erected on the lot under consideration.



- B. Properties under two (2) acres in size may be required to submit a legal survey, sealed by a professional surveyor (not a mortgage survey). The Zoning Administrator shall have the authority to require such a survey 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.
  - C. 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.
  - D. Such other information as may be required to determine compliance with the Ordinance.
3. A Zoning Permit shall not be issued until all other necessary permits required by federal, state, county or local regulations, including well and septic system approvals have been obtained or waived with exception of those permits issued by the Kankaska County Building Department and County soil erosion, sedimentation and stormwater runoff control office.
  4. 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.
  5. Any Zoning Permit will expire after twelve (12) months from date of issuance, unless the permit is renewed on or before the expiration date. If permit holder begins construction on the project authorized by the permit before it expires, then the permit shall be renewed based on the zoning regulations in effect on the date the original permit was issued. One, one year zoning permit renewal shall be permitted on or before the expiration date of the one (1) year zoning permit renewal, the zoning permit holder must have completed the construction of the enclosure (shell) of the building or structure authorized on the zoning permit including:
    - A. Exterior walls (complete with siding or paint).
    - B. Windows and doors (completely installed).
    - C. Roof complete with overhang enclosed, including enclosed soffits.
  6. The Zoning Administrator shall have the power to revoke or cancel any Zoning Permit in case of failure or neglect to comply with the provisions of the Ordinance, or in the case of a false statement or misrepresentation made in the application. The owner shall be notified of such revocation in writing.
  7. No Zoning Permit shall be valid until the required fees have been paid. Except for an accessory building or structure less than 120 square feet in size, which does not require a zoning permit pursuant to **Section 9.02.1** 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 of Trustees.
  8. Upon issuance of the Zoning permit, a copy of the permit and the application, including any

drawings shall be transmitted to the Township Assessor.

### **Section 9.03 – 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:

1. 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.
2. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
3. 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 9.04 – Rehearing Process**

1. 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:
  - A. 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.
  - B. 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.
  - C. 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.
2. 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.
  - A. 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.

- B. 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.
- C. 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.
- D. 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 9.05 – Fees**

- 1. 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:
  - A. Zoning permits
  - B. Special land use permits
  - C. 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.
  - D. Classification of unlisted property uses.
  - E. Requests to change a non-conforming use to another non-conforming use.
  - F. Requests for variances from the Zoning Board of Appeals.
  - G. 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.

- H. Site plan reviews.
- I. Requests for a planned unit development (PUD).
- J. 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.

- 2. 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 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 Township in excess of the amount held in escrow shall be billed to the applicant and shall be paid by the applicant prior to the issuance of any permit or the release of a final decision on an appeal.

### **Section 9.06 – Performance Guarantee**

In connection with the construction of improvements through site plan approval, special land use approval, or a PUD project 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:

One-third of the cash deposit after completion of one-third of the public and site improvements;

Two-thirds of the cash deposit after completion of two-thirds of the public and site improvements; and

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 9.07 – Violations and Penalties**

### **Section 9.07.1 – Nuisance per se**

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

### **Section 9.07.2 – 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.

### **Section 9.07.3 – 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.

#### **Section 9.07.4 – 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 9.08 – 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 control.

## Article X – Adoption and Amendments

### Section 10.01 – Amendment to this Ordinance

1. The Township Board is authorized and empowered to cause this Ordinance to be amended, supplemented, or changed, pursuant to the authority and according to the procedures set forth in the Michigan Zoning Enabling Act, Act 110 of the Public Acts of 2006.
  - A. The regulations and provisions stated in the text of this Ordinance and the boundaries of zoning districts shown on the Blue Lake Township Zoning Map maybe amended, supplemented or changed by action of the Township Board following a recommendation from the Township Planning Commission.
  - B. Proposals for amendments, supplements or changes may be initiated by the Township Board 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.
  - C. The procedure to be followed for initiating and processing an amendment shall be as follows:
    - 1) Each petition by one (1) or more persons for an amendment shall be submitted by application to the Zoning Administrator on a standard form provided and shall be accompanied by the fee as prescribed by the Township Board. No part of such fee shall be returnable to a petitioner if the public hearing is held.
    - 2) 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.
    - 3) The Planning Commission shall consider each proposal for amendment on particular factors related to the individual proposal and in terms of the likely effect on the community's physical development. The Planning Commission may recommend any additions or modifications to the original proposal.
    - 4) Before ruling on any proposal the Planning Commission shall conduct at least one (1) public hearing, notice of the time and place of which shall be given by one (1) publication in a newspaper of general circulation in the Township, not less than fifteen (15) days before the date of such hearing and by notifying all owners of property located within three hundred (300) feet of any land proposed for rezoning and all occupants of structures located within three hundred feet not less than fifteen (15) days prior to the public hearing. Not less than fifteen (15) days notice of the time and place of such hearing shall also be given by mail to each public utility company and railroad 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.

- 5) The Planning Commission shall review and apply the following standards and factors in the consideration of any re-zoning request.
  - a) Is the proposed rezoning consistent with the Blue Lake Township Master Plan?
  - b) Is the proposed rezoning reasonably consistent with surrounding uses?
  - c) Will there be an adverse physical impact on surrounding properties?
  - d) Will there be an adverse effect on property values in the adjacent area?
  - e) Have there been changes in land use or other conditions in the immediate area or in the community in general which justify rezoning?
  - f) Will rezoning create a deterrent to the improvement or development of adjacent property in accord with existing regulations?
  - g) 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)?
  - h) Are there substantial reasons why the property cannot be used in accordance with its present zoning classifications?
  - i) Is the rezoning in conflict with the planned use for the property as reflected in the Land Use Plan?
  - j) Is the site served by adequate public facilities or is the petitioner able to provide them?
  - k) Are there sites nearby already properly zoned that can be used for the intended purposes?
  - l) The community should evaluate whether other local remedies are available.
- 6) 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 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.
- 7) The Planning Commission shall submit a final report/recommendation to the Township Board along with a summary of the comments received at the public hearing.
  - 8) The Township Board may hold additional public hearings if they decide it is necessary. Notice of such hearing shall be published in a newspaper, which circulates in the Township not less than fifteen (15) days before the hearing. The Township Board may adopt or reject any proposed amendment, or refer back to the Planning Commission for further review as prescribed by the Michigan Zoning Enabling Act, Act 110 of Public Acts of 2006.



- 9) Once adopted by the Township Board, 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. Any amendments to this Ordinance shall take effect eight (8) days after publication or at a later date as may be specified by the Township Board at the time of adoption.
- 10) 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**

1. This Ordinance was adopted on November 1, 2006 by the Blue Lake Township Board of Trustees and will be effective November 16, 2006. The foregoing Zoning Ordinance and Zoning Map were presented at a public hearing before the Planning Commission on September 9, 2006.
2. Amendments or revision to this Ordinance or Map of Zoning Districts shall become effective eight (8) days after publication, or a specified later date, of a notice of adoption of said amendments.