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## KALKASKA COUNTY ZONING ORDINANCE

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**Kalkaska County Zoning Ordinance**  
Adopted October 2001

An ORDINANCE to establish Zoning Districts and regulations for those areas of Kalkaska County, Michigan lying outside the limits of incorporated cities and villages in accordance with the Michigan Zoning Enabling Act, PA 110 of 2006, as amended<sup>1</sup>, and the Planning Enabling Act, PA 33 of 2008, as amended<sup>2</sup>: to encourage and regulate proper use of land; to provide for regulations governing nonconforming uses of lands and waters, buildings and structures; and to provide for a County Zoning Board of Appeals, for amendments, and for the administration and enforcement of this ordinance.

THE KALKASKA COUNTY BOARD OF COMMISSIONERS ORDAINS:

**ARTICLE ONE**

**TITLE AND PURPOSE**

**SECTION 1.01 - TITLE**

This Ordinance shall be known as the Kalkaska County Zoning Ordinance.

**SECTION 1.02 - PURPOSE**

The fundamental purposes of this Zoning Ordinance are:

- A. To promote the public health, safety, morals, peace, and general welfare of the inhabitants of Kalkaska County.
- B. To provide for the protection and preservation of the high water quality of our lakes, rivers, streams, and wells to the end that the waters thereof shall continue to afford a safe and adequate water supply and optimum recreational enjoyment.
- C. To encourage the use of lands in accordance with their character and adaptability, thereby conserving natural resources and property values and limiting the improper use of land.
- D. To avoid the overcrowding of population; to lessen congestion on public streets and highways, to reduce hazards to life and property due to fire, flooding, erosion, pollution, excessive dust, fumes, noise, vibration, noxious odors or other hazards.
- E. To prevent the over burdening of existing or available public services and utilities, to facilitate the adequate provision of a system of transportation, sewage disposal, solid waste disposal, drainage, public water supply, education, recreation and other public improvements; and to conserve the expenditure of funds for public improvements and services to conform with the most advantageous use of land, resources and properties.
- F. To provide for the orderly growth of the residential and economic attributes of the County.

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<sup>1</sup> Ordinance #144, Amendment #165 adopted on October 10, 2012

<sup>2</sup> Ordinance #139, Amendment #160 adopted on January 27, 2010

**Kalkaska County Zoning Ordinance**  
Adopted October 2001

**SECTION 1.03 - THE PURPOSE AND INTENT OF THE SECTIONS OF THIS ORDINANCE  
PERTAINING TO THE REGULATION OF SEXUALLY ORIENTED BUSINESSES**

The purpose and intent of the Sections of this Ordinance pertaining to the regulation of sexually oriented businesses is to regulate the location and operation of, but not to exclude, sexually oriented businesses within the county, 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 or downgrading of surrounding areas and will not negatively impact the health, safety and general welfare of county residents. The provisions of this Ordinance are not intended to offend the guarantees of the First Amendment to the United States Constitution or Article 1, Section 5<sup>3</sup> of the Michigan Constitution of 1963 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 County 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 County intends said portion to be disregarded, reduced and/or revised so as to be recognized to the fullest extent possible by law. The County 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.

**SECTION 1.04 - EFFECT OF ZONING<sup>4</sup>**

See Section 21.03 and related General Provisions for the effect of zoning on property.

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<sup>3</sup> Ordinance #144, Amendment #165 adopted on October 10, 2012

<sup>4</sup> Ordinance #149, Amendment #170 adopted on July 13, 2016

# Kalkaska County Zoning Ordinance

Adopted October 2001

## ARTICLE TWO

### ZONING DISTRICTS

#### SECTION 2.01 - CLASSIFICATION OF ZONING DISTRICTS

- A. For the purposes set forth in Section 1.02, all of the area lying outside the limits of incorporated cities and villages in Kalkaska County is hereby divided into the following Zoning Districts: <sup>1</sup>
1. Residential Districts (R) <sup>2</sup>
  2. Lakefront-Residential Districts (L-R)
  3. Resort-Residential Districts (R-R)
  4. Agricultural-Residential Districts (A-R)
  5. Forest-Recreational Districts (F-R)
  6. Commercial Districts (C-1)
  7. General-Industrial Districts (G-I)
  8. Light-Industrial Districts (L-I)
- B. Except as otherwise provided in this Ordinance, the location of each Zoning District is shown on a map entitled, "Zoning Districts Map of Kalkaska County, Michigan", which map is hereby made a part of this Ordinance. All proper notations on the map shall be as much a part of this Ordinance as though specifically described herein.
- C. Any lands not specifically classified on the Zoning Districts Map into one of the above listed zoning districts, shall be zoned "Forest-Recreational".
- D. All waterfront lots are also subject to the requirements of Article 16.

#### SECTION 2.02 - INTERPRETATION OF DISTRICT BOUNDARIES

- A. Where uncertainty exists with respect to the boundaries of the various districts as shown on the Zoning Districts Map, the boundary lines of Zoning Districts shall be interpreted as following along section lines, or customary division lines of sections, such as quarter or eighth lines; or the center line of highways, streets, alleys, railroad lines and natural water courses; or the boundary lines of incorporated areas, recorded plats or subdivisions; or legal property lines of record at the office of the Kalkaska Register of Deeds on the date of enactment of this Ordinance, or the straight-line projection of any of said lines.
- B. Boundaries indicated as parallel to, or extensions of, features indicated above shall be so construed.

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<sup>1</sup> Ordinance #117, Amendment #138 adopted on August 15, 2006

<sup>2</sup> Ordinance #130, Amendment #151 adopted on October 9, 2007

## **Kalkaska County Zoning Ordinance**

Adopted October 2001

- C. Distances not specifically indicated on the official Zoning Districts Map shall be determined by the scale of the map, if not indicated in the text of this Ordinance.
- D. Insofar as some or all of the various districts may be indicated on the Zoning Districts Map by patterns which, for the sake of map clarity, do not cover public rights-of-way, it is intended that such district boundaries do extend to the center of any public right-of-way.
- E. Where physical or natural features existing on the ground are at variance with those shown on the official Zoning Districts Map, or in other circumstances not covered by subsections A through D above, the Zoning Board of Appeals shall interpret the district boundaries.
- F. All platted subdivisions in Kalkaska County with a gross lot size of less than 1 acre will be considered Resort-Residential zoning districts.<sup>3</sup>

### **SECTION 2.03 - REPLACEMENT OF OFFICIAL ZONING MAP**

- A. In the event that the official Zoning Districts Map of Kalkaska County, Michigan is damaged, destroyed, lost, or in need of replacement because of difficulties in interpretation due to scale, poor drafting technique or the nature or number of changes made thereto, the County Board of Commissioners may by Resolution, authorize the preparation of a new official Zoning Districts Map which shall accurately depict the zoning districts of Kalkaska County. The replacement map may correct drafting or other errors or omissions on the existing official map, but no corrections shall have the effect of amending the Zoning Ordinance or the official Zoning Districts Map. Any difficulty encountered in determining zoning boundaries or district classifications shall be resolved by the Zoning Board of Appeals. The County Board of Commissioners may take this action on the recommendation of the County Planning Commission. A replacement zoning map shall take effect upon signing the certification thereof by the Chairman of the County Planning Commission and each member of the Zoning Board of Appeals that it is an accurate reproduction of the official Zoning Districts map it replaces. The new official Zoning Districts Map shall be identified by the signature of the Chairman of the Kalkaska County Board of Commissioners, attested to by the County Clerk and bearing the seal of the County, below the following:

“This is to certify that this is the official Zoning Districts Map referred to in the Zoning Ordinance of Kalkaska County, Michigan, certified on February 25, 2014, which replaces and supersedes the Zoning Districts Map of Kalkaska County, Michigan, which was adopted on September 29, 1998.”

- B. Unless the official Zoning Districts Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof which remain, shall be preserved together with all available records pertaining to its adoption or amendment.

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<sup>3</sup> Ordinance #121, Amendment #142 adopted on November 14, 2006

# Kalkaska County Zoning Ordinance

Adopted October 2001

## SECTION 2.04 - UNLISTED PROPERTY USES<sup>4</sup>

- A. When an applicant desires to establish a use in Kalkaska County under the jurisdiction of this Ordinance, the Zoning Administrator makes a determination if the use is listed in the zoning ordinance. If the Zoning Administrator determines a proposed use is not listed in this Ordinance, the applicant may file an application to have the Planning Commission consider such unlisted use as being of similar character and warranting similar regulation as a primary use in the district requested. In making such determination, the Planning Commission shall consider if an unlisted use is sufficiently similar to a primary use when it finds that such unlisted use will be similar in character and impact to the list of primary uses in the district in terms of:
1. The generation of traffic and congestion;
  2. The production of noise;
  3. The production of fumes or odors;
  4. Potential aesthetic impacts on the specific vicinity and/or the district in general;
  5. The character of the specific vicinity and/or the district in general;
  6. The production of dust, trash or other debris; and
  7. The consistency with the intent of the district in which it is located.
- B. If the Planning Commission finds such unlisted use is of a similar character and warranting similar regulation as a primary use in the district requested, the applicant may choose to file an ordinance amendment pertaining to the requested use including draft language and the process outlined in Article Thirty and Section 27.04 pertaining to ordinance amendments shall be followed; provided, that the Planning Commission, at its discretion may waive the requirement that the applicant prepare ordinance language.
- C. In the event the Planning Commission finds such unlisted use is of similar character but warrants special regulation similar to a use subject to a Special Use Permit in the district requested after reviewing the seven (7) standards listed in 2.04.A, the applicant may choose to file an ordinance amendment pertaining to the requested use including draft language and special land use standards, and the process outlined in Article Thirty and Section 27.04 pertaining to ordinance amendments shall be followed; provided, that the Planning Commission, at its discretion may waive the requirement that the applicant prepare ordinance language.
- D. In the event the Planning Commission finds such unlisted use is not of similar character as a primary use or as a use subject to a Special Use Permit for the district requested after reviewing the seven (7) standards listed in 2.04.A, the applicant may choose to file draft language for an ordinance amendment proposing a location for the requested use and special regulations if needed, and the process outlined in Article Thirty and Section 27.04 pertaining to ordinance amendments shall be followed; provided, that the Planning Commission, at its discretion may waive the requirement that the applicant prepare ordinance language.
- E. The planning Commission shall ensure the requirements and intent of this Ordinance and the policies of the Master Plan are maintained and followed.

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<sup>4</sup> Ordinance #143, Amendment #164 adopted on June 29, 2012

# **Kalkaska County Zoning Ordinance**

Adopted October 2001

## **SECTION 2.05 - PROHIBITED PROPERTY USES<sup>5</sup>**

Uses that are not specifically listed in and permitted by this Ordinance or otherwise determined to be similar to listed and permitted uses are hereby determined to be prohibited uses. Uses for enterprises or purposes that are contrary to Federal, State or local laws or ordinances are prohibited.

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<sup>5</sup> Ordinance #144, Amendment #165 adopted on October 10, 2012

# Kalkaska County Zoning Ordinance

Adopted October 2001

## ARTICLE THREE

### RESIDENTIAL (R) DISTRICT <sup>1</sup>

The following provisions shall apply to all Residential (R) Districts:

#### SECTION 3.01 - PURPOSE

- A. It is hereby acknowledged that there are limited areas within the County within which new small residential lots can be established without upsetting the rural character of the County, threatening water quality and without creating unreasonable public service burdens. It is also recognized that small residential lots can serve an important public service by offering sites for affordable housing when adequate public services are available and no unreasonable public health and safety threats would be created thereby. It is therefore the purpose of providing Residential (R) Districts to establish areas for primarily residential use at a rural small town density of one-half acre lots when there is no public sewer, and up to six dwelling units per acre when public sewer is available. Residential Districts are intended to be established and maintained abutting the Village of Kalkaska, in hamlets like Rapid City and South Boardman, and in other areas so identified in the Kalkaska County Master Plan. It is further intended that each single family dwelling hereafter erected is located on an individual lot or premises adequate in size and shape to provide safe water and sewage disposal facilities, to minimize spread of fire, and which are set back from the public thoroughfare to facilitate safe exit from and entrance to the premises.
- B. The requirements of this District are intended to protect and stabilize the basic qualities of each such district as well as provide suitable and safe conditions for family living. Since a limited number of other uses of land, buildings and structures are generally accepted as compatible with residential use, if properly integrated, the inclusion of such uses is provided by Special Use Permit.
- C. Areas designated for Residential (R) use adjacent to the Village of Kalkaska are intended to be developed at an average density of four to six dwelling units per acre in order to facilitate the economic extension of public sewer and water into these areas. Because of the limited amount of land available for higher density residential development on public sewer and water, development at a lower density, and before the extension of public sewer and water into these areas is strongly discouraged. Residential development on a community or packaged sewer system on property near the Village of Kalkaska and prior to the availability of public sewer and water from the Village of Kalkaska is also discouraged unless at least thirty dwelling units are served and there is a written agreement between the developer, the Village, the Township and the County that such private treatment facilities will be immediately discontinued once public water and sewer are available from the Village.

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<sup>1</sup> Ordinance #130, Amendment #151 adopted on October 9, 2007

# Kalkaska County Zoning Ordinance

Adopted October 2001

## SECTION 3.02 - PROPERTY USES

Except as otherwise provided by this Ordinance, the use of all lands and premises, and the erection and use of all buildings and structures in Residential (R) Districts shall hereafter be limited to the following:

### A. Primary Uses (not subject to Special Use Permit)

1. Churches and related buildings and structures customarily incidental thereto, but not including tents or other temporary structures. Lot area shall provide side yard not less than thirty (30) feet on each side.
2. Home occupation and home professional offices are permitted provided there is no external change of the dwelling and the normal accessory buildings. No sign or name plate may be more than eight (8) square feet in size.
3. One-family and two-family dwellings, including mobile homes as provided in Section 21.12.
4. Parks and playgrounds, publicly owned and operated, or owned and maintained by owners of the lots served, such as by a subdivision or condominium association.
5. Recreational accessory spaces within accessory structures.<sup>2</sup>

### B. Uses Subject to Special Use Permit, as provided by Article Twenty-Three or by Planned Unit Development as provided by Article Twenty-Four

The Zoning Board of Appeals shall classify unlisted uses pursuant to Section 2.04. Uses subject to a Special Use Permit or Planned Unit Development approval include but are not limited to the following:

1. Adult foster care facilities, family day-care homes, and group day-care homes for more than six persons, Section 23.10.B.<sup>3</sup>
2. Boarding, tourist homes and bed and breakfast inns, Section 23.10.J.
3. Convalescent or nursing homes, Section 23.10.X.
4. Communication towers, telecommunication towers and facilities and alternative tower structures, Section 23.10.U.<sup>4</sup>
5. Detached accessory dwelling units, Section 23.10.Z.<sup>5</sup>
6. Funeral home and mortuaries, Section 23.10.EE.
7. Libraries (see standards for public facilities), Section 23.10.BBB.
8. Mobile home parks in compliance with Public Act 96 of 1987, the Mobile Home Commission Act. Shall also meet the relevant requirements of Section 23.03, Section 23.10.RR, and Article Twenty-Five.
9. Multi-family development, Section 23.10.RR.
10. Oversized non-farm storage buildings for personal use only<sup>6</sup>, per the requirements of Section 23.10.XX or Section YY.<sup>7</sup>

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<sup>2</sup> Ordinance #119, Amendment #140 adopted on October 10, 2006

<sup>3</sup> Ordinance #139, Amendment #160 adopted on January 27, 2010

<sup>4</sup> Ordinance #138, Amendment #159 adopted on June 9, 2009

<sup>5</sup> Ordinance #119, Amendment #140 adopted on October 10, 2006

<sup>6</sup> Ordinance 149, Amendment #170 adopted on July 13, 2016

<sup>7</sup> Ordinance #140, Amendment #161 adopted on October 12, 2010



# Kalkaska County Zoning Ordinance

Adopted October 2001

11. Planned Unit Developments, including a mixture of dwelling unit types and sizes, including townhouses, apartments and detached one-family dwellings (see Article Twenty-Four).
12. Public utility buildings, and publicly owned buildings, but not garages, shops, or storage yards for these uses (see standards for public facilities), Section 23.10.BBB.
13. Residence-based occupation, Section 23.10.HHH.
14. Schools, primary and secondary, whether or not public, charter, parochial or private, but not including trade schools, Section 23.10.LLL.

C. Accessory Uses, Buildings and Structures

Accessory uses, and minor buildings customarily incidental to any Primary or Special Permit Uses or to a Planned Unit Development are permitted pursuant to the requirements of Section 21.10. Oversized accessory buildings are subject to the Special Use Permit requirements of Sections 23.10.XX or YY.

D. Requirements

Non-farm storage buildings must comply with the requirements of Section 21.10.E, F, or G.

E. Lot Size

Each dwelling together with its accessory buildings hereafter erected, shall be located on a lot or parcel of land not less than 12,000 square feet in size if there is no public sewer, and not less than 7,250 square feet in size if there is public sewer. Each lot shall be at least 65 feet in width at the building line. This Ordinance shall not prevent the use of a lot or parcel of land of lesser size, provided that the lot or parcel was of legal record on the date of the passage of this Ordinance or amendment thereto.

F. Dimensional, Area and Bulk Requirements

The Schedule of Regulations in Article Fifteen provide the minimum requirements for height, bulk, yards, setbacks, and minimum lot size per land use which must be complied with in constructing any structure in this district.

# **Kalkaska County Zoning Ordinance**

Adopted October 2001

## **ARTICLE FOUR**

### **LAKEFRONT-RESIDENTIAL (L-R) DISTRICT**

The following shall apply to all Lakefront-Residential (L-R) Districts:

#### **SECTION 4.01 - PURPOSE**

- A. Lakefront-Residential Districts are intended to promote the proper use, enjoyment, and conservation of the land which abuts the water of a lake within Kalkaska County and to protect the water from pollution, impairment or destruction. The focus of this District is on residential lots which abut the water. This District recognizes that a large number of narrow waterfront lots already exist in the County, and that both groundwater and surface water quality has suffered as a result from poorly functioning septic systems and fertilizer and pesticide runoff. Consequently, while it is the purpose of this District to permit the continued use of lakefront lots that already have a principal residential dwelling located upon them, and to permit a dwelling unit to be erected on a nonconforming lot of record, provided that Public Health Department requirements can be conformed with, it is not the purpose of this Ordinance to permit the creation of any more narrow lots around Kalkaska County lakes, nor to permit the creation of private keyhole or funnel developments which allow large numbers of people to use the lake surface. The minimum width for a lot established abutting a lake within Kalkaska County shall be one-hundred (100) feet for any lot created after the effective date of the amendment creating this provision.
- B. It is further the purpose of this District to discourage the creation of nonresidential uses generally and new intensive land uses particularly along the waterfront of Kalkaska County lakes. To this end, only a limited number of nonresidential uses recognized as desirable and compatible with the primary uses of the District are provided for by Special Permit. It is further declared that this District is intended to be located in harmony with the Resort-Residential District, which permits a mixture of residential and nonresidential waterfront related land uses. New Resort-Residential land uses are encouraged to be located on other than waterfront lots, and/or deeply setback from the waterfront to minimize the impact of the more intensive land uses on the waterfront.
- C. A permanent greenbelt comprised largely of naturally occurring vegetation is strongly encouraged to be established along lakes by various provisions of this Ordinance. Waterfront associations are encouraged to be formed or their activities expanded to help promote and protect the natural character of vegetation around water bodies because of the water quality benefits of keeping land adjacent to the water vegetated with natural plants and not fertilized. Each property owner requesting approval for a Zoning Permit will be informed and encouraged to do their part to institute and maintain a greenbelt along the lakefront.

# Kalkaska County Zoning Ordinance

Adopted October 2001

## SECTION 4.02 - PROPERTY USES

Except as otherwise provided by this Ordinance, the use of all lands and premises, and erection and use of all buildings and structures in Lakefront-Residential (L-R) Districts, shall hereafter be limited to the following:

A. Primary Uses (not subject to Special Use Permit)

1. Home occupation and home professional offices are permitted provided there is no external change of the dwelling and the normal accessory buildings. No sign or name plate may be more than eight (8) square feet in size.
2. One and two-family dwellings,<sup>1</sup> mobile homes, and summer cottages. See Section 21.12.
3. Parks and playgrounds, publicly owned and operated, or owned and maintained by owners of the lots served, such as by a subdivision or condominium association. Any park or playground on a riparian lot serving more than one residence may maintain a dock, provided not more than two (2) watercraft are moored there at any time and that no other watercraft are launched from there.
4. Recreational accessory spaces within accessory structures.<sup>2</sup>
5. A waterfront lot serving other than a Planned Unit Development may not be used to moor or launch watercraft other than those owned or under the control of the owner of the lot. No non-riparian owner or back-lot owner may gain access to the waterfront via a lot established or used for a one-family dwelling, unless a deed restriction or easement established before the effective date of the amendment creating this Section permitted such an arrangement.

B. Uses Subject to Special Use Permit, as provided by Article Twenty-Three or by Planned Unit Development as provided by Article Twenty-Four

The Zoning Board of Appeals shall classify unlisted uses pursuant to Section 2.04. Uses subject to a Special Use Permit or Planned Unit Development approval include but are not limited to the following:

1. Additional dwellings on one (1) parcel, Section 23.10.A.<sup>3</sup>
2. Adult foster care facilities, family day-care homes, and group day care homes for more than six persons, Section 23.10.B.<sup>4</sup>
3. Boarding, tourist homes and bed and breakfast inns, Section 23.10.J.
4. Campground and R-V parks (see standards for outdoor commercial recreation facilities, Section 23.10.S).
5. Churches and religious institutions, and related buildings and structures customarily incidental thereto. Lot area shall provide side yards not less than thirty (30) feet on each side, Section 23.10.O.

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<sup>1</sup> Ordinance #114, Amendment #135 adopted on November 12, 2002

<sup>2</sup> Ordinance #119, Amendment #140 adopted on October 10, 2006

<sup>3</sup> Ordinance #120, Amendment #141 adopted on November 14, 2006

<sup>4</sup> Ordinance #139, Amendment #160 adopted on January 27, 2010

# Kalkaska County Zoning Ordinance

Adopted October 2001

6. Communication towers, telecommunication towers and facilities and alternative tower structures, Section 23.10.U.<sup>5</sup>
7. Detached accessory dwelling units, Section 23.10.Z.<sup>6</sup>
8. Golf courses with a club house or country club, Section 23.10.GG.
9. Motels and rental cabins, Section 23.10.QQ.
10. Multi-family developments, Section 23.10.RR.
11. Oversized non-farm storage buildings for personal use only<sup>7</sup>, per the requirements of Section 23.10.XX or Section 23.10.YY.
12. Planned Unit Developments, including a mixture of dwelling unit types and sizes, including townhouses, apartments and detached one-family dwellings (see Article Twenty-Four).
13. Residence-based occupation - occupation performed on premises and operated only by owner as provided under Section 23.10.HHH.
14. Residence-based occupation - occupation performed at a location away from that site as provided under Section 23.10.HHH.
15. Watercraft launching per the requirements of Section 23.10.UUU.

## C. Accessory Uses, Buildings and Structures

Accessory uses and minor buildings and structures customarily incidental to any Primary or Special Use or Planned Unit Development, are permitted pursuant to the requirements of Section 21.10. Oversized accessory buildings (greater than 1200 square feet)<sup>8</sup> are subject to the Special Use Permit requirements of Section 23.10.XX or Section 23.10.YY.

## D. Requirements

Non-farm storage buildings must comply with the requirements in Section 21.10.E, F, or G.

## E. Lot size<sup>9</sup>

1. Each dwelling unit erected on a lot created after the date of the amendment establishing this section, together with its accessory buildings shall be located on a lot or parcel of land not less than twenty-thousand (20,000) square feet in size, and at least one hundred (100) feet in width at the building line.

## F. Dimensional, Area and Bulk Requirements

The Schedule of Regulations in Article Fifteen, provides the minimum requirements for height, bulk, yards, setbacks, and minimum lot size per land use which must be complied with in constructing any structure in this district. See Article Sixteen with other waterfront related regulations.

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<sup>5</sup> Ordinance #138, Amendment #159 adopted on June 9, 2009

<sup>6</sup> Ordinance #119, Amendment #140 adopted on October 10, 2006

<sup>7</sup> Ordinance #149, Amendment #170 adopted on July 13, 2016

<sup>8</sup> Ordinance #134, Amendment #155 adopted on August 12, 2008

<sup>9</sup> Ordinance #130, Amendment #151 adopted on October 9, 2007

# Kalkaska County Zoning Ordinance

Adopted October 2001

## G. Keyhole or Funnel Development

Keyhole or funnel development is prohibited unless an application for a Planned Unit Development receives approval according to the requirements of this Ordinance. Approval shall not be given if use of the waterfront lot or waterfront access point is likely to be greater than that of other lots around the lake. This means not more than a single dock may be erected per the minimum lot width of the frontage on the lake, and not more boats moored than the average of other docks on the lake. See also the regulations in Section 23.10.UUU.

## H. Areas Zoned Lakefront-Residential (L-R) District

1. As of the effective date of the amendment adding this District to the Kalkaska County Zoning Ordinance and until the Zoning Map is amended otherwise, all of the following land which lies within a Township subject to County zoning is included in the Lakefront-Residential (L-R) District:
  - a. all land contiguous to a lake or pond that is greater than two (2) acres in size to a depth of five-hundred (500) feet from the water's edge, and
  - b. that is zoned Forest-Recreational (F-R) or Agricultural-Residential (A-R),
  - c. unless the lot or parcel contiguous to the lake or pond is less than five-hundred (500) feet in depth, in which case the District shall only extend to the depth of such lot and not to five-hundred (500) feet.
  
2. As of the effective date of the amendment adding this District to the Kalkaska County Zoning Ordinance and until the Zoning Map is amended otherwise, all of the following land which lies within a Township subject to County zoning is included in the Lakefront-Residential (L-R) District:
  - a. all land contiguous to a lake or pond that is greater than two (2) acres in size to a depth of five-hundred (500) feet from the water's edge, and
  - b. all land that is zoned Resort-Residential (R-R) and not used for a commercial use or a use for which a Special Use Permit has been granted,
  - c. unless the lot or parcel contiguous to the lake or pond is less than five-hundred (500) feet in depth, in which case the District shall only extend to the depth of such lot and not to five-hundred (500) feet.

**Kalkaska County Zoning Ordinance**

Adopted October 2001

**ARTICLE FIVE**

**RESERVED FOR FUTURE USE <sup>1</sup>**

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<sup>1</sup> Ordinance #117, Amendment #138 adopted on August 15, 2006

# Kalkaska County Zoning Ordinance

Adopted October 2001

## ARTICLE SIX

### RESORT-RESIDENTIAL (R-R) DISTRICT

The following shall apply to all Resort-Residential (R-R) Districts:

#### SECTION 6.01 - PURPOSE

Resort-Residential (R-R) Districts are intended to promote the proper use, enjoyment, and conservation of land and associated resources of the County deemed peculiarly adapted to and historically used for a relatively “intense” mix of recreational and residential property uses. They generally abut Lakefront-Residential (L-R) Districts. They were often initially created as platted lots or multiple metes and bounds lots for erection of cottages intended for intermittent or seasonal use. Many of these lots now contain homes adapted and used for year around occupancy. Nonresidential uses in this District serve residences in the Resort-Residential (R-R) District as well as in abutting waterfront, forest and agricultural districts. This mixture of limited nonresidential and residential uses is characteristic of Resort-Residential (R-R) Districts and is desired to be maintained as long as new nonresidential uses are compatible with the predominant residential uses in the District. This will be accomplished by the application of Special Use Permit procedures to the creation or expansion of nonresidential uses in this District.

#### SECTION 6.02 - PROPERTY USES

Except as otherwise provided by this Ordinance, the use of all lands and premises and erection and use of all buildings and structures in Resort-Residential (R-R) Districts shall hereafter be limited to the following:

A. Primary Uses (not subject to Special Use Permit)

1. Antique shops, and art galleries.
2. Biofuel production facilities, see Article Twenty-Six.<sup>1</sup>
3. Churches and related buildings and structures customarily incidental thereto. Lot area shall provide side yards not less than thirty (30) feet on each side.
4. Farm animals<sup>2</sup> in numbers and enclosures that meet minimum standards for animal health and safety, and which pose no unreasonable nuisance to residents of abutting property and which are not in violation of the County Animal Control Ordinance or the Right-to-Farm Act, Public Act 93 of 1981, as amended.
5. Home occupation and home professional offices are permitted provided there is no external change of the dwelling and the normal accessory buildings. No sign or name plate may be more than eight (8) square feet in size.
6. One and two-family dwellings, mobile homes, and summer cottages. See Section 21.12.

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<sup>1</sup> Ordinance #149, Amendment #170 adopted on July 13, 2016

<sup>2</sup> Ordinance #114, Amendment #135 adopted on November 12, 2002

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7. Parks and playgrounds, publicly owned and operated, or owned and maintained by owners of the lots served, such as by a subdivision or condominium association.
8. Recreational accessory spaces within accessory structures.<sup>3</sup>

B. Uses Subject to Special Use Permit, as provided by Article Twenty-Three or by Planned Unit Development as provided by Article Twenty-Four

The Zoning Board of Appeals shall classify unlisted uses pursuant to Section 2.04. Uses subject to a Special Use Permit or Planned Unit Development approval include but are not limited to the following:

1. Additional dwellings on one (1) parcel, Section 23.10.A.<sup>4</sup>
2. Adult foster care facilities, family day-care homes, and group day-care homes for more than six persons, Section 23.10.B.<sup>5</sup>
3. Airfields and landing strips, Section 23.10.D.
4. Amusement center, Section 23.10.F.
5. Automobile service and repair station, Section 23.10.H.
6. Biofuel production facilities, see Article Twenty-Six.<sup>6</sup>
7. Boarding, tourist homes and bed and breakfast inns, Section 23.10.J.
8. Boat storage and repair, Section 23.10.L.
9. Campgrounds and RV parks (see standards for outdoor commercial recreation facilities), Section 23.10.S.
10. Cemeteries, crematories and/or mausoleums, Section 23.10.N.
11. Civic, social and fraternal buildings, non-profit (see private recreation facilities, Section 23.10.AAA).
12. Commercial kennels, Section 23.10.Q.
13. Convalescent or nursing homes, Section 23.10.X.
14. Convenience and party stores, Section 23.10.Y.
15. Communication towers, telecommunication towers and facilities and alternative tower structures, Section 23.10.U.<sup>7</sup>
16. Detached accessory dwelling units, Section 23.10.Z.<sup>8</sup>
17. Drive-in and drive-through establishments, Section 23.10.AA.
18. Equine boarding stables, equine training facility, and equine breeding facility (see standards for commercial equine establishments, Section 23.10.P).
19. Equine riding academies and time rental riding facility (see standards for commercial equine establishments, Section 23.10.P).
20. Golf courses, and country clubs, Section 23.10.GG.
21. Greenhouse/nurseries, landscaping and associated maintenance services, Section 23.10.HH.<sup>9</sup>
22. Indoor recreational facilities, Section 23.10.R.
23. Marinas, Section 23.10.NN.
24. Mini-warehouses and rental storage buildings, Section 23.10.OO.

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<sup>3</sup> Ordinance #119, Amendment #140 adopted on October 10, 2006

<sup>4</sup> Ordinance #120, Amendment #141 adopted on November 14, 2006

<sup>5</sup> Ordinance #139, Amendment #160 adopted on January 27, 2010

<sup>6</sup> Ordinance #149, Amendment #170 adopted on July 13, 2016

<sup>7</sup> Ordinance #138, Amendment #159 adopted on June 9, 2009

<sup>8</sup> Ordinance #119, Amendment #140 adopted on October 10, 2006

<sup>9</sup> Ordinance #139, Amendment #160 adopted on January 27, 2010



# Kalkaska County Zoning Ordinance

Adopted October 2001

25. Mobile home parks provided they meet all state requirements, and especially those of the Mobile Home Commission under Public Act 96 of 1987, as well as the standards of Section 23.03, 23.10 RR and those of Article Twenty-five.
26. Motels and rental cabins, Section 23.10.QQ.
27. Multi-family developments, Section 23.10.RR.
28. Outdoor commercial recreation facilities, Section 23.10.S.
29. Oversized non-farm storage buildings for personal use only<sup>10</sup>, per the requirements of Sections 23.10.XX or YY.
30. Planned Unit Developments, including a mixture of dwelling unit types and sizes, including townhouses, apartments and detached one-family dwellings (see Article Twenty-four).
31. Public utility buildings and publicly owned buildings, but not garages, shops, or storage yards for these uses (see standards for public facilities), Section 23.10.BBB.
32. Rental stores and shops, Section 23.10.GGG.
33. Residence-based occupation - occupation performed at a location away from that site as provided under Section 23.10.HHH.
34. Residence-based occupation - occupation performed on premises and operated only by owner as provided under Section 23.10.HHH.
35. Restaurants, Section 23.10.III.
36. Tavern, bar, beer garden and nightclubs (see standards for restaurants), Section 23.10.III.

## C. Accessory Uses, Buildings and Structures

Accessory uses and minor buildings and structures customarily incidental to any Primary or Special Use or Planned Unit Development, are permitted pursuant to the requirements of Section 21.10. Oversized accessory buildings (greater than 1200 square feet)<sup>11</sup> are subject to the Special Use Permit requirements of Section 23.10.XX or Section 23.10.YY.

## D. Requirements

Non-farm storage buildings must comply with the requirements in Section 21.10.E, F, or G.

## E. Lot size<sup>12 and 13</sup>

Each dwelling unit together with its accessory buildings erected on a lot created after the effective date of this Ordinance shall be located on a lot or parcel of land not less than 15,000 square feet in size and at least 100 feet in width at the building line.

## F. Dimensional, Area and Bulk Requirements

The Schedule of Regulations in Article Fifteen provides the minimum requirements for height, bulk, yard setbacks, and minimum lot size per land use which must be complied with in constructing any structure in this district.

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<sup>10</sup> Ordinance #149, Amendment #170 adopted on July 13, 2016

<sup>11</sup> Ordinance #134, Amendment #155 adopted on August 12, 2008

<sup>12</sup> Ordinance #113, Amendment #134 adopted on September 11, 2002

<sup>13</sup> Ordinance #130, Amendment #151 adopted on October 9, 2007

**Kalkaska County Zoning Ordinance**  
Adopted October 2001

**Kalkaska County Zoning Ordinance**  
Adopted October 2001

**ARTICLE SEVEN**

**RESERVED FOR FUTURE USE**

# Kalkaska County Zoning Ordinance

Adopted October 2001

## ARTICLE EIGHT

### AGRICULTURAL-RESIDENTIAL (A-R) DISTRICT

The following provisions shall apply to all Agricultural-Residential (A-R) Districts:

#### SECTION 8.01 - PURPOSE

- A. The predominant land uses in this District are rural: farms with interspersed woodlots and scattered nonfarm residences. State forests surround the district in many places. It is the purpose of the provisions of the Ordinance to conserve this rural character in a general way. Farms and legitimate agricultural uses are the principal permitted uses of the district. These are intended to be permitted as long as agriculture is a viable economic use in the opinion of the owner. As such, agricultural acreage is encouraged to be maintained in parcels at least forty acres in size. On lands no longer economically viable for agricultural use in the opinion of the owner, residential development is permitted on lots at least one (1) acre in size.
- B. A limited number of other uses consistent with existing uses in this District, are permitted by Special Use Permit, provided they conform with Ordinance standards and are in keeping with the rural character of the area. It is not intended that any land be rezoned out of Agricultural-Residential to a commercial or industrial district classification except where consistent with the County Master Plan.

#### SECTION 8.02 - PROPERTY USES

Except as otherwise provided by this Ordinance, the use of all lands and premises, and the erection and use of all buildings and structures in the Agricultural-Residential (A-R) Districts shall hereafter be limited to the following:

- A. Primary Uses (not subject to Special Use Permit)
  - 1. Antique shops and art galleries.
  - 2. Biofuel production facilities, see Article Twenty-Six.<sup>1</sup>
  - 3. Churches and related buildings customarily incidental thereto. Lot area shall provide not less than thirty (30) feet on each side yard.
  - 4. Commercial kennel on parcels with 10 acres or more.
  - 5. Crop and livestock farming including truck gardens, tree farms, greenhouses, nurseries, and other specialty crops.
  - 6. Equine boarding stables, equine training facility, equine breeding facility (see standards in Section 21.28).
  - 7. Farm animals<sup>2</sup> in numbers and enclosures that meet minimum standards for animal health and safety, and which pose no unreasonable nuisance to residents of abutting property and

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<sup>1</sup> Ordinance #149, Amendment #170 adopted on July 13, 2016

<sup>2</sup> Ordinance #114, Amendment #135 adopted on November 12, 2005

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which are not in violation of the County Animal Control Ordinance or the Right-to-Farm Act, Public Act 93 of 1981, as amended.<sup>3</sup>

7. Fish rearing ponds.
8. Florist shops, herb farms, and garden supply stores if located on property where flowers, herbs, or vegetables are commercially grown.
9. Forest reserves and forest management.
10. Greenhouses/nurseries, landscaping and associated maintenance services.<sup>4</sup>
11. Home occupation and home professional offices are permitted provided that there is no external change of the dwelling and the normal accessory buildings. No sign or name plate may be more than eight (8) square feet in size.
12. One and two-family dwellings, including mobile homes as provided in Section 21.12.
13. Parks and playgrounds, privately owned and operated, such as by a subdivision or condominium association.
14. Processing of products produced on the farm premises, including a roadside stand for the sale thereof, provided there is safe ingress and egress off the public road, adequate parking, and a setback for the stand at least equal to that of a principal structure in the District.
15. Publicly owned and operated buildings, parks and playgrounds and recreational lands.
16. Recreational accessory spaces within accessory structures.<sup>5</sup>
17. Wildlife preserves.

## B. Uses Subject to Special Use Permit, as provided by Article Twenty-Three

The Zoning Board of Appeals shall classify unlisted uses pursuant to Section 2.04. Uses subject to a Special Use Permit include but are not limited to the following:

1. Additional dwellings on one (1) parcel, Section 23.10.A.<sup>6</sup>
2. Adult foster care facilities, family day-care homes, and group day-care homes for more than six persons, Section 23.10.B.<sup>7</sup>
3. Agricultural supplies and service center, Section 23.10.C.
4. Air fields and landing strips, Section 23.10.D.
5. Animal sales yards/stockyards, Section 23.10.C.
6. Biofuel production facilities, see Article Twenty-Six.<sup>8</sup>
7. Boarding, tourist homes, and bed and breakfast inns, Section 23.10.J.
8. Campground and R-V parks (see standards for outdoor recreation facilities), Section 23.10.S.
9. Cemeteries, including mortuaries, columbarium and crematories, Section 23.10.N.
10. Civic buildings, libraries, museums and Township halls (see standards for public facilities), Section 23.10.BBB.
11. Commercial kennels on parcels with less than ten (10) acres, Section 23.10.Q<sup>9</sup>
12. Communication towers, telecommunication towers and facilities and alternative tower structures, Section 23.10.U.<sup>10</sup>
13. Convenience and party stores, Section 23.10.Y.

<sup>3</sup> Ordinance #120, Amendment #141 adopted on November 14, 2006

<sup>4</sup> Ordinance #139, Amendment #160 adopted on January 27, 2010

<sup>5</sup> Ordinance #119, Amendment #140 adopted on October 10, 2006

<sup>6</sup> Ordinance #120, Amendment #141 adopted on November 14, 2006

<sup>7</sup> Ordinance #139, Amendment #160 adopted on January 27, 2010

<sup>8</sup> Ordinance #149, Amendment #170 adopted on July 13, 2016

<sup>9</sup> Ordinance, 143, Amendment #164 adopted on June 29, 2012

<sup>10</sup> Ordinance #138, Amendment #159 adopted on June 9, 2009

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14. Detached accessory dwelling units, Section 23.10.Z.<sup>11</sup>
15. Equine riding academies and time rental riding facility (see standards for commercial equine establishments), Section 23.10.P.
16. Flea markets (see standards for outdoor commercial recreation), Section 23.10.S.
17. Golf courses and country clubs, Section 23.10.GG.
18. Golf driving range (see outdoor commercial recreation facilities), Section 23.10.S.
19. Mines, quarries, (see standards for surface mining), Section 23.10.OOO.
20. Natural gas compressor facilities, Section 23.10.TT.
21. Planned unit developments per the requirements of Article 24.
22. Outdoor commercial recreation facilities, Section 23.10.S.
23. Oversized non-farm storage buildings for personal use only<sup>12</sup> on residential lots, per the requirements of Sections 23.10.XX or YY.
24. Public utility buildings, including storage and service yards (see standards for public facilities), Section 23.10.BBB.
25. Rental cabins, Section 23.10.QQ.
26. Residence-based occupation - occupation performed at a location away from that site as provided under Special Use Permits, Section 23.10.HHH.
27. Residence-based occupation - occupation performed on the premises and operated only by the owner as provided under Section 23.10.HHH.
28. Restaurants, Section 23.10. III.
29. Sanitary landfills, Section 23.10.KKK.
30. Slaughter houses, Section 23.10.C.<sup>13</sup>
31. Schools, primary and secondary, whether or not public, charter, parochial or private, but not including trade schools, Section 23.10.LLL.
32. Surface mining, including sand and gravel, Section 23.10.OOO.
33. Trucking companies, Section 23.10.HHH.<sup>14</sup>
34. Veterinary clinic, veterinary hospitals and kennels associated with a veterinary facility on parcels less than 10 acres in size, Section 23.10.SSS.
35. Wild game shooting preserves, Section 23.10.VVV.

## C. Accessory Uses, Buildings and Structures

Accessory uses and minor buildings and structures customarily incidental to any Primary or Special Uses, are permitted pursuant to the requirements of Section 21.10. Oversized accessory buildings for residential use and not associated with a farm are subject to the Special Use Permit requirements of Sections 23.10.XX or YY.

## D. Requirements

Non-farm storage buildings must comply with the requirements in Section 21.10.E, F, or G.

## E. Lot Size

1. Each dwelling together with its accessory buildings hereafter erected shall be located on a lot or parcel of land not less than one (1) acre in size and at least 150 feet in width at the building line. But this shall not prevent the use of a lot or parcel of land of lesser size,

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<sup>11</sup> Ordinance #119, Amendment #140 adopted on October 10, 2006

<sup>12</sup> Ordinance #149, Amendment #170 adopted on July 13, 2016

<sup>13</sup> Ordinance #138, Amendment #159 adopted on June 9, 2009

<sup>14</sup> Ordinance #134, Amendment #155 adopted on August 12, 2008

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provided that same was of legal record on the effective date of this Ordinance or an amendment thereto.

2. Lots not smaller than one-half (1/2) acre in size nor more than one and one-half (1 1/2) acres in size may be permitted as part of a cluster residential development pursuant to the requirements of Section 23.10.WW. Smaller lots are permitted in planned unit developments per the requirements of Article 24. Land restricted to permanent open space shall be so protected by a deed restriction recorded with the County Register of Deeds.

### F. Dimensional, Area and Bulk Requirements

The Schedule of Regulations in Article Fifteen provides the minimum requirements for height, bulk, yard setbacks, and minimum lot size per land use which must be complied with in constructing any structure in this district.

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## ARTICLE NINE

### FOREST-RECREATIONAL (F-R) DISTRICT

The following shall apply to all Forest-Recreational (F-R) Districts:

#### SECTION 9.01 - PURPOSE

- A. Forest-Recreational (F-R) Districts are intended to promote the use, enjoyment and conservation of the forest, water, topographic, geologic, historic, and other resources of the County peculiarly adapted to forestry, forest industries, and woodland based outdoor recreational uses in general. New parcels may be established for single family residential purposes on not less than one (1) acre, except in an approved planned unit development pursuant to Article 24.
- B. Various uses are provided for by Special Use Permit where consistent with the standards of this Ordinance and in keeping with the rural character of the area. It is not intended that any land would be rezoned out of Forest-Recreational (F-R) to a commercial or industrial district classification except where consistent with the County Master Plan.

#### SECTION 9.02 - PROPERTY USES

Except as otherwise provided in this Ordinance, the use of all lands and premises, and the erection and use of all buildings and structures in Forest-Recreational (F-R) Districts shall hereafter be limited to the following:

- A. Primary Uses (not subject to Special Use Permit)
  - 1. Archery and shooting ranges for individual personal use.
  - 2. Biofuel production facilities, see Article Twenty-Six.<sup>1</sup>
  - 3. Churches and related buildings and structures customarily incidental thereto. Lot area shall provide side yards not less than thirty (30) feet on each side.
  - 4. Equine boarding stables, equine training facility, equine breeding facility (see standards in Section 21.28).
  - 5. Farm animals<sup>2</sup> in numbers and enclosures that meet minimum standards for animal health and safety, and which pose no unreasonable nuisance to residents of abutting property and which are not in violation of the County Animal Control Ordinance or the Right-to-Farm Act, Public Act 93 of 1981, as amended.<sup>3</sup>
  - 6. Fish rearing ponds.
  - 7. Forest reserves, forest management, and production of forest crops.

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<sup>1</sup> Ordinance #149, Amendment #170 adopted on July 13, 2016

<sup>2</sup> Ordinance #114, Amendment #135 adopted on November 12, 2002

<sup>3</sup> Ordinance #120, Amendment #141 adopted on November 14, 2006



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8. Greenhouse/nurseries, landscaping and associated maintenance services.<sup>4</sup>
9. Harvesting of any native or wild crop permitted by law.
10. Home occupations are permitted provided there are no external changes of the dwelling and the normal accessory buildings. No sign or name plate may be more than eight (8) square feet in size.
11. Hunting and fishing cabins.
12. One and two-family dwellings<sup>5</sup> and mobile homes as provided in Section 21.12.
13. Private parks and playgrounds owned and maintained by owners of the lots served, such as by a subdivision or condominium association.
14. Publicly owned buildings.
15. Publicly owned parks and playgrounds, and recreation lands.
16. Recreational accessory spaces within accessory structures.<sup>6</sup>
17. Roadside stand selling produce<sup>7</sup> provided there is safe ingress and egress off the public road, adequate parking, and a setback for the stand at least equal to that of a principal structure in the District
18. Tree farms.
19. Wildlife preserve.

## B. Uses Subject to Special Use Permit, as provided by Article Twenty-Three

The Zoning Board of Appeals shall classify unlisted uses pursuant to Section 2.04. Uses subject to a Special Use Permit include but are not limited to the following:

1. Additional dwellings on one (1) parcel, Section 23.10.A.<sup>8</sup>
2. Adult foster care facilities, family day-care homes, and group day-care homes for more than six persons, Section 23.10.B.<sup>9</sup>
3. Airfield and landing strips, Section 23.10.D.
4. Biofuel production facilities, see Article Twenty-Six.<sup>10</sup>
5. Boarding, tourist home and bed and breakfast inns, Section 23.10.J.
6. Campgrounds, R.V. parks and seasonal mobile home parks (see standards for outdoor commercial recreation facilities), Section 23.10.S.
7. Civic buildings, library, and Township Hall (see standards for public facilities), Section 23.10.BBB.
8. Commercial kennels, Section 23.10.Q.
9. Communication towers, telecommunication towers and facilities and alternative tower structures, Section 23.10.U.
10. Convalescent or nursing homes, Section 23.10.X.<sup>11</sup>
11. Convenience and party stores, Section 23.10.Y.
12. Detached accessory dwelling units, Section 23.10.Z.<sup>12</sup>
13. Drive-in and drive-through food and drink services, Section 23.10.AA.

<sup>4</sup> Ordinance #139, Amendment #160 adopted on January 27, 2010

<sup>5</sup> Ordinance #114, Amendment #135 adopted on November 12, 2002

<sup>6</sup> Ordinance #119, Amendment #140 adopted on October 10, 2006

<sup>7</sup> Ordinance #114, Amendment #135 adopted on November 12, 2002

<sup>8</sup> Ordinance #120, Amendment #141 adopted on November 14, 2006

<sup>9</sup> Ordinance #139, Amendment #160 adopted on January 27, 2010

<sup>10</sup> Ordinance #149, Amendment #170 adopted on July 13, 2016

<sup>11</sup> Ordinance #138, Amendment #159 adopted on June 9, 2009

<sup>12</sup> Ordinance #119, Amendment #140 adopted on October 10, 2006

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14. Equine riding academies and time rental riding facility (see standards for commercial equine establishments), Section 23.10.P.
15. Farm buildings exceeding 2,000 square feet in size (See Section 23.10.YY.)
16. Flea markets, Section 23.10.S.
17. Florist shops, herb farms, and garden supply stores if located on property where flowers, herbs, or vegetables are commercially grown (see standards for greenhouses and nurseries), Section 23.10.HH.
18. Golf courses and country clubs, Section 23.10.GG.
19. Golf driving ranges (see standards for outdoor commercial recreation facilities), Section 23.10.S.
20. Library, Section 23.10.BBB.
21. Mines, and quarries (see standards for surface mining), Section 23.10.OOO.
22. Mini-warehouse and rental storage buildings with the following conditions included in the rental contracts and posted on the premises: Excluding storage of flammable liquids or gases, explosives and toxic materials, Section 23.10.OO.
23. Motels, Section 23.10.QQ.
24. Museum, Section 23.10.BBB.
25. Natural gas compressor facilities, Section 23.10.TT.
26. Planned unit developments per the requirements of Article 24.
23. Outdoor and sportsman clubs. (See Section 23.10.S regarding outdoor commercial recreation and Section 23.10.VVV regarding wild game shooting, game and hunting preserves. The relevant provisions of each Section shall be applied to the siting of outdoor and sportsman clubs.)
24. Outdoor commercial recreation, Section 23.10.S.
25. Oversized non-farm storage buildings associated with a residential use for personal use only<sup>13</sup>, per the requirements of Sections 23.10.XX or YY.
26. Public utility buildings, including storage and service yards (see public facilities), Section 23.10.BBB.
27. Rental cabins, Section 23.10.QQ.
28. Rental stores and shops, Section 23.10.GGG.
29. Residence-based occupation - occupation performed at a location away from that site as provided under Article Twenty-Three, Section 23.10.HHH.
30. Residence-based occupation - occupation performed on premises and operated only by the owner as provided under Article Twenty-Three, Section 23.10.HHH.
31. Restaurants (eat inside), Section 23.10.III.
32. Sanitary landfills, Section 23.10.KKK.
33. Surface mining, including sand, gravel and top soil, Section 23.10.OOO.
34. Trucking companies, Section 23.10.HHH.<sup>14</sup>
35. Veterinary hospital, veterinary clinic and related kennel facilities, Section 23.10.SSS.
36. Wild game shooting preserve. (Commercial pay to shoot), Section 23.10.VVV.

## C. Accessory Uses, Buildings and Structures

Accessory uses, and minor buildings and structures customarily incidental to any Primary or Special Permit Use, are permitted pursuant to the requirements of Section 21.10. Oversized accessory buildings are subject to the Special Use Permit requirements of Sections 23.10.XX or YY.

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<sup>13</sup> Ordinance #149, Amendment #170 adopted on July 13, 2016

<sup>14</sup> Ordinance #134, Amendment #155 adopted on August 12, 2008

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## D. Requirements

Non-farm storage buildings must comply with the requirements in Section 21.10.E, F, or G.

## E. Lot Size

Each dwelling together with its accessory buildings hereafter erected shall be located on a lot or parcel of land not less than one (1) acre in size and at least 150 feet in width at the building line, but this shall not prevent the use of a lot or parcel of land of lesser size, provided that same was of legal record on the effective date of this Ordinance.

1. Except lots for a single family dwelling not smaller than one-half (1/2) acre in size nor more than two and one-half (2 1/2) acres in size may be permitted as part of a cluster residential development pursuant to the requirements of Section 23.10.WW. Smaller lots are permitted in planned unit developments per the requirements of Article 24. Land restricted to permanent open space shall be so protected by a deed restriction recorded with the County Register of Deeds.

## F. Dimensional, Area and Bulk Requirements

The Schedule of Regulations in Article Fifteen provides the minimum requirements for height, bulk, yard setbacks, and minimum lot size per land use which must be complied with in constructing any structure in that district.

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## ARTICLE TEN

### COMMERCIAL (C-1) DISTRICT

The following provisions shall apply to all Commercial (C-1) Districts:

#### SECTION 10.01 - PURPOSE

- A. The purpose of establishing Commercial (C-1) Districts is to provide areas primarily dedicated to a variety of establishments, including retail, personal, professional and other services commonly associated with commercial, office, and business centers. It is further the purpose of this zone to limit residential dwellings, except where associated with a business (as in a second floor dwelling), where dwellings would not disrupt the intended business character of the area, or where in a mobile home park (which had been located in commercial areas of the County before the County initiated zoning).<sup>1</sup>
- B. Certain uses are permitted by Special Use Permit where compatible with existing uses of land within and adjacent to the district. It is further the intent of this district to discourage the creation of strip or spot Commercial (C-1) Districts throughout the County. To that end, no land is intended to be zoned into a Commercial (C-1) District unless the land is proposed to be so used in the County Master Plan. Public services must be adequate to service the proposed commercial property or such a rezoning is premature. To minimize hazards created by too many commercial driveways along public roads, and facilitate the safe flow of traffic and safe turning movements both in and out of commercial establishments, various access controls are required. Compliance with standards for landscaping, buffering and/or fencing are necessary to ensure compatibility between uses within this zone and with uses in adjacent districts. These requirements are most restrictive when commercial development is adjacent to residential development. All proposed uses within the Commercial District (C-1) must go through Site Plan Review as provided in Article Twenty-Five.

#### SECTION 10.02 - REVIEW PROCEDURES

A. Required Information

Before a Zoning Permit for a use within this district shall be issued, the owners or lessees shall submit the following material to the County Planning Commission for review and approval.

1. A SITE PLAN of the property showing the location of all present and proposed buildings, drives, parking areas, parking spaces, waste disposal fields, screening, fences or walls, and other construction features which may be proposed. See Article Twenty-Five.
2. A DESCRIPTION OF THE OPERATIONS proposed in sufficient detail to indicate the effects of those operations in producing traffic congestion, noise, glare, air pollution,

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<sup>1</sup> Ordinance #139, Amendment #160 adopted on January 27, 2010

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water pollution, fire or safety hazards, or the emission of any potentially harmful or obnoxious matter or radiation.

## B. General Standards

The County Planning Commission shall review the particular circumstances of the proposed commercial use under consideration in terms of the following standards, and shall approve the request only upon a finding of compliance with each of the following standards, as well as applicable standards established elsewhere in this Ordinance:

1. The use shall not be hazardous to adjacent property or involve uses, activities, materials or equipment which will be detrimental to the health, safety, or welfare of persons or property through the excessive production of traffic noise, smoke, odor, fumes or glare.
2. Side and/or rear boundaries abutting a residence or residential property shall be provided with screening from adjacent premises, which screening shall consist of either a solid uniformly finished and maintained wall or fence of durable material, as established by Section 18.05, or by a well maintained dense evergreen planting, which screening shall be not less than six (6) feet in height. These standards may be superseded by the Planning Commission if another design meeting the requirements of Article Eighteen more adequately protects adjacent premises.
3. Commercial structures are not permitted within 400 feet of the designated portions of the Boardman River as per Part 305 of the Natural Resources and Environmental Protection Act of 1994, P.A. 451 of 1994, as amended (formerly, the Natural Rivers Act).

## **SECTION 10.03 - PROPERTY USES**

Except as otherwise provided by this Ordinance, the use of all lands and premises, and the erection and use of all buildings and structures in Commercial (C-1) Districts shall hereafter be limited to one or more of the following:

### A. Primary Uses

1. Administrative offices.
2. Amusement center.
3. Art galleries and antique shops.
4. Auditoriums.
5. Automobile sales, rentals, and repairs.
6. Automotive/boat restoration for profit.
7. Bakeries.
8. Banks, business and professional offices.
9. Boat sales, repairs and rentals.
10. Building material sales and storage.
11. Bus terminal.
12. Business offices.
13. Carpentry, plumbing, upholstery, sign painting, interior decorating, baking, jewelry and curio making, photography, and similar establishments when conducted within a completely enclosed building without outside storage and operated as a retail business.
14. Christmas tree sales.

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15. Churches and related religious buildings and facilities customarily incidental thereto.
16. Civic, social, and fraternal buildings not operated for profit.
17. Clinics, hospitals, including health services such as baths and massage and other therapies.
18. Contractor's motorized equipment sales, rental and service.
19. Convenience store, party store and grocery store.
20. Farm supply sales and service.
21. Film and photography lab.
22. Fire, security and allied facilities.
23. Florist shops, nurseries, garden supply stores, greenhouses, and landscaping and associated maintenance services.<sup>2</sup>
24. Fruit and vegetable stands.
25. Gasoline service automobile service and repair stations.
26. Graphics and art equipment.
27. Hardware supplies.
28. Indoor commercial shooting range (only if within a fully enclosed building).
29. Indoor private recreation facilities including bowling alleys, swimming pools, miniature golf, skating rink, etc.
30. Libraries.
31. Lodging, boarding, tourist homes and bed and breakfasts inns.
32. Machine shops.
33. Mobile home sales and service.
34. Mortuaries and funeral homes.
35. Motels.
36. Museums.
37. Personal service shops such as: beauty parlors, barber shops, dress making, tailoring and shoe repair shops.
38. Printing, publishing, photostating, lithographing and blueprinting.
39. Public assembly halls.
40. Publicly owned grounds and buildings.
41. Publicly owned parks and playgrounds.
42. Radio and TV shops and studios.
43. Real estate offices.
44. Rental storage building with the following conditions included in the rental contracts and posted on the premises: Excluding storage of flammable liquids or gases, explosives or toxic materials.
45. Rental stores and shops.
46. Resale or consignment store.<sup>3</sup>
47. Restaurants (not drive-thru).
48. Retail stores and shops when conducted within enclosed buildings and offering chiefly new merchandise.
49. Sale and service of farm machinery, fertilizers, feeds and other farm supplies.
50. Studios: art, photographic, music and dance.
51. Tavern, bar, nightclub.
52. Taxi terminal.
53. Trade schools and business colleges.
54. Used car lots.

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<sup>2</sup> Ordinance #139, Amendment #160 adopted on January 27, 2010

<sup>3</sup> Ordinance #143, Amendment #164 adopted on June 29, 2012

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55. Watercraft launching for properties located on riparian property (all required state and/or federal permits must be obtained).
56. Water well driller.<sup>4</sup>

### B. Uses Subject to Special Use Permit, as provided by Article Twenty-Three

The Zoning Board of Appeals shall classify unlisted uses pursuant to Section 2.04. Uses subject to a Special Use Permit include but are not limited to the following:

1. Adult foster care facilities, family day-care homes, and group day-care homes for more than six persons, Section 23.10.B.<sup>5</sup>
2. Car freight terminals.<sup>6</sup>
3. Commercial kennels, Section 23.10.Q.
4. Communication towers, Section 23.10.U.
5. Convalescent or nursing homes, Section 23.10.X.
6. Dance halls (see standards for indoor commercial recreational facility), Section 23.10.R.
7. Detached accessory dwelling units, Section 23.10.Z.<sup>7</sup>
8. Drive-in theater, Section 23.10.S.
9. Drive-in and drive-through establishments, Section 23.10.AA.
10. Equine boarding stables, equine training facility, and equine breeding facility (see standards for commercial equine establishments), Section 23.10.P.
11. Equine riding academies and time rental riding facility (see standards for commercial equine establishments), Section 23.10.P.
12. Excavating and grading equipment, storage and maintenance (see standards for contractor's establishments), Section 23.10.V.
13. Flea markets (see standards for outdoor commercial recreation facilities), Section 23.10.S.
14. Fuel storage facilities, Section 23.10.DD.
15. Laundromats, laundries or cleaning establishments, Section 23.10.LL.
16. Marina, Section 23.10.NN.
17. Mini-warehouses, Section 23.10.OO.
18. Mobile home parks provided they meet all state requirements, and especially those of the Mobile Home Commission under Public Act 96 of 1987, as well as the standards of Section 23.03, 23.10.RR and those of Article 25.
19. Multi-family developments, Section 23.10.RR.<sup>8</sup>
20. Natural gas compressor facilities, Section 23.10.TT.
21. Oil field related services and petroleum related suppliers (see standards for contractor's establishments), Section 23.10.V.
22. Parking lots, commercial (unassociated with any principal use). See Articles 17 and 19.
23. Public utility buildings, including storage and service yards (see standards for public facilities), Section 23.10.BBB.
24. Recreational accessory spaces within accessory structures.<sup>9</sup>
25. Recycling facilities, Section 23.10.EEE.

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<sup>4</sup> Ordinance #143, Amendment #164 adopted on June 29, 2012

<sup>5</sup> Ordinance #139, Amendment #160 adopted on January 27, 2010

<sup>6</sup> Ordinance #134, Amendment #155 adopted on August 12, 2008

<sup>7</sup> Ordinance #139, Amendment #160 adopted on January 27, 2010

<sup>8</sup> Ordinance #144, Amendment #165 adopted on October 10, 2012

<sup>9</sup> Ordinance #139, Amendment #160 adopted on January 27, 2010

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26. Residence-based occupation, Section 23.10.HHH<sup>10</sup>
27. Sexually oriented businesses, Section 23.10.MMM.
28. Single family dwellings.<sup>11</sup> This section is exempted from complying with the standards in Section 25.05.<sup>12</sup>
29. Storage yards for repossessed goods.<sup>13</sup>
30. Trucking companies.<sup>14</sup>
31. Vehicle wash facilities, Section 23.10.RRR
32. Veterinary clinic, veterinary hospitals and related kennel facilities, Section 23.10.SSS.
33. Welding services.<sup>15</sup>

## C. Accessory Uses, Buildings and Structures

Accessory Uses and minor buildings and structures customarily incidental to any of the preceding uses are permitted pursuant to the requirements of Section 21.10.

## D. Dimensional, Area and Bulk Requirements

The Schedule of Regulations in Article Fifteen provide the minimum requirements for height, bulk, yard setbacks, and minimum lot size per land use which must be complied with in constructing any structure in this district.

## **SECTION 10.04 - SITE PLAN REVIEW**

Before a Zoning Permit for a use within this district shall be issued, the owners or lessors shall submit a site plan conforming with the requirements of Article Twenty-Five to the County Zoning Administrator for review and approval.

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<sup>10</sup> Ordinance #139, Amendment #160 adopted on January 27, 2010

<sup>11</sup> Ordinance #113, Amendment #134 adopted on September 11, 2002

<sup>12</sup> Ordinance #138, Amendment #159 adopted on June 9, 2009

<sup>13</sup> Ordinance #134, Amendment #155 adopted on August 12, 2008

<sup>14</sup> Ordinance #134, Amendment #155 adopted on August 12, 2008

<sup>15</sup> Ordinance #130, Amendment #151 adopted on October 9, 2007



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**ARTICLE ELEVEN**

**RESERVED FOR FUTURE USE**

**Kalkaska County Zoning Ordinance**  
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**ARTICLE TWELVE**

**RESERVED FOR FUTURE USE**

# Kalkaska County Zoning Ordinance

Adopted October 2001

## ARTICLE THIRTEEN

### GENERAL INDUSTRIAL (G-I) DISTRICT

The following provisions apply to all General-Industrial (G-I) Districts:

#### SECTION 13.01 - PURPOSE

The primary purpose of General Industrial (G-I) districts is to provide areas within the County for the encouragement, promotion and conduct of industries for processing of raw materials and semi-finished products, for storage of raw materials and industrial products, and for wholesale commercial establishments, including office facilities and employee facilities customarily associated with any permitted use, PROVIDED that no use shall be permitted, the conduct of which shall constitute a nuisance to any prior existing permitted use on any adjacent premises. Various uses are provided for by Special Use Permit where consistent with the standards of this Ordinance and in keeping with the character of the area. It is not intended that any land would be rezoned into a General Industrial (G-I) District classification except where consistent with the County Master Plan. All industrial uses must go through Site Plan Review as provided in Article Twenty-Five.

#### SECTION 13.02 - REVIEW PROCEDURE

##### A. Required Information

Before a Zoning Permit for a use within this district shall be issued, the owners or lessees shall submit the following material to the County Planning Commission for review and approval:

1. A SITE PLAN of the property showing the location of all present and proposed buildings, drives, parking areas, waste disposal fields, screening, fences or walls, and other construction features which may be proposed. See Article Twenty-Five.
2. A DESCRIPTION OF THE OPERATIONS proposed in sufficient detail to indicate the effects of those operations in producing traffic congestion, noise, glare, air pollution, fire or safety hazards, or the emission of any potentially harmful or obnoxious matter or radiation.

##### B. General Standards

The County Planning Commission shall review the particular circumstances of the proposed industrial use under consideration in terms of the following standards, and shall approve the request only upon a finding of compliance with each of the following standards, as well as applicable standards established elsewhere in this Ordinance:

1. The use shall not be hazardous to adjacent property or involve uses, activities, materials or equipment which will be detrimental to the health, safety, or welfare of persons or property through the excessive production of traffic noise, smoke, odor, fumes or glare.

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2. Side and/or rear boundaries abutting a residence or residential property shall be provided with screening from adjacent premises, which screening shall consist of either a solid uniformly finished and maintained wall or fence of durable material as established by Section 18.05, or by a well maintained dense evergreen planting, which screening shall be not less than six (6) feet in height. These standards may be superseded by the Planning Commission if another design meeting the requirements of Article Eighteen more adequately protects adjacent premises.
3. Industrial structures are not permitted within 400 feet of the designated portions of the Boardman River as per Part 305 of the Natural Resources and Environmental Protection Act of 1994, P.A. 451 of 1994, as amended (formerly, the Natural River Act P.A. 231, 1970).

## SECTION 13.03 - PROPERTY USES

Except as otherwise provided by this Ordinance, the use of all lands, and the erection, use and alteration of all buildings and structures in General-Industrial (G-I) Districts shall hereafter be limited to the following:

### A. Primary Uses

1. The production, processing, assembly, manufacturing or packaging of any non-explosive goods, or materials including testing, repair, storage and distribution, and sale of such products at wholesale.
2. Administrative and business offices.
3. Airports.
4. Automobile body repair and paint shops and auto mechanical repair facility.
5. Automobile sales, rental and service.
6. Automobile service and repair garages.
7. Automotive/boat restoration for profit.
8. Bakeries.
9. Blueprinting and similar imaging services.
10. Building materials and hardware supplies.
11. Bus terminal.
12. Car freight terminal.<sup>1</sup>
13. Contractor's motorized equipment sales, rental and service.
14. Film and photography lab.
15. Fire security and allied facilities.
16. Glass manufacturing.
17. Lumber and other building material storage.
18. Machine shops.
19. Office buildings.
20. Oil field related services, petroleum related services.
21. Petroleum related supply companies.
22. Public utility buildings, including storage and service yards.
23. Publicly owned buildings and grounds.

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<sup>1</sup> Ordinance #134, Amendment #155 adopted on August 12, 2008

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24. Rental storage buildings with the following conditions included in the rental contracts and posted on the premises: excluding storage of flammable liquids or gases, explosives and toxic materials.
25. Sales and service of farm machinery, fertilizers, feeds and other farm supplies.
26. Storage and warehousing, but excluding therefrom commercial explosives, or commercial bulk storage of flammable liquids or gases.
27. Storage yard for repossessed goods.<sup>2</sup>
28. Trade or industrial schools.
29. Truck terminals, maintenance and repair.
30. Trucking companies.<sup>3</sup>
31. Welding services.<sup>4</sup>
32. Wholesale houses.
33. Wholesale contractor's yards and buildings, but excluding retail activities.

### B. Uses Subject to Special Use Permit, as provided by Article Twenty-Three

The Zoning Board of Appeals shall classify unlisted uses pursuant to Section 2.04. Uses subject to a Special Use Permit include but are not limited to the following:

1. Billboards, Section 19.07.
2. Communication towers, telecommunication towers and facilities and alternative tower structures (see standards in Section 23.10.U).
3. Excavating and grading equipment, storage and maintenance (see standards for contractor's establishments), Section 23.10.V.
4. Junkyards, and salvage yards<sup>5</sup>, Section 23.10.JJ.
5. Laundries or cleaning establishments, Section 23.10.LL.
6. Ready-mix concrete, and asphalt plants, Section 23.10.DDD.
7. Recycling facilities, Section 23.10.EEE.
8. Reduction and/or conversion of waste materials, but not as disposal or dumps (see standards for recycling facilities), Section 23.10.EEE.
9. Slaughter houses (see standards for agricultural supplies and service centers), Section 23.10.C.
10. Stock yards, Section 23.10.C.
11. Storage of petroleum and other flammable products (see standards for fuel storage facilities), Section 23.10.DD.
12. Surface mining including sand, gravel and topsoil, Section 23.10.OOO.

### C. Accessory Uses, Buildings and Structures

Accessory uses, and minor buildings and structures customarily incidental to any of the preceding uses are permitted pursuant to the requirements of Section 21.10.

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<sup>2</sup> Ordinance #134, Amendment #155 adopted on August 12, 2008

<sup>3</sup> Ordinance #134, Amendment #155 adopted on August 12, 2008

<sup>4</sup> Ordinance #130, Amendment #151 adopted on October 9, 2007

<sup>5</sup> Ordinance #144, Amendment #165 adopted on October 10, 2012

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## D. Dimensional, Area and Bulk Requirements

The Schedule of Regulations in Article Fifteen provides the minimum requirements for height, bulk, yard setbacks, and minimum lot size per land use which must be complied with in constructing any structure in this district.

## **SECTION 13.04 - SITE PLAN REVIEW**

Before a land use permit for a use within this district shall be issued, the owners or lessors shall submit a site plan conforming with the requirements of Article Twenty-Five to the County Zoning Administrator for review and approval.

## **SECTION 13.05 - USE REQUIREMENTS**

- A. The following use requirements shall apply to all General Industrial Districts (G-I) unless more restrictive requirements apply from other parts of this Ordinance:
1. Enclosed Buildings - activities in this district shall be carried on in completely enclosed buildings. Storage may be permitted out of doors in rear yards as provided herein. All storage shall be effectively screened by a solid, uniformly finished wall or fence with solid entrance and exit gates; such wall or fence shall be at least six (6) feet in height and no greater than ten (10) feet in height, but in no case shall the fence be lower than the enclosed storage. If storage or walls exceed ten (10) feet in height, the storage must then be moved into the normal setback lines of the building. Such storage shall not be deemed to include the parking of licensed motor vehicles under one and one-half (1-1/2) tons rated capacity.
  2. Uses in this District shall conform to the safety standards of appropriate Federal and State agencies that are designed to regulate air, water and noise pollution and the use or manufacture of hazardous substances, to include explosive substances, propane, flammable liquids, oxygen, and acetylene. Buildings that contain hazardous substances shall be constructed so as to contain any spillage that occurs within the building, or diked so as to contain the rupture of a storage facility. All construction plans relating to the location of buildings, storage facilities, fencing and other above-ground structures, screening and landscaping, shall be subject to review and approval by the Fire Department, particularly in regards to appropriate on-site clearance for the accessibility of fire and other emergency vehicles. Each building shall also have an approved fire and security warning system. All areas shall be plainly lighted and marked.
  3. All uses permitted within the General Industrial (G-I) District shall comply fully with the sewer and other applicable ordinances of the County of Kalkaska.

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4. Yards in this District shall conform to the following standards:
  - a. Front Yards: The front shall remain clear for landscape improvements and necessary drives and walks, except that off-street parking shall be permitted for automobiles, provided that not more than twenty-five (25) percent of such required front yard may be used to within a distance of fifteen (15) feet of the street right-of-way. Minimum front yard set-back shall be sixty (60) feet from the right-of-way line.
  - b. Side Yards: Except for a strip ten (10) feet in width along the lot boundary, side yards may be used for parking and loading, but not for storage. The side yard may be eliminated where a railroad service to the site is obtained at the edge of the lot. Side yards shall be ten (10) feet except on a corner lot where the front yard setback shall hold on all sides facing the street.
  - c. Rear Yards: Except for a strip ten (10) feet in width along the lot boundary, the rear yard may be used for parking, loading and storage, provided that when required screening is located on the property line, the ten (10) foot strip may be used for parking, loading and storage. The rear yard may be eliminated where a railroad service to the site is obtained at the edge of the lot. Rear yards shall be thirty-five (35) feet except on corner lots, where the front yard setback shall hold on all sides facing streets.
  - d. Side and/or rear yard areas abutting a residential lot or property zoned for residential use shall be effectively screened by a solid, uniformly finished wall or fence, or a ten (10) foot wide solid evergreen planting along the property boundary. The wall, fence or landscape screening shall effectively screen parking, loading, unloading, servicing or other routine activities on the site from adjacent properties. Such wall, fence or screening shall be at least six (6) feet in height, but in no case shall the fence, wall or screening be lower than the enclosed parking, loading, or servicing activity being screened. Fencing, walls and screening shall be approved by the County Planning Commission prior to erection or planting.
5. Maximum building height in this district shall be thirty-five (35) feet or two and one-half (2-1/2) stories.
6. Each development shall be required to provide adequate off-street parking for all employees, customers and visitors within the site.
7. No loading or unloading shall be permitted on any public or private street or road or any other place, except as provided in accordance with the following:
  - a. Loading and unloading areas shall comply with the requirements of this Ordinance, except that all industrial uses must have a minimum of one (1) loading and unloading area.

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## **ARTICLE FOURTEEN**

### **LIGHT-INDUSTRIAL (L-I) DISTRICT**

The following provisions apply to all Light-Industrial (L-I) Districts:

#### **SECTION 14.01 - PURPOSE**

The Light Industrial (L-I) District is intended to accommodate wholesale, warehouse and light industrial activities whose operational and physical characteristics do not detrimentally affect any of the surrounding districts. The district is established to permit the manufacturing, compounding, processing, packaging, assembly and/or treatment and storage of finished or semi-finished products from previously prepared materials, providing it is not detrimental to the environment. This district is also intended to permit limited retail enterprises associated with or complimentary to light industrial activities. Various uses are provided for by Special Use Permit where consistent with the standards of this Ordinance and in keeping with the character of the area. It is not intended that any land would be rezoned into a Light Industrial District classification except where consistent with the County Master Plan. All industrial uses must go through Site Plan Review as provided in Article Twenty-Five.

#### **SECTION 14.02 - REVIEW PROCEDURE**

##### **A. Required Information**

Before a Zoning Permit for a use within this district shall be issued, the owners or lessees shall submit the following material to the County Planning Commission for review and approval:

1. A SITE PLAN of the property showing the location of all present and proposed buildings, drives, parking areas, waste disposal fields, screening, fences or walls, and other construction features which may be proposed. See Article Twenty-Five.
2. A DESCRIPTION OF OPERATIONS proposed in sufficient detail to indicate the effects of those operations in producing traffic congestion, noise, glare, air pollution, fire or safety hazards, or the emission of any potentially harmful or obnoxious matter or radiation.

##### **B. General Standards**

The County Planning Commission shall review the particular circumstances of the proposed industrial use under consideration in terms of the following standards, and shall approve the request only upon a finding of compliance with each of the following standards, as well as applicable standards established elsewhere in this Ordinance:

1. The use shall not be hazardous to adjacent property or involve uses, activities, materials or equipment which will be detrimental to the health, safety, or welfare of persons or property through the excessive production of traffic noise, smoke, odor, fumes or glare.



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2. Side and/or rear boundaries abutting a residence or residential property shall be provided with screening from adjacent premises, which screening shall consist of either a solid uniformly finished and maintained wall or fence of durable material as established by Section 18.05, or by a well maintained dense evergreen planting, which screening shall be not less than six (6) feet in height. These standards may be superseded by the Planning Commission if another design meeting the requirements of Article Eighteen more adequately protects adjacent premises.
3. Light Industrial structures are not permitted within 400 feet of the designated portions of the Boardman River as per Part 305 of the Natural Resources and Environmental Protection Act of 1994, P.A. 451 of 1994, as amended (formerly, the Natural River Act, P.A. 231, 1970).

## SECTION 14.03 - PERMITTED USES

No building, structure or land shall be used, and no building or structure shall be hereafter erected, structurally altered or enlarged, except for one or more of the following uses incidental to the industries:

### A. Primary Uses

1. Any production, processing, testing, repair, storage and distribution of materials, goods, foodstuffs and other semi-finished products from previously prepared materials.
2. Accessory uses clearly appurtenant to the main use of the lot and customary to and commonly associated with the main use, such as:
  - a. Incidental offices for management and materials control, dispatch or receipt of materials.
  - b. Restaurant or cafeteria facilities for employees.
  - c. Caretaker, security or fire control residence, if situated separately. The same must comply with all of the requirements for residential districts.
  - d. Identification signs referring to the principal activities on the premises shall not exceed thirty-two (32) square feet in area.
  - e. Fire, security or other allied facilities.
  - f. Public utility installations and other public buildings, that do not require a Special Use Permit under 14.03.B. below, but not including storage and service yards.
3. An accessory use, building or structure.
4. Administrative, professional and business offices associated with and accessory to a permitted use.
5. Airports.
6. Automobile body repair and paint shops and auto mechanical repair facility.
7. Automobile sales, rental and service.
8. Automobile service station.
9. Automotive/boat restoration for profit.
10. Bakeries.
11. Building material, sales and storage.

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12. Bus and taxi terminal.
13. Cafeteria, cafe, restaurant or auditorium accessory with and incidental to any of the foregoing uses.
14. Car freight terminal.<sup>1</sup>
15. Contractors' motorized equipment; truck tractor and trailer sales and service.
16. Farm supplies and machinery sales and service.
17. Farm product processing.
18. General contracting and construction industries relating to contracting, plumbing contracting, etc.
19. Hardware, plumbing, household and business equipment and supplies.
20. Light industries primarily engaged in research activities, including but not limited to research laboratories and facilities, developmental laboratories and facilities, and compatible light manufacturing relating to the following examples:
  - a. Film and photography.
  - b. Medical or dental.
  - c. Pharmaceutical.
21. Machine shops.
22. Manufacture, research assembly, testing and repair of components, devices, equipment and systems and parts and components, such as, but not limited to the following examples:
  - a. Blueprinting, photo engraving, printing, photostating, publishing and book binding.
  - b. Clocks and watches.
  - c. Coffins.
  - d. Communication navigation control, transmission and reception equipment, control equipment and system guidance equipment and systems.
  - e. Data processing equipment and systems.
  - f. Glass edging, beveling and silvering.
  - g. Graphics and art equipment.
  - h. Leather products and luggage but not including tanning.
  - i. Metering instruments.
  - j. Musical instruments.
  - k. Optical devices, equipment and systems.
  - l. Phonographs, audio units, radio equipment and television equipment.
  - m. Photographic equipment.
  - n. Radar, infra red and ultra violet equipment and systems.
  - o. Scientific and mechanical instruments.
23. Oil field related services, petroleum related services.
24. Rental storage buildings with the following conditions included in the rental contracts and posted on the premises: excluding storage of flammable liquids or gases, explosives and toxic materials.
25. Storage yards for repossessed goods.<sup>2</sup>
26. Trade or industrial schools.
27. Trucking companies.<sup>3</sup>

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<sup>1</sup> Ordinance #134, Amendment #155 adopted on August 12, 2008

<sup>2</sup> Ordinance #134, Amendment #155 adopted on August 12, 2008

<sup>3</sup> Ordinance #134, Amendment #155 adopted on August 12, 2008

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28. Warehouses and freight terminals.
29. Watercraft rental, repair and service.
30. Welding services.<sup>4</sup>
31. Wholesale houses.

## B. Uses Permitted When Authorized by Special Use Permit, as provided by Article Twenty-Three

The Zoning Board of Appeals shall classify unlisted uses pursuant to Section 2.04. Uses subject to a Special Use Permit include but are not limited to the following:

1. Billboards, Section 19.07.
2. Communication towers, telecommunication towers and facilities and alternative tower structures, Section 23.10.U.
3. Contractors establishment, provided all products and materials are enclosed within a building, Section 23.10.V.
4. Commercial kennels, Section 23.10.Q.
5. Excavating and grading equipment, storage and maintenance (see standards for contractor's establishments), Section 23.10.V.
6. Fuel storage facilities, Section 23.10.DD.
7. Junkyards and salvage yards<sup>5</sup>, Section 23.10.JJ.
8. Laundries or cleaning establishments, Section 23.10.LL.
9. Lumber storage (see standards for open air businesses), Section 23.10.VV.
10. Open air display areas for the sale of manufactured products, such as or similar to garden furniture, earthenware, hardware items and nursery stock, or the rental of manufactured products or equipment, such as household equipment, small tools, pneumatic-tired two and four-wheeled utility trailers, pneumatic-tired cement mixers, wheel-barrows, rollers and similar products or equipment. See standards for open air businesses, Section 23.10.VV.
11. Public buildings: police, fire and ambulance. See standards for public facilities, Section 23.10.BBB.
12. Public utility structures, located on the surface of the ground including but not limited to transformer substations, pumping stations, communications relay stations, gas and steam regulating valves and stations; provided that storage of materials, inoperative equipment, vehicles, or supplies shall be located in a building, that no personnel shall be quartered on the premises, and that the grounds immediately surrounding the structure shall be landscaped in such a manner as to conform as much as possible with the character of this district. See standards for public facilities, Section 23.10.BBB.
13. Ready mix concrete and asphalt plant, Section 23.10.DDD.
14. Recycling facilities, Section 23.10.EEE.
15. Veterinary hospitals, veterinary clinics, and related kennel facilities, Section 23.10.SSS.

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<sup>4</sup> Ordinance #130, Amendment #151 adopted on October 9, 2007

<sup>5</sup> Ordinance #144, Amendment #165 adopted on October 10, 2012

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## SECTION 14.04 - USE REQUIREMENTS

- A. The following use requirements shall apply to all Light Industrial (L-I) Districts unless more restrictive requirements apply from other parts of this Ordinance:
1. **Enclosed Buildings** - activities in this district shall be carried on in completely enclosed buildings. Storage may be permitted out of doors in rear yards as provided herein. All storage shall be effectively screened by a solid, uniformly finished wall or fence with solid entrance and exit gates; such wall or fence shall be at least six (6) feet in height and no greater than ten (10) feet in height, but in no case shall the fence be lower than the enclosed storage. If storage or walls exceed ten (10) feet in height, the storage must then be moved into the normal setback lines of the building. Such storage shall not be deemed to include the parking of licensed motor vehicles under one and one-half (1-1/2) tons rated capacity or less.
  2. Uses in this District shall conform to the safety standards of appropriate Federal and State agencies that are designed to regulate air, water and noise pollution and the use or manufacture of hazardous substances, to include explosive substances, propane, flammable liquids, oxygen, and acetylene. Buildings that contain hazardous substances shall be constructed so as to contain any spillage that occurs within the building, or diked so as to contain the rupture of a storage facility. All construction plans relating to the location of buildings, storage facilities, fencing and other above-ground structures, screening and landscaping, shall be subject to review and approval by the County Fire Department, particularly in regards to appropriate on-site clearance for the accessibility of fire and other emergency vehicles. Each building shall also have an approved fire and security warning system. All areas shall be plainly lighted and marked.
  3. All uses permitted within the Light Industrial (L-I) District shall comply fully with the sewer and other applicable ordinances of the County of Kalkaska.
  4. Yards in this District shall conform to the following standards:
    - a. **Front Yards:** The front shall remain clear for landscape improvements and necessary drives and walks, except that off-street parking shall be permitted for automobiles, provided that not more than twenty-five (25) percent of such required front yard may be used to within a distance of fifteen (15) feet of the street right-of-way. Minimum front yard set-back shall be sixty (60) feet from the right-of-way line.
    - b. **Side Yards:** Except for a strip ten (10) feet in width along the lot boundary, side yards may be used for parking and loading, but not for storage. The side yard may be eliminated where a railroad service to the site is obtained at the edge of the lot. Side yards shall be ten (10) feet except on a corner lot where the front yard setback shall hold on all sides facing the street.
    - c. **Rear Yards:** Except for a strip ten (10) feet in width along the lot boundary, the rear yard may be used for parking, loading and storage, provided that when required screening is located on the property line, the ten (10) foot strip may be used for parking, loading and storage. The rear yard may be eliminated where a

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railroad service to the site is obtained at the edge of the lot. Rear yards shall be thirty-five (35) feet except on corner lots, where the front yard setback shall hold on all sides facing streets.

- d. Side and/or rear yard areas abutting a residential lot or property zoned for residential use shall be effectively screened by a solid, uniformly finished wall or fence, or a ten (10) foot wide solid evergreen planting along the property boundary. The wall, fence or landscape screening shall effectively screen parking, loading, unloading, servicing or other routine activities on the site from adjacent properties. Such wall, fence or screening shall be at least six (6) feet in height, but in no case shall the fence, wall or screening be lower than the enclosed parking, loading, or servicing activity being screened. Fencing, walls and screening shall be approved by the County Planning Commission prior to erection or planting.
5. Maximum building height in this district shall be thirty-five (35) feet or two and one-half (2-1/2) stories.
6. Each development shall be required to provide adequate off-street parking for all employees, customers and visitors within the site.
7.
  - a. No loading or unloading shall be permitted on any public or private street or road.
  - b. Loading and unloading areas shall comply with the requirements of this Ordinance, except that all industrial uses must have a minimum of one (1) loading and unloading area.

### **SECTION 14.05 - SITE PLAN REVIEW PROCEDURE**

Before a land use permit for a use within this district shall be issued, the owners or lessors shall submit a site plan conforming with the requirements of Article Twenty-Five to the County Zoning Administrator for review and approval.

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## **ARTICLE FIFTEEN**

### **SCHEDULE OF REGULATIONS**

#### **SECTION 15.01 - SCHEDULE OF REGULATIONS**

Following is a schedule of regulations limiting the height, bulk, yard setbacks, and minimum lot size in each zoning district<sup>1</sup>:

A. Schedule of Regulations

Schedule limiting height, bulk, yards, setbacks, minimum lot size and maximum lot coverage by zoning district (covers all waterfront lots, except designated portions of the Boardman River, per Part 305 of the Natural Resources and Environmental Protection Act of 1994, P.A. 451 of 1994, as amended, formerly the Natural Rivers Act). See Table 15-1 on next page.

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<sup>1</sup> Ordinance #143, Amendment #164 adopted on June 29, 2012

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Table 15-1

## SCHEDULE LIMITING HEIGHT, BULK, YARD SETBACKS AND MINIMUM LOT SIZE BY ZONING DISTRICT

ZONING DISTRICT	Minimum Lot Size <sup>2</sup> : see note 8	Minimum Lot Width	Maximum Height of Principal Structures: see notes 1, 7		Minimum Yard Setback in Feet R.O.W. and/or Property Line: see note 6			Distance Between Structures on Adjoining Properties	Maximum Lot Coverage
	AREA IN SQ. FT./ACRES	WIDTH IN FT.	IN STORIES	IN FT.	FRONT	EACH SIDE	REAR	IN FT.	
Residential (R): see notes 2, 4	12,000 sq. ft. without sewer 7,250 sq. ft. with sewer	65	2 1/2	35	30	10	35	20	35%
Resort-Residential (R-R): see notes 3,4	15,000 sq. ft. <sup>3</sup>	100	2 1/2	35	30	10	35	20	35%
Lakefront-Residential (L-R): see notes 3, 4	20,000 sq. ft. <sup>4</sup>	100	2 1/2	35	60	10	30 <sup>5</sup>	20	35%
River/Streamfront-Residential R/S-R <sup>6</sup>									
Agricultural-Residential (A-R): see notes 3, 4	1 acre	150	2 1/2	35	30	10	35	20	20%
Forest-Recreational (F-R): see notes 3, 4	1 acre	150	2 1/2	35	30	10	35	20	20%
Commercial C-1	12,000 sq. ft.	150	2 1/2	35	60	10	35	20	40%
General-Industrial (G-I) and Light- Industrial (L-I)	1 acre	150	2 1/2	35	60	10	35	20	50%
<b><u>SPECIAL REGULATIONS</u></b>									
Waterfront lots: see notes 4, 4A	20,000 sq. ft.	100	2 1/2	35	60	10	30	20	35% <sup>7</sup>
Mobile Home Parks: see note 5	10 acres	300	2 1/2	35	30	10	15	20	

<sup>2</sup> Ordinance #117, Amendment #138 adopted on August 15, 2006

<sup>3</sup> Ordinance #130, Amendment #151 adopted on October 9, 2007

<sup>4</sup> Ordinance #130, Amendment #151 adopted on October 9, 2007

<sup>5</sup> Ordinance #114, Amendment #135 adopted on November 12, 2002

<sup>6</sup> Ordinance #117, Amendment #138 adopted on August 15, 2006

<sup>7</sup> Ordinance #114, Amendment #135 adopted on November 12, 2002

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## B. Notes to Schedule of Regulations (Section 15.01.A)<sup>8 9</sup>

1. Except for residential television and/or radio antenna customarily needed for adequate reception of TV and radio broadcasts, and further excepting agricultural buildings customarily associated with farm operations such as silos, grain elevators, barns and other similar structures. See also Section 21.11.
2. Waterfront lots, except those in the Boardman River Natural River District (see 4A below), must also have a minimum lot width of one hundred (100) feet and a lot depth of two hundred (200) feet and have a waterfront setback of sixty (60) feet, except that the waterfront setback may be decreased one (1) foot for every one (1) foot of rise in bank height above the water's edge up to a distance of thirty (30) feet. All other setback requirements in the District in which the use is located must be adhered to except that where the rear yard of a structure abuts the waterfront, the waterfront setback and not the rear yard setback shall govern. Septic tanks and absorption fields shall also be located at least one hundred (100) feet from the water's edge. See Section 16.01.B. and the definition of water's edge.
- 3.A. Boardman Natural River. Designated parts of the Boardman River under Part 305 of the Natural Resources and Environmental Protection Act of 1994, P.A. 451 of 1994, as amended (formerly, the Natural Rivers Act, P.A. 231, 1970). These waterfront lots must have a lot width of two hundred (200) feet, a minimum lot depth of two hundred (200) feet and have a waterfront setback of one hundred (100) feet. All other setback requirements in the District in which the use is located must be adhered to except that where the rear yard of a structure abuts the waterfront, the waterfront setback not the rear yard setback shall govern; see Section 16.01.B. Septic tanks and absorption fields shall also be located at least one hundred (100) feet from the water's edge.
4. Mobile home parks shall meet all requirements of the Mobile Home Commission Act, Public Act 96 of 1987, Section 23.03, Section 23.10 RR and those of Article Twenty-Five and shall have either a greenbelt, buffer strip, berm or fence pursuant to Sections 18.03, 18.04, 18.05 or 18.06 as required by the Planning Commission.
5. The side yard setback between a building and the side lot line for a lot with a building upon it prior to the adoption of Interim Zoning on November 19, 1975, shall be the distance that existed between the building and the side lot line at the time of the adoption of Interim Zoning. However, if the building is completely removed or is moved, any new building or the moved building shall conform to the setbacks of the district within which the lot is located.
6. Height restrictions in this Article do not apply to telecommunication towers and facilities and alternative tower structures located in accordance with this Ordinance.
7. Refer to ZBA interpretation dated August 9, 2005 and Figure 32-6.<sup>10</sup>

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<sup>8</sup> Ordinance #149, Amendment #170 adopted on July 13, 2016

<sup>9</sup> Ordinance #149, Amendment #170 adopted on July 13, 2016

<sup>10</sup> Ordinance #134, Amendment #155 adopted on August 12, 2008



## **Kalkaska County Zoning Ordinance**

Adopted October 2001

### **SECTION 15.02 - LAND DIVISION REGULATIONS**

All subdivisions, that are required to come before the Plat Board for approval, that are in a township subject to County zoning, are subject to review by the County Planning Commission to ensure all lots, roadways and other aspects of the subdivision conform with this Ordinance. No lot hereafter created shall have an area or width less than that required by this Ordinance. Nor shall a lot have a depth greater than four times the width, unless the greater depth is approved by the Township body vested with the authority to grant lot depth and width variances, or by the County Planning Commission pursuant to Section 109(1)(b) of the Land Division Act if the Township does not have an Ordinance adopted pursuant to the Land Division Act which authorizes a greater depth to width ratio.

# Kalkaska County Zoning Ordinance

Adopted October 2001

## ARTICLE SIXTEEN

### WATERFRONT REGULATIONS

#### SECTION 16.01 - WATERFRONT LOTS

The use of land or structures on any lot fronting on or abutting a lake, reservoir, pond, swamp, stream, river or other natural watercourse shall comply with the regulations stated below, as well as all other regulations in this Ordinance, pertaining to the district in which the property is located.

A. Minimum Frontage and Depth Requirement

Waterfront lots must have a minimum width of one hundred (100) feet and be at least two hundred (200) feet in depth, except the designated portions of the Boardman River as per Part 305 of the Natural Resources and Environmental Protection Act of 1994, P.A. 451 of 1994, as amended (formerly the Natural Rivers Act, P.A. 231, 1970), waterfront lots must have a minimum width of two hundred (200) feet and be at least two hundred (200) feet in depth.

B. Minimum Setback Requirements

Waterfront setback is the minimum permitted distance from the water's edge to a structure<sup>1</sup>; see definition of water's edge. All waterfront lots, except those on the Boardman River Natural River District and the Upper Manistee River Natural River District<sup>2</sup> must have a waterfront setback of sixty (60) feet, except that the waterfront setback may be decreased one (1) foot for every one (1) foot of rise in bank height above the water's edge up to a distance of thirty (30) feet. The minimum waterfront setback on the designated portions of the Boardman River, per Part 305 of the Natural Resources and Environmental Protection Act of 1994, P.A. 451 of 1994, as amended (formerly, the Natural Rivers Act, P.A. 231 of 1970), shall be one hundred (100) feet. All other setback requirements in the district in which the use is located must be adhered to except that where the rear yard of a structure abuts the waterfront, the waterfront setback and not the rear yard setback shall govern. Septic tanks and absorption fields shall be located at least one hundred (100) feet from the water's edge on all waterfront lots except, where lot dimensions do not permit such a setback and the Health Department authorizes a lesser setback.

C. Natural Vegetation Strip, "Green Belt"

The following shall apply to the designated portions of the Boardman River under Part 305 of the Natural Resources and Environmental Protection Act of 1994, P.A. 451 of 1994, as amended (formerly, the Natural Rivers Act, P.A. 231, 1970); all other waterfront lots are encouraged to meet the same standard because of the water quality and fish habitat benefits:

On waterfront lots, a strip of land extending a minimum of fifty (50) horizontal feet from the water's edge will be maintained and forested with trees and shrubs, or in no less than its natural and undeveloped state; see definition of water's edge. No further alteration, including the removal of stumps below ground level, shall be permissible unless required in connection with a plan designed for

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<sup>1</sup> Ordinance #144, Amendment #165 adopted on October 10, 2012

<sup>2</sup> Ordinance #117, Amendment #138 adopted on August 15, 2006

## Kalkaska County Zoning Ordinance

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erosion control, reforestation or stream bank stabilization submitted to and approved by the County Planning Commission with the intent of maintaining a fifty (50) foot root and vegetative barrier to keep nutrients from entering the water at temperatures near the natural levels.

1. Dead, diseased, unsafe or fallen trees, shrubs, and noxious plants including poison ivy, poison sumac, and poison oak, and other plants regarded as a common nuisance in Section 2, Public Act 359 of 1941, as amended, may be removed.
2. Trees and shrubs may be pruned for a filtered view of a river.
3. Trees and shrubs may be selectively removed for harvest of merchantable timber, public utility facilities, to achieve a filtered view of the river from the principal structure and for reasonable private access to the river upon approval of the Zoning Administrator. The Zoning Administrator shall consult the Michigan Department of Environmental Quality (MDEQ) Natural Rivers guidelines and if necessary with the Michigan Department of Natural Resources<sup>3</sup> (MDNR) Forester to establish an acceptable selective cutting plan for the area.
4. Clear cutting is not allowed.
5. Planting of perennial native species in the natural vegetation strip is encouraged, especially where exposed soils and steep slopes exist. The MDNR, MDEQ, or the Kalkaska Conservation District Forester may be consulted for selection of plant species best suited for erosion control and/or screening of existing developments. Where available at nurseries maintained by these agencies, the recommended planting materials will usually be supplied to property owners at cost.

### D. Water Supply Conservation

1. To facilitate the preservation of natural watersheds of the County; and to promote a continuing and stable supply of clean, potable water free from sewage disposal and protected from accelerated soil erosion and pollution by discharges of soil nutrients and other wastes into swamps, lakes, rivers, streams, or other natural water bodies, no terrain shall hereafter be altered or vegetative cover be removed from any land abutting such water bodies, for a distance of twenty-five (25) feet from the edge of the highest known water level without a Special Use Permit from the County Planning Commission; provided that on the designated portions of the Boardman River as per Part 305 of the Natural Resources and Environmental Protection Act of 1994, as amended (formerly the Natural Rivers Act, P.A. 231 of 1970), a distance of fifty (50) feet from the edge of the ordinary high water mark shall be maintained. This strip of land shall be known as the native vegetation strip. Trees and shrubs may be selectively removed for harvest of merchantable timber, public utility facilities, to achieve a filtered view of the river from the principal structure, and for reasonable private access to the river upon approval of the Zoning Administrator. Trimming and pruning are permitted.<sup>4</sup> An application for a Special Use Permit to modify the native vegetation strip shall be made through the Zoning Administrator.<sup>5</sup>
2. In making its determination, the Planning Commission shall seek the counsel of the District Health Department and the Kalkaska County Soil Conservation District, taking

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<sup>3</sup> Ordinance #144, Amendment #165 adopted on October 10, 2012

<sup>4</sup> Ordinance #115, Amendment #136 adopted on June 10, 2003

<sup>5</sup> Ordinance #134, Amendment #155 adopted on August 12, 2008

## Kalkaska County Zoning Ordinance

Adopted October 2001

into special account soil type, type of vegetative cover, slope of the land, and use of the land for which permit is petitioned.

- a. No alteration shall be made on the native vegetation strip along the waterfront except as provided for in this Ordinance, and provided
  - b. No siltation or runoff to the water occurs.
3. All areas where the natural cover has been removed or destroyed in the permissible use of the land or in the process of locating, erecting, constructing, reconstructing, altering or using any nature of building or structure shall be restored for erosion control and bank stabilization by suitable seeding or reforestation within a reasonable time.
  4. No junk yards, salvage yards, or refuse dumps shall be located less than two hundred (200) feet from any swamp, lake, river, stream, reservoir, or pond.

### E. Docks and Boat Houses

1. Docks shall be permitted on lakes, reservoirs, ponds, streams or rivers in accordance with the specifications of permits issued by the Michigan Department of Environmental Quality, pursuant to Part 301 of the Natural Resources and Environmental Protection Act of 1994, as amended. Only shielded illumination will be allowed on any dock.
2. Boat houses and/or docks that are covered with a roof or enclosed with sides so as to obstruct a view of the water are prohibited from all lakes, reservoirs, ponds, streams and rivers to protect open space and water view. Exception will be made for those bodies of water totally contained within a subject parcel.

### F. Signs

Signs along designated portions of the Boardman River as per Part 301 of the Natural Resources and Environmental Protection Act of 1994, as amended, shall meet the following requirements: Signs for the sale of products or services shall be prohibited in the Natural Rivers Area except an existing business may advertise on land on which that business is established or operated. Further, signs and outdoor advertising devices must be:

1. related to permitted uses;
2. not more than one square foot in area for residential uses and not more than four square feet in area for any other uses;
3. not illuminated by any neon or flashing device, and;
4. not attached to any tree or shrub.

## **SECTION 16.02 - SETBACK EXEMPTIONS**

The following uses on waterfront lots are exempt from the setback requirements of the district in which the lot is located. However, they may only be erected after receiving all necessary state and county permits:

- A. Seawalls, weirs and jetties

## **Kalkaska County Zoning Ordinance**

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- B. Bridges and culverts
- C. Fences (see also Section 21.21)
- D. Pumps and irrigating structures
- E. Stairs<sup>6</sup>
- F. Public park pavillions<sup>7</sup>

### **SECTION 16.03 - OTHER RELATED SECTIONS**

See also the following sections for additional waterfront related regulations:

- A. Definitions of Front Lot Line, Waterfront Lot, Front Yard.
- B. Notes 4 and 4A to the Schedule of Regulations.
- C. Section 21.25 for specific regulations related to swimming pools and waterfront lots.
- D. Section 15.01.A and Section 21.10.H.1 for waterfront yard encroachments.
- E. Section 21.08 for public utility structures.
- F. Watercraft launching per the requirements of Section 23.10.UUU.
- G. Keyhole or funnel development per the requirements of Sections 4.02.F.

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<sup>6</sup> Ordinance #143, Amendment #164 adopted on June 29, 2012

<sup>7</sup> Ordinance #144, Amendment #165 adopted on October 10, 2012

# Kalkaska County Zoning Ordinance

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## ARTICLE SEVENTEEN

### PARKING AND LOADING REGULATIONS

#### SECTION 17.01 - INTENT OF PARKING PROVISIONS

It is the intent of this Ordinance that parking spaces shall be provided and adequately maintained by each property owner in every zoning district for the off-street parking and loading of motor vehicles for the use of occupants, employees and patrons of each building and premise constructed, altered or enlarged under the provisions of this Ordinance. All vehicles shall be stored on the lot occupied by the principal building, except as otherwise authorized by this Ordinance.

- A. Parking for Each Use: The number of parking spaces required for land or buildings used for two or more purposes shall be the sum of the requirements for the various uses, computed in accordance with this Ordinance. Parking facilities for one use shall not be considered as providing the required parking facilities for any other use, except as may be provided by Section 17.01 (G). Standards based on floor area, shall be calculated in terms of “useable floor area” when determining the required number of parking spaces. See definition.
- B. Fractional Space: When units of measurement determining the number of required parking spaces result in a fractional space, any fraction to and including one-half (1/2) shall be disregarded and fractions over one-half (1/2) shall require one (1) parking space.
- C. Requirements for a Use Not Mentioned: In the case of a use not specifically mentioned, the requirements of off-street parking for a use which is mentioned and which is most similar to the use not listed shall apply. The Zoning Administrator shall make this determination and a record of the rationale applied shall be documented in a file established for that purpose. An appeal may be taken to the Zoning Board of Appeals.
- D. Use of Parking Areas: No commercial repair work, servicing or selling of any kind shall be conducted in any parking area or parking garage unless permitted for special community events. Parking space shall be used only for the parking of vehicles used to service the establishment to which it is accessory and by its patrons.
- E. Ingress and Egress Signs: No sign shall be erected in parking areas other than signs necessary to safely direct traffic or identify handicapped parking. Not more than one directional sign at each point of ingress or egress is permitted, such sign may also bear the name of the enterprise the lot it serves. No traffic safety, ingress or egress signs shall exceed ten (10) square feet in area and shall not project beyond the property line of the premises.
- F. Building Additions or Other Increases in Floor Area: Whenever a use requiring off-street parking is increased in floor area, or when interior building modifications result in an increase in capacity for any premise use, additional parking shall be provided and maintained in the proper ratio to the increased floor area or capacity.
- G. Joint Use of Parking Areas: The joint use of parking facilities by two or more uses may be granted by the Planning Commission whenever such use is practical and satisfactory to each

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of the uses intended to be served, and when all requirements for location, design, and construction are met.

1. Computing Capacities: In computing capacities of any joint use, the total space requirement is the sum of the individual requirements that will occur at the same time. If space requirements for individual uses occur at distinctly different times, the total of such off-street parking facilities required for joint or collective use may be reduced below the sum total of the individual space requirements.
2. Record of Agreement: A copy of an agreement between joint users shall be filed with the application for a building permit and recorded with the Register of Deeds of the County. The agreement shall include a guarantee for continued use of the parking facility by each party.

### SECTION 17.02 - PARKING SPACE REQUIREMENTS

The number of required off-street parking spaces in all districts shall be as provided below:

- A. One and Two Family Dwellings: Two (2) spaces for each single family dwelling unit.
- B. Multiple Dwellings: Two (2) spaces for each multiple family dwelling unit plus one space per five (5) units for guest parking.
- C. Auditoriums (incidental to schools), Churches, Stadiums, Gyms, Theaters, and Buildings of Similar Use with Fixed Seats: One (1) space for each four (4) seats plus one (1) space for every two (2) employees.
- D. Automobile Service and Repair Stations: Two (2) spaces for each repair and service stall (a service stall is not considered a parking space), plus one space per every two (2) employees.
- E. Barber Shops and Beauty Parlors: Two (2) spaces for each beauty and/or barber chair.
- F. Boarding and Lodging Houses, Fraternities: One (1) space for each bedroom or each two (2) occupants of the structure, whichever is greater, plus one (1) additional space for the owner or operator.
- G. Bowling Alleys: Two (2) spaces for each alley plus one (1) space for each employee on the largest shift.
- H. Clinics: Two (2) spaces for each examination or treatment room, plus one (1) space for each doctor or dentist and other employees.
- I. Clothing, Furniture, Appliance, Hardware, Automobile, Machinery Sales, Shoe Repair, Personal Services (other than beauty and barber shops): One (1) space per three hundred (300) feet of gross floor area.
- J. Commercial and Institutional Recreational Facilities: One space per three (3) patrons to the maximum capacity of the facility.

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- K. Convalescent Homes, Nursing Homes, Convents or Similar Uses: One (1) space for each six (6) beds plus one (1) space for every employee on the largest working shift.
- L. Dance Halls, Pool and Billiard Rooms: One (1) space for every three (3) persons allowed within maximum capacity load.
- M. Day care facilities (day care center and group day care home, but not a family home day care): One (1) space for each employee, plus a paved, unobstructed stacking space for pick-up and drop-off, plus one (1) space per four (4) persons of licensed capacity of the facility.
- N. Drive-In Banks, Cleaners, Car Laundries, and Similar Businesses: Stacking space for five (5) cars between the sidewalk area and one (1) space for each employee on the largest shift.
- O. Drive-in Restaurants or Fast-Food Restaurants: One (1) space for every four (4) seats plus one (1) space for each employee on the largest shift; plus sufficient area for eight (8) stacking spaces for drive-in windows.
- P. Elementary and Middle Schools: One (1) space for every two (2) employees, plus one (1) space for every four (4) seats where the school contains an auditorium and/or stadium or gym.
- Q. Funeral Homes and Mortuaries: One (1) space for every twenty-five (25) square feet of floor area of chapels and assembly rooms.
- R. General Offices: One (1) space for every two hundred (200) square feet of gross floor area.
- S. Golf Clubs, Swimming Pool Clubs, Tennis Clubs or Other similar Uses: Four (4) spaces for each green, plus one (1) space for every two (2) employees on the largest shift, plus fifty (50) percent of the spaces otherwise required for any accessory uses (e.g. restaurant, proshop, etc.).
- T. Group Homes (adult foster care for more than six persons): One (1) space per employee on the largest work shift, plus one (1) space for every three (3) residents of the home.
- U. High Schools and Colleges: One (1) space for every employee plus one (1) space for each five (5) students (based on the capacity of the facility as determined by the fire marshall), plus one (1) space for every four (4) seats where the school contains an auditorium and/or stadium or gym.
- V. Hospitals, Sanitariums: One (1) space for each three (3) patient beds, plus one (1) space for each two (2) employees on the largest shift, plus one (1) space for each visiting doctor.
- W. Industrial or Manufacturing Establishments: One (1) space for every three (3) employees for industry's largest working shift.
- X. Junkyard: One (1) space for every two (2) employees.
- Y. Kennels (commercial): One (1) space for each five (5) animals of the facility's capacity, plus one (1) space for every two (2) employees.
- Z. Excavation Operations and Asphalt Batching Plants: One (1) space for every employee on the largest shift.



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- AA. Laundromat: One (1) space for every three (3) washing or drying machines.
- BB. Libraries, Museums, Post Offices: One (1) space for every eight hundred (800) square feet of floor area plus one (1) space for every two (2) employees on the largest shift.
- CC. Miniature or Par 3" Golf Courses: Three (3) spaces for each hole plus one (1) space for each employee.
- DD. Mobile Home Park: Two (2) spaces for each mobile home site plus one (1) space per five (5) units for guest parking.
- EE. Motels, Auto Courts, Tourist Homes: One (1) space for each sleeping unit plus two (2) spaces for each employee on the largest shift.
- FF. Private Recreational Facilities: One (1) space for every six (6) potential members based on the capacity of the facility as determined by the fire marshal.
- GG. Professional Offices and Banks: One (1) space for every three hundred (300) square feet of gross floor area.
- HH. Retail Stores, (except as otherwise specified herein): One (1) space for every three hundred (300) square feet of gross floor area.
- II. Shooting Ranges: One (1) space for each unit station plus one (1) space for each two (2) employees.
- JJ. Standard Restaurants, Cafeterias, Taverns, Bars: One (1) space for every three (3) seats up to the capacity of the facility as determined by the Fire Marshall.
- KK. Stables (commercial): One (1) space for each five (5) animals of the facility's capacity, plus one (1) space for every two (2) employees.
- LL. Supermarket, Self-Service Food Store: One (1) space for every one-hundred (100) square feet of gross floor area.
- MM. Warehouses, Wholesale Stores: One (1) space for every eight-hundred (800) square feet of floor area.

### SECTION 17.03 - LOCATION OF PARKING AREAS

All off-street parking areas shall be located on the same lot, or on the adjacent premises in the same district as the use they are intended to serve, except as provided by Section 17.01(G).

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## SECTION 17.04 - SITE DEVELOPMENT REQUIREMENTS

All off-street parking areas shall be designed, constructed and maintained in accordance with the following standards and requirements.

- A. Reduction, Modification, Waiver: The Zoning Administrator may authorize a reduction, modification, or waiver of up to ten (10) percent of any of the off-street parking or loading regulations provided in this Article pursuant to the procedure and requirements of Section 27.05.
- B. Marking and Designation: Parking areas shall be so designed and marked as to provide for orderly and safe movement and storage of vehicles.
- C. Driveways: Adequate ingress and egress to the parking area by means of clearly limited and defined drives shall be provided.
1. Except for parking space provided for single-family and two-family residential lots, drives for ingress and egress to the parking area shall be not less than thirty (30) feet wide and so located as to secure the most appropriate development of the individual property.
  2. Each entrance to and exit from an off-street parking area shall be at least twenty-five feet from any adjacent lot with a residence or from a district which permits residences.
- D. Site Maneuverability: Each parking space, within an off-street parking area, shall be provided with adequate access by means of maneuvering lanes. Backing directly onto a street or road shall be prohibited. The width of required maneuvering lanes may vary depending upon the proposed parking pattern, as follows: (See Figure 17-1)
1. For right angle parking patterns seventy-five (75) to ninety (90) degrees, the maneuvering lane width shall be a minimum of twenty-four (24) feet.
  2. For parking patterns fifty-four (54) to seventy-four (74) degrees, the maneuvering lane width shall be a minimum of eighteen (18) feet.<sup>1</sup>
  3. For parking patterns thirty (30) to fifty-three (53) degrees, the maneuvering lane width shall be a minimum of sixteen (16) feet.<sup>2</sup>
  4. All maneuvering lane widths shall permit one-way traffic movement, except for the ninety (90) degree pattern which may provide for two-way traffic movement.
  5. All parking spaces shall be at least ten (10) feet wide and twenty (20) feet in length, exclusive of access drives or aisles, except for spaces marked for small cars which may be eight (8) feet by eighteen (18) feet. Up to ten (10) percent of the required spaces over twenty (20) may be marked for small cars. Each parking space shall be of usable shape and condition.
- E. Surface: Parking areas with a capacity of four (4) or more vehicles shall be surfaced with a material that shall provide a durable smooth and dustless surface and shall be graded and drained so as to prevent runoff onto abutting properties

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<sup>1</sup> Ordinance #139, Amendment #160 adopted on January 27, 2010

<sup>2</sup> Ordinance #139, Amendment #160 adopted on January 27, 2010

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- F. Lighting: Except for single-family and two-family residential lots, adequate lighting shall be provided throughout the hours when the parking area is in operation.
1. Lighting shall be designed and constructed in such a manner to:
    - a. insure that direct or directly reflected light is confined to the development site.
    - b. that all light sources and light lenses are shielded.
    - c. that any light sources or light lenses are not directly visible from beyond the boundary of the site.
  2. Lighting shall comply with the requirements of Section 21.19.
- G. Buffering: Where a parking area with a capacity of four (4) or more vehicles adjoins a residence or a district permitting residences, a landscaped berm, buffer strip, fence/wall or greenbelt shall be provided between the parking area and the adjoining property pursuant to the requirements of 18.03, 18.04, 18.05 or 18.06. Plantings shall be maintained in good condition and not encroach on adjoining property.
- H. Handicapped Spaces: All state and federal requirements for handicapped parking shall be complied with.

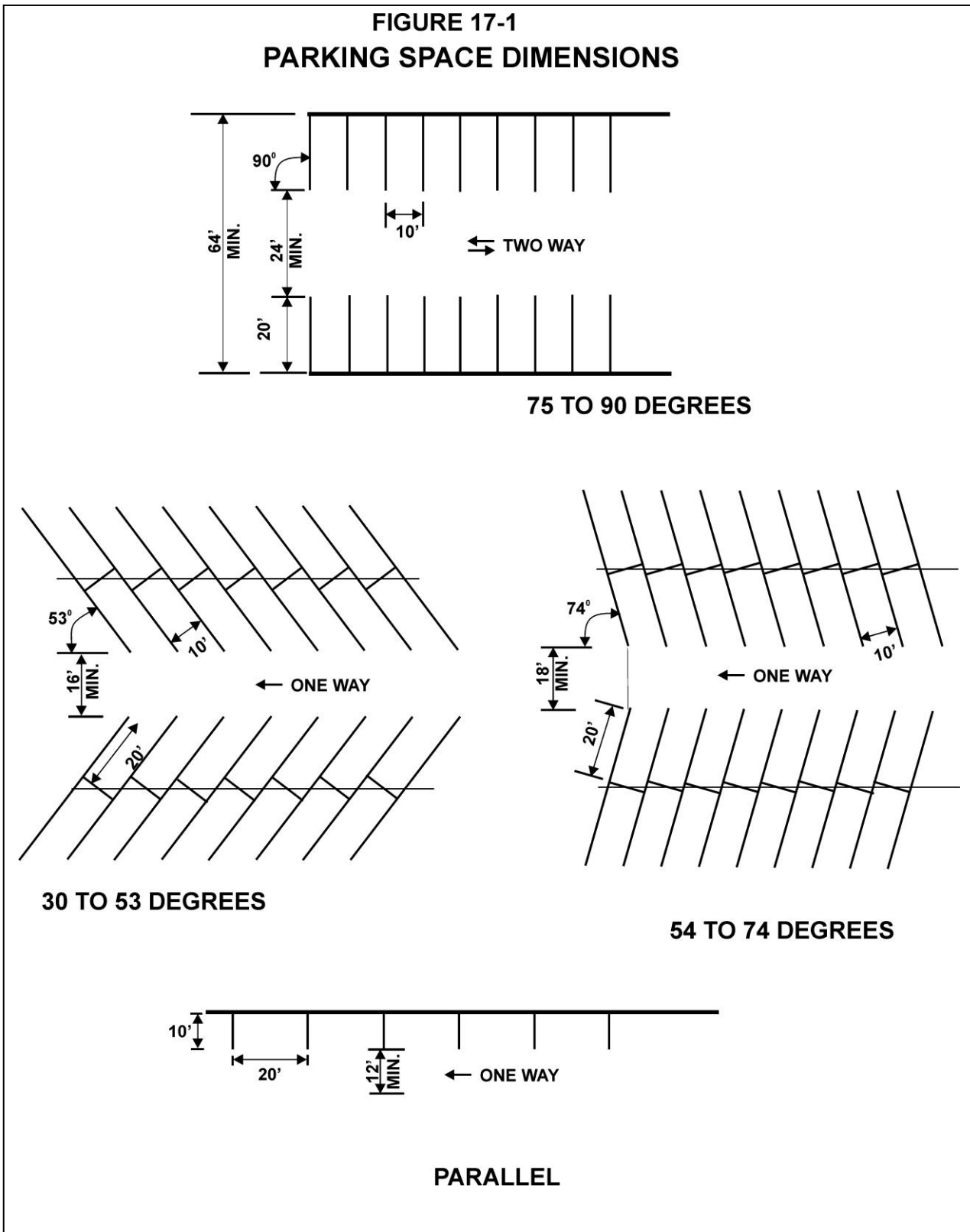
### SECTION 17.05 - LOADING AND UNLOADING SPACE REQUIREMENTS

- A. Intent and Purpose: In order to prevent undue interference with public use of streets and alleys, every manufacturing, storage, warehouse, department store, wholesale store, retail store, hotel, hospital, laundry, dairy, mortuary, and other uses similarly and customarily receiving or distributing goods by motor vehicle shall provide space on the premises for that number of vehicles that will be at the premises at the same time on an average day of full use.
- B. Additional Parking Space: Loading space required under this Section shall be provided as area additional to off-street parking space as required under Section 17.02 and shall not be considered as supplying off-street parking space.

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## FIGURE 17-1 PARKING SPACE DIMENSIONS



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- C. Space Requirements: There shall be provided adequate space for standing, loading, and unloading service not less than twelve (12) feet in width, twenty-five (25) feet in length, and fourteen (14) feet in height, open or enclosed, for uses listed in the following table, or for similar uses similarly involving the receipt or distribution by vehicles of material or merchandise.

## LOADING SPACE REQUIREMENTS

### USABLE FLOOR AREA (SQUARE FEET)

### PARKING SPACES REQUIRED

Commercial uses, such as retail stores, personal services, amusement, or automotive service

First 2,000 feet, none; next 20,000 feet or fraction thereof, one (1) space; each additional 20,000 feet or fraction thereof, one (1) space.

Hotels, offices, clinics

First 2,000 feet none; next 50,000 feet or fraction thereof, one (1) space; each additional 100,000 feet or fraction thereof, one (1) space.

Wholesale and storage contractor's yards

First 20,000 feet (including building), one (1) space; each additional 20,000 feet or fraction thereof, one (1) space.

Manufacturing uses

First 20,000 feet or fraction thereof, one (1) space; each additional 20,000 feet or fraction thereof, one (1) space.

Funeral homes and mortuaries

First 5,000 feet or fraction thereof, one (1) space; each additional 10,000 feet or fraction thereof, one (1) space.

Hospitals

First 20,000 feet, one (1) space; next 100,000 feet or fraction thereof, one (1) space; each additional 200,000 feet or fraction thereof, one (1) space.

Schools, churches, clubs, public assembly buildings, auditoriums, boarding houses, convalescent homes

For each building, one (1) space.

For similar uses not listed

For each building 5,000 feet or over, one (1) space.

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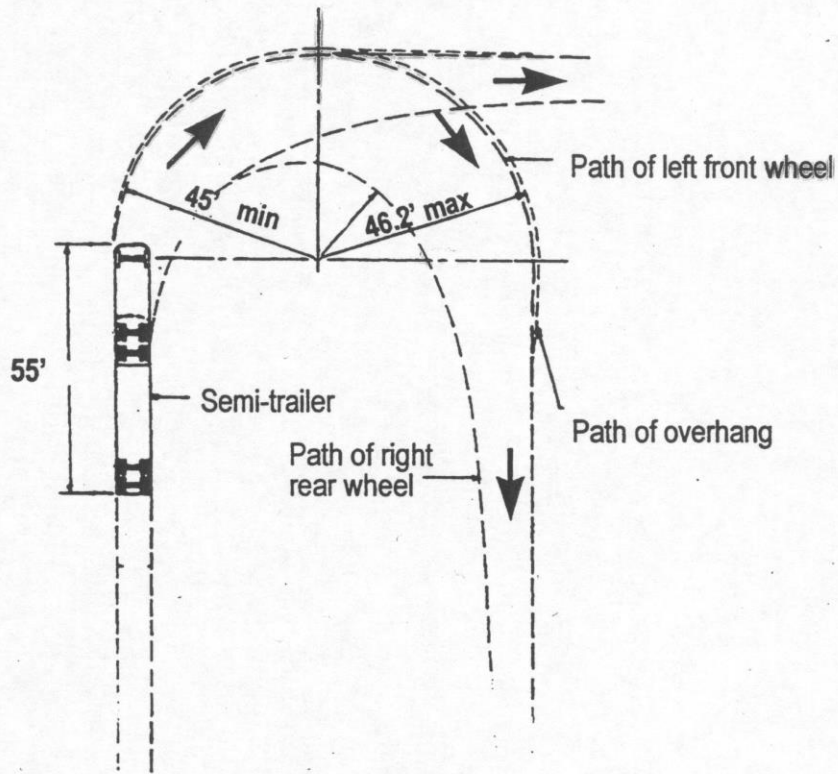
Adopted October 2001

- D. Access: Access to a truck standing, loading, and unloading space shall be provided directly from a public street, road or alley and such space shall be so arranged to provide sufficient off-street maneuvering space as well as adequate ingress and egress to and from a street or alley.
- E. Screening: Any loading or unloading space shall not be closer than fifty (50) feet to any residence or any district permitting residences. Areas for the storage of trash or dumpsters which face or are visible from residential properties or public thoroughfares, shall not be closer than fifty (50) feet to any residence or any district permitting residences unless wholly within a completely enclosed building or unless enclosed on all sides by a wall, fence or compact planting not less than six (6) feet in height. Where these standards are inadequate to protect abutting properties from nuisance sounds, odors and or trash, in the opinion of the Zoning Administrator, Planning Commission or Zoning Board of Appeals, a setback up to seventy-five (75) feet and any other pertinent requirements of Section 18.09 may be required.
- F. No Loading Space in Front Yard: A loading-unloading space may occupy part of any required side or rear yard. In no event shall any part of a required front yard be occupied by such loading space.
- G. Loading Area for Each Use: In the case of mixed uses on one lot or parcel the total requirements for off-street loading-unloading facilities shall be the sum of the various uses computed separately. Where a use is not specifically mentioned, the requirements of a similar or related use shall apply.
- H. Loading Relative to Public Right-of-Way: All off-street loading-unloading facilities that make it necessary to back out directly into a public road shall be prohibited. All maneuvering of trucks, autos and other vehicles shall take place on the site and not within a public right-of-way.

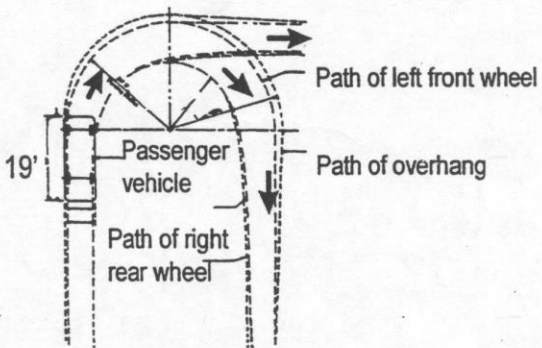
# Kalkaska County Zoning Ordinance

Adopted October 2001

## TURNING TEMPLATES



Minimum turning path for a WB-50 design vehicle  
Use for tractor-trailer trucks



Minimum turning path for P design vehicle  
Use for passenger cars

1" = 40'

# **Kalkaska County Zoning Ordinance**

Adopted October 2001

## **ARTICLE EIGHTEEN**

### **LANDSCAPING AND SCREENING REGULATIONS**

#### **SECTION 18.01 - PURPOSE AND SCOPE**

- A. Effective screening and landscaping is vital to the general welfare and continued vitality of all land uses in the County. Screening is necessary for certain uses in order to make them more compatible with adjacent uses and to protect the adjacent uses from excess noise, light, traffic and its effects, litter and other negative or incompatible characteristics. Similarly, landscaping together with the proper utilization and preservation of existing natural features is important in land development because it can enhance both the residential and business environment, improve property values, reduce the harsh characteristics of intensive development, preserve community character and help to make all land uses more compatible.
- B. This Article is designed to define and explain the general types of screening and landscaping requirements of this Ordinance. Each zoning district herein may have its own screening and landscaping requirements, and certain land uses have specific screening and landscaping requirements. This Article may be cited as the basis for imposing landscaping, berming, screening, fencing or related conditions by the Planning Commission, or Zoning Board of Appeals to mitigate potential negative impacts associated with any special land use, Planned Unit Development, variance request or from any use requiring Site Plan Review.

#### **SECTION 18.02 - LANDSCAPE MAINTENANCE**

- A. All required landscape areas shall be continuously maintained in a healthy, growing condition. Failure to maintain required landscaped areas in such a manner, including removal and replacement of dead or diseased plant materials, shall constitute a violation of this Ordinance.
- B. The use of native species of shrubs and trees can help ensure the long-term health of the landscape. Plant species the same or similar to those growing in undisturbed areas of the County can be suitable examples of well-adapted plants that will also contribute to maintenance of the rural character of the County. While several sections of this Article offer suitable plants for landscaping, a longer list can be found in the Grand Traverse Bay Region Guidebook, 2nd edition.

#### **SECTION 18.03 - BERMS**

- A. Any combination of a raised earth berm and closely spaced plantings which form a complete visual barrier that is at least five (5) feet above grade. Further requirements for the use of a bermed screen include the following:
  - 1. The earth berm shall comprise at least two (2) vertical feet of the screen.
  - 2. The berm shall be at least six (6) feet wide with a slope no steeper than 3:1.



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3. The berm area shall be curbed or edged and shall be covered by grass, other ground cover or mulch to ensure that it withstands wind and weather and retains its height and shape.

## SECTION 18.04 - BUFFER STRIPS

- A. A strip of trees and other plantings at least six (6) feet high and at least ten (10) feet in width shall be planted forming a complete visual barrier with an opacity of at least seventy-five (75) percent. Further requirements for the use of a buffer strip/screen include the following:
1. At least seventy (70) percent of required trees shall be evergreens.
  2. The buffer planting area shall be curbed or edged and shall contain grass, ground cover, four (4) inch deep wood chips, or any combination of the above.
  3. The following species and suggested planting spacings are recommended for use in the buffer strip:

COMMON NAME	SCIENTIFIC NAME	MAX. HEIGHT	SPACING (FT. ON CENTER)
Red Cedar	Juniperus Virginiana	20	5
Stone Pine	Pinus cembra	35	10
Mugo Pine	Pinus mugo	10	5
American Arborvitea	Thuja occidentalis	25	5
Canadian Hemlock	Tsuga occidentalis	65	12
Serbian Spruce	Picea omoriac	50	10
White Fir	Abies concolor	20	8
Japanese Cryptomeria	Cryptomeria japonica	40	8
White Pine	Pinus strobus	65	10
Ketleeri	Juniperus chinensis	18	5

## SECTION 18.05 - FENCE/WALL

- A. When screening is required along the property line it shall be at least five (5) feet wide and contain a fence or wall at least six (6) feet high. Further requirements for the use of a fence/wall or screen include the following unless waived by the Planning Commission:
1. All fences and walls shall be built within three (3) inches of the property line unless otherwise specified.
  2. All fences and walls shall be constructed of poured concrete, masonry, redwood, cedar or No. 1 pressure treated wood. No concrete or cinder blocks shall be allowed. All supporting members used in the fence shall face inside and away from adjoining properties.
  3. All fences shall have a minimum height of six (6) feet and a maximum height of eight (8) feet.

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4. There shall be a minimum five (5) foot wide planting area adjacent to the fence or wall for its entire length. In this area there shall be at least one (1), twelve (12) foot high, (two (2) inch caliper) tree and at least four (4), eighteen (18) inch high or wide shrubs for every thirty (30) lineal feet of length.
5. The required planting area shall be curbed or edged and shall contain grass, ground cover, four (4) inch deep wood chips, or four (4) inch deep crushed stone.
6. See also the standards in Section 21.21 which apply to all fences.

### **SECTION 18.06 - GREENBELT**

- A. This shall be a planting strip at least twenty (20) feet wide (unless otherwise specified). The requirement includes the following:
  1. One (1), twelve (12) foot high, two (2) inch caliper) deciduous tree or five (5) foot high evergreen tree, at time of planting, shall be required for every thirty (30) lineal feet of greenbelt area.
  2. Two (2) eighteen (18) inch high or wide shrubs shall be required for each fifteen (15) lineal feet of greenbelt area. Location of the shrubbery along the length of the greenbelt area is discretionary.
  3. The greenbelt area shall be curbed or edged and shall contain grass, ground cover, four (4) inch deep wood chips, or any combination of the above.
  4. Random spacing and grouping of plant materials, as well as the use of berms to increase screening effects is encouraged and is permitted with Planning Commission approval.
  5. Necessary access drives from public rights-of-way through required greenbelts shall be permitted, but such drives shall not be subtracted from the lineal dimensions used to determine the minimum number of trees and shrubs required.
  6. The land area which lies between the front property line and the edge of pavement of the adjacent public street or road shall be landscaped with grass or suitable landscape of a natural/native appearance; including wildflowers, or native shrubs and trees. However, a splash panel containing crushed stone or other inert materials of no more than thirty (30) inches in width may be placed adjacent to the curb. A four foot wide concrete sidewalk (or bike path) may be required within this area by the Planning Commission.

### **SECTION 18.07 - INTERIOR LANDSCAPING**

- A. For every new development over three (3) acres in size, except for a single family dwelling on an individual lot, there shall be interior landscaping areas exclusive of any other required landscaping, of at least five (5) percent of the total lot area. This landscaped area should be grouped near building entrances, along building foundations, along pedestrian walkways and along service areas. All interior landscaping shall conform to the following:
  1. One (1), twelve (12) foot high, two (2) inch caliper deciduous tree, or four (4) foot high evergreen tree, shall be required for every four-hundred (400) square feet of required interior landscaping area.

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2. Two (2), eighteen (18) inch high or wide shrubs shall be required for every two hundred (200) square feet of required interior landscaping area.
3. The interior landscaping area shall be curbed or edged and shall contain grass, ground cover, four (4) inch deep wood chips, or four (4) inch deep crushed stone.

### **SECTION 18.08 - RESERVED FOR FUTURE USE**

### **SECTION 18.09 - DUMPSTER AND TRASH RECEPTACLE AREA SCREENING**

- A. All dumpster and trash receptacle areas shall be indicated on the site plan and shall be screened on at least three (3) sides by a solid obscuring fence or wall at least six (6) feet high. The fourth side shall consist of a gate, at least six (6) feet in height, and constructed of opaque material compatible with the material used to screen the other three sides. All dumpsters shall be located on concrete pads (no asphalt or gravel permitted).
- B. The obscuring fence or wall shall be constructed of materials which are similar to or compatible with the exterior materials utilized in the construction elsewhere on the site, and shall be maintained so as to remain structurally sound and completely obscuring throughout. In locating trash receptacle facilities, primary consideration shall be given to access for service, minimizing on-site traffic congestion, and minimizing visibility or other negative effects on those utilizing the site or adjoining properties. In no instance shall the dumpster pad be located within the required front yard setback.

### **SECTION 18.10 - EXISTING PLANT MATERIAL**

- A. In instances where healthy plant material exists on a site prior to its development, the Planning Commission may adjust the application of the above standards to allow credit for such plant material if such an adjustment is in keeping with, and will preserve, the intent of this Article. Such plant material may serve as an effective screen, is less expensive, and contributes to a rural scenic character.
  1. All existing plant materials must be shown on the site plan and be inspected by the Zoning Administrator to determine the health and desirability of such materials. In the event existing plant materials are to be saved, prior approval must be obtained from the Zoning Administrator before any de-limbing, root pruning, removal or other work is done.
  2. If such existing plant material is labeled "To Be Saved" on site plans, protective techniques, such as (but not limited to) fencing or boards placed at the drip-line around the perimeter of the plant material, shall be installed. No vehicle or other construction equipment shall be parked or stored within the drip-line of any plant material intended to be saved.

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3. In the event that healthy trees labeled "To Be Saved" on the approved site plan are destroyed or damaged, as determined by the Zoning Administrator, the owner, developer or contractor shall replace said trees with trees of comparable type and a minimum of five (5) to six (6) feet in height.

## SECTION 18.11 - RESERVED FOR FUTURE USE

## SECTION 18.12 - SUGGESTED TREES AND SHRUBS FOR GREENBELT AREAS AND INTERIOR LANDSCAPE AREAS

Amur Maple	Arborvitae	Goldenrain Tree
Hawthorns	European Linden	European Hornbeam
White Ash (seedless)	Scarlet Oak	Littleleaf Linden
Honeylocust	Zelkova	Japanese Tree Lilac
Scotch Pine	Border Privet	Buckthorn
Henry St. Johnswort	Junipers	Gingko (male only)
Mugo Pine	Serbian Spruce	Bristly Locust
Mockorange	Euonymus	Eastern Ninebark
Beauty Bush	Smoke Tree	Cottoneaster
Snowdrift Crabapple	Hedge Maple	Dwarf Callery Pear
Hardy Rubber Tree	Bayberry	White Oak
Austrian Pine	Sugar Maple	Red Maple
Grey Dogwood	Red Cedar	Lilac
Redosier Dogwood	Pin Cherry	Chokecherry
Nannyberry	Arrowwood	

## SECTION 18.13 - RECOMMENDED SALT RESISTANT TREES AND SHRUBS

Austrian Pine	Honey Locust
Canada Yew	Michigan Holly
Amelanchier	Hawthorn
Honeysuckle	Staghorn sumac
Andorra Juniper	Tamarix
Lilac	Larch

## SECTION 18.14 - RECOMMENDED TREES AND SHRUBS FOR SHADY AREAS

Euonymus	Witch Hazel
Oregon Grape Holly	Cottoneasters
Amelanchier	Arborviteas
Alpine Currant	Sugar Maple
Honey Locust	Viburnums

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## **ARTICLE NINETEEN**

### **SIGN REGULATIONS**

#### **SECTION 19.01 - PURPOSE**

The purpose of these requirements is to provide a framework within which the identification and informational needs of all land uses can be harmonized with the desires and aesthetic standards of the general public. It is intended through the provisions contained herein to give recognition to the legitimate needs of business, industry and other activities, in attaining their identification and informational objectives. It is a basic tenet of this Article that unrestricted signage does not benefit either private enterprise or the community-at-large as it creates traffic safety hazards, visual clutter, confusion for vehicle drivers, and visual blight.

#### **Section 19.02 - SIGNS IN RESIDENTIAL (R) DISTRICTS**

A single sign in accordance with the definition set forth in Article Thirty-Two of this Ordinance shall be permitted in a front yard of a lot in the Residential (R), Lakefront-Residential (L-R), Resort-Residential (R-R), Agricultural- Residential (A-R), and Forest-Recreational (F-R) districts no closer than fifteen (15) feet to the right-of-way of a street or road subject to the following restrictions except as may be otherwise permitted in this Ordinance:

- A. A sign no larger than twelve (12) square feet in area shall be permitted for any of the following purposes:
  - 1. Sale or lease of property (real or personal), however such a sign shall be removed within fifteen (15) days of the consummation of said sale or lease.
  - 2. Political advertising related to a candidate running for office or a proposition up for public vote, except that there is no limit on the number of political advertising signs; provided, no signs may be placed within the public right-of-way and all political advertising signs must be removed within ten (10) days after an election.
  - 3. Identification of a use permitted by right (except for dwellings, see Section 19.02(d) below), Special Use Permit or a nonconforming nonresidential use.
  - 4. Identification for a temporary use allowed pursuant to Section 21.17 except as provided for temporary real estate offices in subsection B. following.
  - 5. Stating an opinion on any matter protected by the 1<sup>st</sup> Amendment to the U.S. Constitution.
- B. Signs advertising a new subdivision or major developments may be permitted by the Planning Commission for no more than one (1) year, provided they do not exceed twenty-four (24) square feet in area.
- C. Public institutions permitted in residential districts shall comply with sign regulations for commercial uses.

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- D. A single identification sign for residences, for home occupations and residence-based occupations:
1. May be attached to the structure or in the front yard.
  2. Shall not be placed in the right-of-way.
  3. Shall not exceed eight (8) square feet.

### SECTION 19.03 - SIGNS IN COMMERCIAL OR INDUSTRIAL DISTRICTS

Signs for nonresidential uses shall be permitted in the Commercial (C-1) District, General-Industrial (G-I) and Light-Industrial (L-I) Districts, and for nonresidential special uses in the Resort-Residential (R-R), Agricultural-Residential (A-R), and Forest-Recreational (F-R) Districts subject to the following restrictions:

- A. Usage: Signs shall pertain exclusively to the business or businesses carried on within the building.
- B. Placement: Signs shall be placed flat against the main building or more or less parallel to the building on a canopy and may face only the public street or parking areas as part of the development. Signs shall not project above the roof line or cornice, nor extend farther than fifteen (15) inches from the wall, nor be closer than eight (8) feet from the ground below the sign.
- C. Size and Number: No more than two (2) signs painted or affixed to a building are permitted provided they shall not exceed twenty (20) percent of the surface area of the building face to which it is attached or forty-eight (48) square feet, whichever is smaller at the setback or building line. A larger sign shall be permitted proportional to this standard for any sign setback a distance ten (10) percent or more than the District permits. The maximum height of any single sign shall not exceed twelve (12) feet and the maximum width shall not exceed ninety (90) percent of the width of the wall to which it is attached.
- D. Vehicular Safety: Signs may be illuminated, but no flashing or moving illumination shall be permitted. The source of illumination shall be shielded from traffic and adjacent properties and shall not be visible beyond the property line of the parcel on which the sign is located.
- E. Free Standing Signs: shall:
1. Not obstruct a clear view of traffic.
  2. Not exceed twenty-five (25) feet in height.
  3. Not exceed one per property, regardless of the number of businesses.
  4. Set back at least ten (10) feet, measured from the right-of-way line to the leading edge of the sign.
  5. Not exceed forty-eight (48) square feet in area.
  6. Not advertise products or services not available on the premises unless authorized by Special Use Permit pursuant to Article 23.

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- F. Changeable Message Boards: Are permitted in place of an identification sign or a freestanding sign, but the total area allotted to signs shall remain the same whether a wall sign or a freestanding sign (see Section 19.03.E(3) and 19.03.E(5)).
- G. Political advertising related to a candidate running for office or a proposition up for public vote: There is no limit on the number of political advertising signs; provided, no signs may be placed within the public right-of-way and all political advertising signs must be removed within ten (10) days of an election.
- H. Automobile Gasoline Service Stations<sup>1</sup>
1. Additional signs allowed. Automobile gasoline service stations, including any business selling gasoline, in addition to the principal signs may attach two other signs, each not exceeding twenty (20) square feet in display area per side, to the column(s) of the pylon sign advertising the price of gasoline or other accessory product sold on the premises including the advertising of accepted credit cards.
  2. Directional and service signs allowed. Directional signs or lettering displayed over individual entrances or service bays shall be permitted, provided they consist only of the words "washing," "lubrication," "repairs" "mechanic on duty," or similar words directly relating to motor vehicle services offered on the premises. Not more than one such sign per bay shall be permitted and each sign shall not exceed four square feet in total display area.

## SECTION 19.04 - MOVING OR REVOLVING SIGNS

Any sign which revolves or has any visible moving parts, visible revolving parts or visible mechanical movement of any type, or other apparent visible movement on the sign face such as flashing lights, letters or objects achieved by electrical, electronic or mechanical means, excepting those movements associated with displaying time and/or temperature, shall be prohibited.

## SECTION 19.05 - SIGNS NOT TO CONSTITUTE A TRAFFIC HAZARD

No sign shall be erected at the intersection of any street in such a manner as to obstruct free and clear vision; or at any location where by reason of the position, shape or color, it may interfere with, obstruct the view of or be confused with any authorized traffic sign, signal or device; or which makes use of the words "stop", "look", "danger" or any word, phrase, symbol or character in such manner as to interfere with, mislead or confuse traffic.

## SECTION 19.06 - PORTABLE OR MOVABLE SIGNS

Portable, movable and temporary signs shall be permitted only in accordance with the following provisions:

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<sup>1</sup> Ordinance #114, Amendment #135 adopted on November 12, 2002

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- A. Use: Portable signs are permitted for grand openings, advertising charitable or community-related events and the like. Being temporary in nature, such portable signs may be permitted for a period not to exceed thirty (30) days per year.
- B. Lighting: All illuminated portable signs shall comply with the requirements of Section 19.03.D.
- C. Placement: All portable signs shall be located no closer to the street right-of-way line than one-half the setback distance for a principal building.
- D. Area: Any portable signs shall not exceed forty-eight (48) square feet in surface display area on one side. No more than two sides are permitted on one sign.
- E. Number: Only one (1) portable sign may be established on a property.
- F. No vehicles shall be parked or displayed in such a way in the front yard so as to be used as a sign.

### SECTION 19.07 - OUTDOOR ADVERTISING STRUCTURES AND BILLBOARDS

Outdoor advertising structures and billboards other than those signs which exclusively advertise businesses on the premises on which they are located, may be permitted by Special Use Permit in the General Industrial and Light Industrial Districts pursuant to Section 19.03.E. Billboards are not permitted in any other district. Land may not be rezoned to permit a billboard as a principal use. No billboard greater than one-hundred (100) square feet in area shall be permitted in any district. All required permits from the Michigan Department of Transportation (MDOT) shall also be obtained prior to erecting the billboard.

### SECTION 19.08 - EXISTING NONCONFORMING SIGNS

It is the intent of this Section to permit the continuance of a lawful use of any sign or outdoor advertising structure existing at the effective date of adoption of this Article, although such sign or outdoor advertising structure may not conform with the provisions of this Article. It is also the intent that nonconforming signs and outdoor advertising structures shall not be enlarged upon, expanded or extended. Further, it is the intent that nonconforming signs and outdoor advertising structures shall be gradually eliminated and terminated upon their natural deterioration or destruction. The continuance of all nonconforming signs and outdoor advertising structures within the County shall be subject to the conditions and requirements set forth below.

- A. Structural Changes: The faces, supports, or other parts of any nonconforming sign or outdoor advertising structure shall not be structurally changed, altered, substituted, or enlarged unless the resultant changed, altered, substituted, or enlarged sign or outdoor advertising structure conforms to the provision of this Article for the use it is intended, except as otherwise provided for.
- B. Placement: No nonconforming sign shall be relocated on a property, unless located in conformance with this Ordinance and sized so as to conform with this Ordinance.



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## **SECTION 19.09 – APPROVED SIGNS<sup>2</sup>**

All approved signs in all zoning districts will be issued a zoning permit number which must be displayed with two (2) inch numbers and letters, placed as determined by the Zoning Administrator.

## **SECTION 19.10 – SIGNS WITHIN MDOT ROAD RIGHT-OF-WAY<sup>3</sup>**

For signs within the road right-of-way on state trunk lines approval must be obtained from the Michigan Department of Transportation (MDOT).

## **SECTION 19.11 – OFF-PREMISE DIRECTIONAL SIGNS<sup>4</sup>**

- A. Off-Premise Directional Signs (in lieu of TODS Trailblazer signs) are allowed in all zoning districts subject to the following requirements:
1. The leading edge of the sign post shall be placed two (2) feet from the edge of the road right-of-way on private property with written consent of property owner.
  2. Off-Premise Directional Signs must comply with the requirements of Michigan Department of Transportation (MDOT) Program Rules and Regulations for TODS Trailblazer Signs.
  3. Temporary Off-Premise Directional Signs are exempt from requirements of Section 19.09 of this Ordinance.

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<sup>2</sup> Ordinance #138, Amendment #159 adopted on June 9, 2009

<sup>3</sup> Ordinance #143, Amendment #164 adopted on June 29, 2012

<sup>4</sup> Ordinance #143, Amendment #164 adopted on June 29, 2012

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## **ARTICLE TWENTY**

### **NONCONFORMING USES**

#### **SECTION 20.01 - INTENT**

It is the intent of this Ordinance to permit continuance of an existing structure or land use which was lawful prior to the effective date of this Ordinance or subsequent amendment, or which became nonconforming as a result of a government action, such as a road widening, but no such structure or use shall be enlarged or extended, except as provided herein. There may be a change in tenancy, ownership or management of any existing lawful nonconforming use or structure, provided there is no enlargement or extension of the nonconforming use or structure, except as provided herein.

#### **SECTION 20.02 - DISCONTINUATION OF NONCONFORMING USE**

If the nonconforming use is discontinued through vacancy, lack of operation or any other means, for a continuous period of one (1) year or more, the right to resume such use shall terminate and no use shall be made of such building or land except in conformity with this Ordinance, provided, however, that the Board of Appeals may hear an application for resumption of such former use, if filed by the owner within six (6) months of the termination. Such application shall be processed in the same manner as provided in Section 20.08 following.

#### **SECTION 20.03 - CHANGE OF NONCONFORMING USE**

A nonconforming use may be changed to another use only as provided below:

- A. If no structural alterations are made, any nonconforming use of a structure and premises may be changed to another nonconforming use of the same or a more restricted classification, provided that the Board of Appeals, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Appeals may require appropriate conditions and safeguards in accord with the purpose and intent of this Article.
- B. Where a nonconforming use of a structure, land or structure and land in combination is hereafter changed to a more restrictive classification, it shall not thereafter be changed to a less restricted classification.
- C. Should a nonconforming structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
- D. 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.

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- E. Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

## **SECTION 20.04 - REPAIR OF NONCONFORMING STRUCTURES**

Nothing in this Ordinance shall bar or prevent the owner of a nonconforming use or structure from making such repairs, improvements or modernizations to a lawful nonconforming building or structure to correct deterioration, obsolescence, depreciation and wear in the interest of public safety or the continued advantageous use of such building or structure, provided such changes do not expand the footprint of the building (in other words, it is ok to expand up to the height limit of the District, but not to expand the basement, first or second floor area). Provided however, that such repair may not exceed an aggregate cost of fifty (50) percent of the assessed valuation of the building or structure and no improvement or modernization shall exceed an aggregate cost of one hundred (100) percent of the assessed valuation of the building.

## **SECTION 20.05 - COMPLETION OF NONCONFORMING BUILDINGS**

To avoid undue hardship, nothing in this Ordinance shall be construed to require a change in the plans, construction or designated use of any building or structure on which actual construction has been lawfully begun prior to the effective date of this Ordinance, or any amendment thereto, and is completed within one (1) year to said date. Actual construction shall be construed as permanent fixation of construction material in place.

## **SECTION 20.06 - RESERVED FOR FUTURE USE**

## **SECTION 20.07 - RECONSTRUCTION AND RESTORATION OF NONCONFORMING BUILDINGS**

- A. Any lawful nonconforming structure that is destroyed by fire, an act of nature, or structure partially destroyed (fifty (50) percent or less of the useable area of the principle structure) by any means shall be permitted to be reconstructed to its' original size and within the same spatial envelope (including the original footprint, height, and bulk) so long as reconstruction shall be completed within twelve (12) months. The time requirement for reconstruction may be waived by the Zoning Administrator for good cause shown. A Zoning Permit is required. Any enlargement that is nonconforming shall be subject to the approval of the Board of Appeals.<sup>1</sup>
- B. In the event the damage referred to in Section 20.07.A above shall exceed fifty (50) percent of the useable area as determined by the Zoning Administrator<sup>2</sup>, then and in that event, such lawful nonconforming buildings may be restored, rebuilt or repaired but only if as a result, the

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<sup>1</sup> Ordinance #143, Amendment #164 adopted on June 29, 2012

<sup>2</sup> Ordinance #143, Amendment #164 adopted on June 29, 2012

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building meets the front and side setback requirements of the District in which it is located. If conformance with front or side yard setbacks is not practical because of the size or shape of the lot, or the location of existing abutting structures, then the front or side yard setback may be varied by the Board of Appeals in an amount that results in the structure being located no closer to the street or side yard than that building line maintained by the average of fifty (50) percent or more of the buildings in the same district fronting on the same street within three hundred (300) feet or having side yards on the same street within the two (2) nearest intersections.

- C. If no reasonable use of the property would be permitted by the application of the standard in Section 20.07.A or 20.07.B above, the Board of Appeals, upon an application by the bona fide owner of the affected nonconforming property, shall grant a variance in the minimum amount necessary to permit a reasonable use of the land while also ensuring no unreasonable impacts would affect abutting property as a result of the application of the variance standards in Section 29.03.E. In no event shall a variance granted under this Section result in a use with impacts on abutting property that are more intense or extensive than those which existed prior to the damage or destruction giving rise to the application of this Section.

### **SECTION 20.08 - APPLICATION FOR EXPANSION OR EXTENSION OF NONCONFORMING USE OF STRUCTURES**

The extension or expansion of any nonconforming building or structure or any addition to or alteration of any existing building or structure for the purpose of extending a nonconforming use shall only be permitted as provided below:

- A. No nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but the use of a structure and/or the structure itself may be changed or altered to a use permitted in the district in which it is located, provided that all such changes are also in conformance with the requirements of the district in which it is located.
- B. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed at the time of adoption or amendment of this Article, but no such use shall be extended to occupy any land outside such building.
- C. No hearing shall be held by the Zoning Board of Appeals until after notice of the time and place of such hearing and the purpose thereof has been published in a newspaper of general circulation in the County as required by law, prior to said hearing date. The Board shall give notice by mail to the owners of adjacent property. If, during such hearing, it shall appear that the proposed addition, alteration or extension of such nonconforming use is contrary to the purpose of this Ordinance or injurious to the neighborhood where situated, the Board shall deny the application.

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## SECTION 20.09 - SUBSTANDARD LOTS OF RECORD

### A. Single Lots of Record

Single lots of record that are nonconforming at the effective date of this Ordinance because of a lack of the required number of acres, minimum number of square feet, lot width, lot depth or other dimensional criteria shall be allowed to be used and built upon for any use permitted in that district, provided that the Zoning Administrator determines that:

1. The lot was legally established by recorded deed or land contract or other legal document prior to the effective date of this Ordinance.
2. At least fifty (50) percent of the rear yard requirement can be met, but in no case shall a side yard for a dwelling or accessory structure be less than ten (10) feet.<sup>3</sup>
3. The front yard requirement shall be as specified in the zoning district except where an established setback of buildings has been previously determined. In such case, the structure to be located on the proposed building site will be no closer to the roadway than the existing general line of buildings on either side for a distance of 300 feet. The exact setback shall be determined, in each case, by the Zoning Administrator following a site inspection. If there are no buildings on either side within 300 feet, the Zoning Administrator will designate the setback distance which shall conform as closely as possible to the required setback for the zone district as established in this Ordinance.
4. An adequate potable water supply and proper safe sewage disposal facilities are provided in accordance with the requirements of the District Health Department; and
5. All the other requirements of the district are met.

### B. Two or More Lots of Record or Lots of Premises

If two (2) or more lots that are nonconforming and have contiguous frontage are under single ownership and are of record at the time of adoption or amendment of this Ordinance, said lots shall not be used for residential purposes unless they are utilized as one lot, so as to comply with the specified lot size requirements or unless approved for use by grant of a variance by the Board of Appeals according to the requirements of Article Twenty-Nine.

### C. Plats with Preliminary Approval

Any plat having had preliminary approval by a government agency prior to the adoption of this Ordinance shall be treated as a Plat of Record.

## SECTION 20.10 - HARDSHIP CASES

Nonconforming buildings or structures may be structurally changed, altered or enlarged with the approval of the Zoning Board of Appeals when the Board finds that the request is a case of exceptional hardship in which failure to grant the relief requested would unreasonably restrict continued use of the property or would restrict valuable benefits that the public currently derives from the property as used in its nonconforming status, EXCEPT that any approval for structural changes, alteration or

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<sup>3</sup> Ordinance #113, Amendment #134 adopted on September 11, 2002

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enlargement may be granted only with a finding by the Board that approval will not have an adverse affect on surrounding property and that it will be the minimum necessary to relieve the hardship.

### **SECTION 20.11 - ILLEGAL NONCONFORMING USES**

Nonconforming uses of structures or land existing at the effective date of this Ordinance that were established without approval of zoning compliance or without a valid building permit or those nonconforming uses which cannot be proved conclusively as existing prior to the effective date of this Ordinance, shall be declared illegal nonconforming uses and are not entitled to the status and rights accorded legally established nonconforming uses.

### **SECTION 20.12 - PERMITS**

Permits for construction of a new building on, expansion of, or substitution of nonconforming lots, uses or structures require a Zoning Permit pursuant to Section 27.03. Other permits and approvals may also be required.

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## **ARTICLE TWENTY-ONE**

### **GENERAL PROVISIONS**

#### **SECTION 21.01 - CONFLICTING LAWS, REGULATIONS AND RESTRICTIONS**

The provisions of this Ordinance shall be held to be the minimum requirements for promoting the public health, morals, safety and general welfare. Whenever the requirements of this Ordinance conflict with other lawfully adopted rules, regulations or restrictions, existing easements, covenants, or other agreements between parties, the requirements imposing the higher standards shall govern. Compliance with the terms of this ordinance in no way removes responsibility for obtaining any and all other permits and approvals required by local, state or federal law before commencing with any construction upon or use of land within the territory affected by this Ordinance.

#### **SECTION 21.02 - TOWNSHIPS SUBJECT TO COUNTY ZONING**

Any township within Kalkaska County which properly enacts or has previously enacted a Township Zoning Ordinance in accord with the requirements of P.A. 184 of 1943, as amended, and the Michigan Zoning Enabling Act (MZEA) P.A. 110 of 2006, as amended<sup>1</sup> shall not be subject to this Ordinance.

#### **SECTION 21.03 - THE EFFECT OF ZONING**

- A. Zoning applies to every building, structure or use. No building, structure or land shall be used or occupied, and no building or structure or part thereof shall be erected, moved, placed, reconstructed, extended, enlarged or altered, except in conformity with this Ordinance. Only uses specifically listed in a particular zoning district may be established on a parcel. All other uses may be permitted only if the Ordinance has been amended to permit them, unless authorized by action of the Zoning Board of Appeals, or by means of approval of a Planned Unit Development.
- B. Zoning approval runs with the land, not the property owner. The approval to engage in any land use activity or to construct a building or structure that is bestowed by a Zoning Permit, or other permit issued under the authority of this Ordinance, or any variance granted by the Zoning Board of Appeals, runs with the land, just like a nonconforming use right, and not with the owner. Thus, any person who relies on a valid permit or approval granted under the terms of this Ordinance, may sell the property to another person who will enjoy the same rights, privileges and restrictions as the seller, provided that the seller's use of the property was not in violation of the Ordinance prior to the sale.

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<sup>1</sup> Ordinance #143, Amendment #164 adopted on June 29, 2012

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### **SECTION 21.04 - PROTECTING THE PUBLIC HEALTH, SAFETY AND GENERAL WELFARE**

All proceedings of the Planning Commission, Zoning Board of Appeals, and County Board of Commissioners shall be conducted, and all decisions shall be made with due consideration given to the prevention of nuisances and the maintenance of reasonable circumstances regarding: emission and transmission of injurious or obnoxious noise, fire or explosive hazard, liquid or solid waste disposal, vibration, gas fumes, smoke, dust, dirt, litter, odor, light, glare, traffic congestion, ingress and egress, ease of police and fire protection, drainage, lateral land support, blighting influence, effect on property values, adequate light and air, overcrowding of persons, sanitation, general appearance of the area, surface and groundwater quality, and other similar considerations having an effect on public health, safety and general welfare of the people of the surrounding area.

### **SECTION 21.05 - RESERVED FOR FUTURE USE**

### **SECTION 21.06 - LAND ALTERATION**

No premises shall be so filled or graded as to discharge surface runoff on abutting premises in any quantity greater than before filling or grading, nor shall it be done in such manner as to cause ponding or surface accumulation of such runoff thereon. No earth changing activities shall be undertaken except in compliance with Part 91 of the Natural Resources and Environmental Protection Act of 1994, as amended, and any permit required thereunder must be obtained prior to initiating an earth change covered by said Act.

### **SECTION 21.07 - WATER SUPPLY AND WASTE DISPOSAL**

After the effective date of this Ordinance, no structure for human occupancy shall be erected, altered, or moved upon any lot or premises and used in whole or in part for dwelling, business, industrial, or recreational purposes unless it shall be provided with a safe, potable water supply and with a safe and effective means of collection, treatment, and disposal of human excreta and domestic, commercial and industrial wastes. All such installations and facilities shall conform with the minimum requirements of the District Health Department, and all local and state laws and administrative rules, such as those administered by the Michigan Department of Environmental Quality (MDEQ) and the Department of Public Health.

### **SECTION 21.08 - PUBLIC UTILITY STRUCTURES**

- A. Permitted by Right Except on Waterfront Lots



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Essential services (see definition in Article Thirty-Two) are uses permitted by right in any zone unless the property upon which the use is proposed is a waterfront lot, in which case the essential service is a use permitted only by special use permit.

### **B. Submittal of Maps**

Public utilities, municipal departments or commissions shall provide maps of all utility systems, including underground to the County Planning Commission upon request concerning any project affected by Section 21.08 A.

## **SECTION 21.09 - HOME OCCUPATIONS**

- A. Home occupations, as defined in Article Thirty-Two, may be conducted within a dwelling unit and not in any accessory building provided that:
1. Such dwelling unit conforms to all requirements of the zoning district in which it is located.
  2. Not more than one (1) person who is not a resident of the dwelling is employed or works as a volunteer at the home occupation.
  3. Not more than one-fourth (1/4) of the dwelling unit and less than one-half (1/2) of the main floor is devoted to such home occupation.
  4. Such home occupation shall not require external alterations to the dwelling unit or involve construction features not customary in dwellings, or require use of mechanical or electrical equipment which will create a nuisance to the adjacent neighborhood.
  5. The home occupation shall not require any additional parking.
  6. A zoning permit is secured from the Zoning Administrator pursuant to the requirements of Article Twenty-Seven.
- B. No home occupation shall increase traffic, fire and safety hazards, noise, dirt, odor, dust, gas, vibration or other nuisance on abutting properties.
- C. The following uses shall be prohibited home occupations: automotive and engine repair, furniture refinishing and animal processing.
- D. Any proposed home occupation which does not conform with all the requirements of this Section shall not be issued a Zoning Permit, but may upon application therefore, be considered by the Planning Commission for a Special Use Permit pursuant to the procedures and standards of Article Twenty-Three. Such a request shall not be approved until a determination has been made that the maximum feasible conformance with the standards of this Section has been achieved. A Special Use Permit shall not be granted if the request qualifies as a residence-based occupation, as the request shall be processed under the standards of Section 23.10.HHH.

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## SECTION 21.10 - ACCESSORY BUILDINGS, STRUCTURES AND USES

### A. Minimum Standards for Accessory Buildings

Table 21-1 presents the minimum standards for the erection of accessory buildings in this Ordinance. These standards are in addition to those that follow in the remainder of this Section and any other applicable regulations in this Ordinance. Where permitted, oversized accessory buildings (greater than 1,200 square feet) are subject to the Special Use Permit requirements of Sections 23.10.XX or YY.

### B. Farm Animals and Farm Buildings

Except as otherwise provided herein, the provisions of this Ordinance shall not apply to the erection, repair or use of customary accessory farm buildings and structures, such as barns, pens, sheds, fences and the like in the Agricultural-Residential (A-R), Forest-Recreational (F-R), and Resort-Residential (R-R) <sup>2</sup> Districts provided that no building or structure other than open fences, through which there shall be clear vision, shall hereafter be erected, moved or maintained less than thirty (30) feet from any highway right-of-way line abutting the premises. Farm animals and farm buildings shall be permitted in the Agricultural-Residential (A-R), Forest-Recreational (F-R), and Resort-Residential (R-R) Districts if in conformance with the following requirements except those in compliance with Generally Acceptable Agricultural and Management Practices<sup>3</sup> (GAAMP) and the Right to Farm Act (RTFA)<sup>4</sup>:

1. Front and side yard setbacks for pens and structures shall be two (2) times regular setback requirements.
2. Rear yard setback shall conform to regular setback requirements.
3. Fenced pasture shall be permitted to the property line or road right-of-way.
4. Visual barriers are preferred for pens and structures.
5. Reserved for future use.
6. Farm animals and agricultural crops are permitted if Generally Acceptable Agricultural and Management Practices<sup>5</sup> (GAAMP) by the State Department of Agriculture is used.<sup>6</sup>
7. On less than three (3) acres of land a maximum of fifty (50) rabbits or poultry of singular or combined species are allowed. On three (3) to ten (10) acres a maximum of one hundred (100) of singular or combined species are allowed. No limit on number of rabbit or poultry with over ten (10) acres of land.<sup>7</sup>
8. One (1) hoofed animal shall be permitted on less than three (3) acres of land. Ten (10) hoofed animals shall be permitted on three (3) to ten (10) acres of land. No limit of hoofed animals with over ten (10) acres of land.<sup>8</sup>
9. Said animals, at all times, shall be properly housed, fenced, maintained and controlled, so as not to be objectionable or offensive.
10. Buildings more than 1,200 square feet shall be permitted as per the following conditions:
  - a. Front and side yard setbacks shall be two (2) times the minimum Table 15-1 <sup>9</sup> requirements.<sup>10</sup>

<sup>2</sup> Ordinance #120, Amendment #141 adopted on November 14, 2006

<sup>3</sup> Ordinance #144, Amendment #165 adopted on October 10, 2012

<sup>4</sup> Ordinance #139, Amendment #160 adopted on January 27, 2010

<sup>5</sup> Ordinance #144, Amendment #165 adopted on October 10, 2012

<sup>6</sup> Ordinance #139, Amendment #160 adopted on January 27, 2010

<sup>7</sup> Ordinance #114, Amendment #135 adopted on November 12, 2002

<sup>8</sup> Ordinance #114, Amendment #135 adopted on November 12, 2002

<sup>9</sup> Ordinance #134, Amendment #155 adopted on August 12, 2008

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- b. If the building is on a bona fide farm where evidence of farming activity is presented, the Zoning Permit fee will be waived upon presentation of the federal Schedule F tax form.

**TABLE 21-1**  
**NON-FARM STORAGE BUILDING/ACCESSORY BUILDING STANDARDS<sup>11</sup>**

Zoning District	Height * and Other Requirements for Accessory Buildings		
	1200 Sq. Ft. or Less <sup>12</sup>	1201 – 2,000 Sq. Ft. <sup>13</sup>	Over 2,000 Sq. Ft.
Residential (R) <sup>14</sup>	14'/22' <sup>15</sup> by right, 16'/24' by Sp Use <sup>16</sup> w/less than 3 acres	16'/24' w/3 acres or more; 16'/24' by Sp Use w/less than 3 acres <sup>17</sup>	Not Allowed under 3 acres; 16'/30' by Sp Use w/3 acres or more <sup>18</sup>
Lakefront Residential (L-R)	14'/22' <sup>19</sup> by right, 16'/24' by Sp Use <sup>20</sup> w/less than 3 acres	16'/24' w/3 acres or more; 16'/24' by Sp Use w/less than 3 acres <sup>21</sup>	Not Allowed under 3 acres; <sup>22</sup> 16'/30' by Sp Use w/3 acres or more <sup>23</sup>
River/Streamfront Residential (R/S-R) <sup>24</sup>	—————	—————	—————
Resort-Residential (R-R)	14'/22' <sup>25</sup> by right, 16'/24' by Sp Use <sup>26</sup> w/less than 3 acres	16'/24' w/3 acres or more; 16'/24' by Sp Use w/less than 3 acres <sup>27</sup>	16'/30' w/3 acres or more; 16'/30' by Sp Use w/less than 3 acres <sup>28</sup>
Agricultural-Residential (A-R)	14'/22' <sup>29</sup> by right, 16'/24' by Sp Use <sup>30</sup> w/less than 3 acres	Bona fide farms allowed by right w/no limitations; 16'/24' w/3 acres or more; 16'/24' by Sp Use w/less than 3 acres <sup>31 32</sup>	Bona fide farms allowed by right w/no limitations; 24'/36' for other than bona fide farms w/3 acres or more; 24'/36' by Sp Use w/less than 3 acres <sup>33 34</sup>
Forest-Recreational (F-R)	14'/22' <sup>35</sup> by right, 16'/24' by Sp Use <sup>36</sup> w/less than 3 acres	Bona fide farms allowed by right w/no limitations; 16'/24' w/3 acres or more; 16'/24' by Sp Use w/less than 3 acres <sup>37 38</sup>	Bona fide farms allowed by right w/no limitations; 24'/36' for other than bona fide farms w/3 acres or more; 24'/36' by Sp Use w/less than 3 acres <sup>39 40</sup>

<sup>11</sup> Ordinance #149, Amendment #170 adopted on July 13, 2016  
<sup>12</sup> Ordinance #117, Amendment #138 adopted on August 15, 2006  
<sup>13</sup> Ordinance #117, Amendment #138 adopted on August 15, 2006  
<sup>14</sup> Ordinance #130, Amendment #151 adopted on October 9, 2007  
<sup>15</sup> Ordinance #149, Amendment #170 adopted on July 13, 2016  
<sup>16</sup> Ordinance #140, Amendment #161 adopted on October 12, 2010  
<sup>17</sup> Ordinance #140, Amendment #161 adopted on October 12, 2010  
<sup>18</sup> Ordinance #140, Amendment #161 adopted on October 12, 2010  
<sup>19</sup> Ordinance #149, Amendment #170 adopted on July 13, 2016  
<sup>20</sup> Ordinance #134, Amendment #155 adopted on August 12, 2008  
<sup>21</sup> Ordinance #117, Amendment #138 adopted on August 15, 2006  
<sup>22</sup> Ordinance #134, Amendment #155 adopted on August 12, 2008  
<sup>23</sup> Ordinance #117, Amendment #138 adopted on August 15, 2006  
<sup>24</sup> Ordinance #117, Amendment #138 adopted on August 15, 2006  
<sup>25</sup> Ordinance #149, Amendment #170 adopted on July 13, 2016  
<sup>26</sup> Ordinance #134, Amendment #155 adopted on August 12, 2008  
<sup>27</sup> Ordinance #117, Amendment #138 adopted on August 15, 2006  
<sup>28</sup> Ordinance #117, Amendment #138 adopted on August 15, 2006  
<sup>29</sup> Ordinance #149, Amendment #170 adopted on July 13, 2016  
<sup>30</sup> Ordinance #134, Amendment #155 adopted on August 12, 2008  
<sup>31</sup> Ordinance #114, Amendment #135 adopted on November 12, 2002  
<sup>32</sup> Ordinance #117, Amendment #138 adopted on August 15, 2006  
<sup>33</sup> Ordinance #114, Amendment #135 adopted on November 12, 2002  
<sup>34</sup> Ordinance #117, Amendment #138 adopted on August 15, 2006  
<sup>35</sup> Ordinance #149, Amendment #170 adopted on July 13, 2016  
<sup>36</sup> Ordinance #134, Amendment #155 adopted on August 12, 2008  
<sup>37</sup> Ordinance #114, Amendment #135 adopted on November 12, 2002

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Commercial (C)	Requires Site Plan Approval – See Table 15-1, Section 15.01 A.
General-Industrial (G-I)	Requires Site Plan Approval – See Table 15-1, Section 15.01 A.
Light Industrial (L-I)	Requires Site Plan Approval – See Table 15-1, Section 15.01 A.

\* Sidewall Height/Overall Height

Sp Use = requires a special use permit pursuant to Section 23.10.XX or Section 23.10.YY.

Bona-fide Farms = land used primarily for a farm with or without a dwelling unit. Evidence of farming activity must be presented, including a copy of the federal Schedule F tax form.

C. Non-farm Accessory Buildings<sup>41</sup>

This provision applies to all non-farm accessory buildings. Authorized accessory buildings may be connected to the principal building by a roofed over porch, patio, breezeway, or similar structure, or may be completely detached. If attached to the principal building, an accessory building shall be made structurally a part of it, and shall comply in all respects with the requirements applicable to the principal building. An accessory building not attached and not made a part of the principal building shall not be nearer than ten (10) feet from any other structure on the same lot and shall also comply with all minimum yard requirements of this Ordinance<sup>42</sup>.

D. Primary Garages

1. Attached primary garages for single-family residences shall comply with the requirements of Table 15-1.<sup>43</sup>
2. Unattached primary/accessory garages shall comply with the requirements of Section 21.10.E, F, or G.<sup>44</sup>

E. Non-farm Storage Buildings and/or Second Garages 1,200 Square Feet or Less<sup>45</sup>

Either a non-farm storage building or a second garage under 1,200 square feet or less is authorized in the Residential (R), Resort-Residential (R-R), Lakefront-Residential (L-R), Agricultural-Residential (A-R)<sup>46</sup>, and Forest-Recreational (F-R) Districts as a primary and/or<sup>47</sup> accessory structure subject to a finding of compliance with the following standards by the Zoning Administrator:<sup>48</sup>

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<sup>38</sup> Ordinance #117, Amendment #138 adopted on August 15, 2006  
<sup>39</sup> Ordinance #114, Amendment #135 adopted on November 12, 2002  
<sup>40</sup> Ordinance #117, Amendment #138 adopted on August 15, 2006  
<sup>41</sup> Ordinance #149, Amendment #170 adopted on July 13, 2016  
<sup>42</sup> Ordinance #149, Amendment #170 adopted on July 13, 2016  
<sup>43</sup> Ordinance #149, Amendment #170 adopted on July 13, 2016  
<sup>44</sup> Ordinance #149, Amendment #170 adopted on July 13, 2016  
<sup>45</sup> Ordinance #117, Amendment #138 adopted on August 15, 2006  
<sup>46</sup> Ordinance #117, Amendment #138 adopted on August 15, 2006  
<sup>47</sup> Ordinance #149, Amendment #170 adopted on July 13, 2016  
<sup>48</sup> Ordinance #117, Amendment #138 adopted on August 15, 2006

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1. No commercial or industrial use of either a retail or wholesale nature is to be conducted on the premises. Rental of storage building space or rental or sale of objects stored in the storage buildings is not permitted.
2. The minimum lot size shall comply with the requirements of Table 15-1.<sup>49</sup>
3. A non-farm storage building may be considered a primary structure unless or until a dwelling unit is constructed or exists.<sup>50</sup>
4. Non-farm storage buildings shall comply with the height requirements of Table 21-1.<sup>51</sup>
5. The non-farm storage building shall conform to the yard setback<sup>52</sup> requirements of Table 15-1<sup>53</sup> and all other applicable setback provisions of this Ordinance.

### F. Non-Farm Storage Buildings and/or Second Garages 1,201-2000 Square Feet<sup>54</sup>

Either a non-farm storage building or a second garage in excess of twelve hundred (1200) square feet and not more than two thousand (2,000) square feet, is authorized in the Residential (R),<sup>55</sup> Lakefront Residential (L-R), Resort-Residential (R-R), Agricultural-Residential (A-R) and Forest-Recreational (F-R) Districts as a primary and/or<sup>56</sup> accessory structure subject to a finding of compliance with the following standards by the Zoning Administrator:

1. No commercial or industrial use of either a retail or wholesale nature is to be conducted on the premises. Rental of storage building space or rental or sale of objects stored in the storage buildings is not permitted
2. The minimum lot size shall comply with the requirements of Table 15-1.<sup>57</sup>
3. A non-farm storage building may be considered a primary structure unless or until a dwelling unit is constructed or exists.<sup>58</sup>
4. Non-farm storage buildings shall comply with the height requirements of Table 21-1.<sup>59</sup>
5. The non-farm storage building shall conform to the yard setback requirements of Table 15-1<sup>60</sup> and all other applicable setback provisions of this Ordinance.

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<sup>49</sup> Ordinance #149, Amendment #170 adopted on July 13, 2016

<sup>50</sup> Ordinance #149, Amendment #170 adopted on July 13, 2016

<sup>51</sup> Ordinance #149, Amendment #170 adopted on July 13, 2016

<sup>52</sup> Ordinance #149, Amendment #170 adopted on July 13, 2016

<sup>53</sup> Ordinance #149, Amendment #170 adopted on July 13, 2016

<sup>54</sup> Ordinance #117, Amendment #138 adopted on August 15, 2006

<sup>55</sup> Ordinance #140, Amendment #161 adopted on October 12, 2010

<sup>56</sup> Ordinance #149, Amendment #170 adopted on July 13, 2016

<sup>57</sup> Ordinance #149, Amendment #170 adopted on July 13, 2016

<sup>58</sup> Ordinance #149, Amendment #170 adopted on July 13, 2016

<sup>59</sup> Ordinance #149, Amendment #170 adopted on July 13, 2016

<sup>60</sup> Ordinance #149, Amendment #170 adopted on July 13, 2016

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6. The non-farm storage building shall be at least fifty (50) feet from the front setback or build line of the property<sup>61</sup>.
7. The non-farm storage building shall be at least one hundred ten (110) feet from any water except ponds or lakes contained within the subject parcel.<sup>62</sup>

### G. Non-Farm Storage Buildings and/or Second Garages Over 2,000 Square Feet<sup>63</sup>

Either a non-farm storage building or a second garage over 2,000 square feet is authorized in the Resort-Residential (R-R), Agricultural-Residential (A-R), and Forest-Recreational (F-R) districts as a primary and/or<sup>64</sup> accessory structure subject to a finding of compliance with the following standards by the Zoning Administrator:

1. No commercial or industrial use of either a retail or wholesale nature is to be conducted on the premises. Rental of storage building space or rental or sale of objects stored in the storage buildings is not permitted.
2. The minimum lot size shall comply with the requirements of Table 15-1.<sup>65</sup>
3. A non-farm storage building may be considered a primary structure unless or until a dwelling unit is constructed or exists.<sup>66</sup>
4. Non-farm storage buildings shall comply with the height requirements of Table 21-1.<sup>67</sup>
5. It shall be at least thirty-five (35) feet from the side and rear property lines.
6. The non-farm storage building shall be at least fifty (50) feet from the front setback or build line of the property.<sup>68</sup>
7. The non-farm storage building shall be at least one hundred ten (110) feet from any water except ponds or lakes contained within the subject parcel.<sup>69</sup>

### H.<sup>70</sup> Permanent Yard Setback<sup>71</sup>

The following permanent yard setbacks<sup>72</sup> by accessory buildings and non-farm storage buildings<sup>73</sup> shall be as specified below:

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<sup>61</sup> Ordinance #149, Amendment #170 adopted on July 13, 2016

<sup>62</sup> Ordinance #149, Amendment #170 adopted on July 13, 2016

<sup>63</sup> Ordinance #117, Amendment #138 adopted on August 15, 2006

<sup>64</sup> Ordinance #149, Amendment #170 adopted on July 13, 2016

<sup>65</sup> Ordinance #149, Amendment #170 adopted July 13, 2016

<sup>66</sup> Ordinance #149, Amendment #170 adopted on July 13, 2016

<sup>67</sup> Ordinance #149, Amendment #170 adopted on July 13, 2016

<sup>68</sup> Ordinance #149, Amendment #170 adopted on July 13, 2016

<sup>69</sup> Ordinance #149, Amendment #170 adopted on July 13, 2016

<sup>70</sup> Ordinance #117, Amendment #138 adopted on August 15, 2006

<sup>71</sup> Ordinance #149, Amendment #170 adopted on July 13, 2016

<sup>72</sup> Ordinance #149, Amendment #170 adopted on July 13, 2016

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1. Yard setbacks must comply with the requirements of Table 15-1 and Section 21.10.F or G.<sup>74</sup>
2. The minimum lot size shall comply with the requirements of Table 15-1 and Table 21-1.<sup>75</sup>
3. Corner lots have two (2) front setbacks (at the roads) and two (2) side setbacks.<sup>76</sup>
4. Paved terraces, patios and unenclosed, uncovered porches and decks shall not be subject to yard requirements, provided the paved area, or area covered by a porch or deck:
  - a. 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;
  - b. Is less than four (4) inches above the finished grade;
  - c. Is not<sup>77</sup> closer than five (5) feet to any lot line; and
  - d. 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.
5. An open, unenclosed porch or deck four (4") inches or more above finished grade shall meet the yard and area requirements of the District for a principal structure if connected to, touching or adjacent to and accessed from the principal structure. A Zoning Permit and Building Permit shall be obtained before construction begins. Enclosed porches, either one story, two story, or an unenclosed porch having solid foundations, and capable of being enclosed shall be considered an integral part of the building and shall, therefore, be subject to all yard and area dimensional requirements established for principal buildings.
6. Special structural elements, such as cornices, sills, chimneys, gutters, eaves, pilasters and similar structural features may project into any yard a maximum of three (3) feet.
7. Fire escapes, outside stairways and balconies, if of open construction, may project into the yard area a maximum of five (5) feet.
8. Ramps to accommodate wheelchairs and related devices to assist the handicapped or infirm are permitted to encroach on the yard requirements of any district, provided an application for a Zoning Permit is filed with the Zoning Administrator who shall find as a condition of issuing the requested permit, that the location selected minimizes the yard encroachment while still meeting the ramp needs of the applicant. No ramp is permitted to extend from a front or side door directly to the front public sidewalk or curb, if it is reasonably feasible to

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<sup>73</sup> Ordinance #149, Amendment #170 adopted on July 13, 2016

<sup>74</sup> Ordinance #149, Amendment #170 adopted on July 13, 2016

<sup>75</sup> Ordinance #149, Amendment #170 adopted on July 13, 2016

<sup>76</sup> Ordinance #149, Amendment #170 adopted on July 13, 2016

<sup>77</sup> Ordinance #149, Amendment #170 adopted on July 13, 2016

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connect to an existing private sidewalk or paved driveway. Ramps may not be covered in the portion of the front yard within the setback for the principal building.

9. Awnings in residential districts may project into a required yard area no more than three (3) feet and in commercial or industrial districts no more than five (5) feet. Awnings shall be at least eight (8) feet in height. Approval shall be obtained from the County Road Commission or Michigan State Department of Transportation (MDOT) before any awning is erected over public right-of-way.
10. Any variation from standards 1-9<sup>78</sup> above may only be obtained by means of a variance from the Board of Appeals. The requirements of Section 29.03.E shall apply.

### SECTION 21.11 - HEIGHT EXCEPTIONS

No part of a single family or multiple-family dwelling in a residential district shall exceed the height regulations of the district. The following non-residential buildings and structures shall be exempt from height regulations in all zoning districts, provided no portion of the excepted structure may be used for human occupancy:

- A. Church spires, flagpoles, and monuments on government owned property, provided they do not exceed seventy-five (75) feet in height.
- B. Those necessary appurtenances to mechanical or structural functions, such as chimneys and smokestacks, water tanks and water towers, elevator and stairwell penthouses, ventilators, bulkheads, masts, fire and hose towers, cooling towers, or other structures where the manufacturing process requires a greater height, provided these appurtenances do not exceed seventy-five (75) feet in height and are setback a distance from the property line at least equal to the height of the structure. Municipally owned water tanks and water towers are not subject to any height limitation.
- C. Those structural extensions on buildings which are principally non-residential and which are necessary for appropriate building design such as cornices or parapet walls may extend a maximum of four (4) feet above height limitations provided they have no window openings.
- D. Public utility structures, including but not limited to telephone poles, but not including communication towers, except upon receipt of a Special Use Permit (see Section 23.10.BBB).
- E. Agricultural buildings and structures, such as barns, silos, grain elevators and the like that do not exceed one-hundred (100) feet in height provided they are setback a distance from the property line at least equal to the height of the structure.
- F. Communication towers and telecommunication towers approved pursuant to Section 23.10.U are exempt from the height requirements of Table 15-1, Schedule of Regulations.

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<sup>78</sup> Ordinance #149, Amendment #170 adopted on July 13, 2016



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### SECTION 21.12 - DWELLING UNITS OUTSIDE OF MOBILE HOME PARKS<sup>79</sup>

- A. All dwelling units located outside of mobile home parks shall comply with the following requirements:
1. All dwelling units shall provide a minimum height between the floor and ceiling consistent with applicable codes.
  2. The foundation shall comply with building codes. If the dwelling is a mobile home, all wheels must be removed and it must be enclosed with an acceptable skirting. Said skirting should be constructed of durable material and if it is wood or metal, it shall be painted.
  3. Reserved for future use.
  4. All dwellings shall be firmly attached to the foundation so as to be watertight as required by the construction code adopted by the County or, if a mobile home, shall be anchored to the ground or foundation by an anchor system designed and constructed in compliance with the United States Department of Housing and Urban Development Regulations entitled "Mobile Home Construction & Safety Standards."
  5. The wheels, pulling mechanism, and tongue of any mobile home shall be removed prior to placement on a foundation or anchoring to the ground.
  6. All dwellings shall be connected to a public sewer system and water supply system if available, and if not, shall have a septic system and water supply approved by the County Health Department.
  7. All dwellings shall provide steps or porch areas, permanently attached to the foundation or safely anchored to the ground, where there exists an elevation differential of more than one (1') foot between any door and the surrounding grade. All dwellings shall provide a minimum of two points of ingress and egress.
  8. The dwelling shall not contain additions or rooms or other areas which are not constructed with similar or better quality work as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein. All additions to dwellings shall meet all of the requirements of this Ordinance and any applicable Codes.
  9. Reserved for Future Use.
  10. Prior to issuance of a building permit for any dwelling unit, construction plans, including a plot plan, adequate to illustrate compliance with the requirements of this Ordinance shall be submitted to the Zoning Administrator. If the dwelling unit is a mobile home, there shall also be submitted adequate evidence to assure that the dwelling complies with the standards applicable to mobile homes set forth in subsection (12) hereof.

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<sup>79</sup> Ordinance #149, Amendment #170 adopted July 13, 2016

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11. Dwelling units (including mobile homes) are to be used only for human habitation purposes, and are not to be used primarily for storage nor for livestock or other animal shelter, except for incidental household pets residing with the residents of the dwelling.

B. Dwelling units within mobile home parks shall comply with the Mobile Home Commission Act, Public Act 96 of 1987, as amended and applicable building codes.

### **SECTION 21.13 - TRANSIENT OCCUPANCIES**

The owner of any dwelling may permit the location of one (1) occupied house trailer or mobile home of a personal guest or visitor on the premises for a period not exceeding a total of one hundred twenty (120) days within any calendar year in the case of all guests and visitors, provided the owner of the premises registers the name of the owner of the house trailer or mobile home, including make and number with the Zoning Administrator, within three (3) days of arrival.

### **SECTION 21.14 - DETERIORATION OF DWELLINGS**

If any structure used for residential purposes including a conventionally built dwelling, a house trailer, travel trailer, or mobile home is allowed to deteriorate to the extent that it is detrimental to the health, safety and general welfare of its inhabitants, the inhabitants of Kalkaska County and/or to the use and enjoyment of adjacent properties, the Zoning Administrator, after consultation with the Building Official and County Attorney may order its removal.

### **SECTION 21.15 - MOVING OF BUILDINGS**

- A. No existing building or structure of any type or kind greater than two hundred (200) square feet shall be moved into the County or moved from one lot or parcel in the County to another lot in the County unless authorized by a Zoning Permit approved by the Planning Commission. In considering such authorization, the Planning Commission shall consider the following standards:
1. The type and kind of construction of the existing building in relation to its strength and whether or not the building may be a fire hazard.
  2. Whether or not the type and age of the building is in keeping with adjoining and neighboring buildings.

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### **SECTION 21.16 - PRINCIPAL USE**

All commercial and industrial zoned land may contain more than one building and/or principal use provided all uses are permitted uses, and the buildings and uses meet the parking and other zoning district requirements. All business activity shall take place within an enclosed building, unless specifically authorized to be conducted outside as part of the use regulations of the District, or via special use standards of this Ordinance.<sup>80</sup>

### **SECTION 21.17 - TEMPORARY BUILDINGS, STRUCTURES AND USES**

- A. Temporary buildings, structures, and uses are permitted in all districts unless otherwise provided. Temporary buildings and structures including mobile homes and recreational units may be placed on a lot or parcel of record and occupied only under the following conditions as authorized by a Temporary Zoning Permit issued by the Zoning Administrator. Larger temporary buildings or longer periods are permissible only by means of a Special Use Permit, pursuant to Article Twenty-Three:
1. Fire Damage: During renovation of a permanent building damaged by fire a temporary building or structure may be erected.. The temporary building or structure must be removed when the repair of fire damage is complete, but in no case shall it be located on the lot or parcel for more than ninety (90) days unless a Special Use Permit has been issued.
  2. Temporary Dwelling: The use of a structure as a temporary dwelling shall not endanger public health, safety or welfare.
  3. Location of Temporary Dwelling: The location of the temporary dwelling on the parcel of property shall not be detrimental to adjoining uses of land.
  4. Water Supply and Waste Disposal: A structure used for temporary dwelling purposes shall be provided with safe, sanitary and effective systems for water supply and disposal of wastes in accord with local and state health standards.
  5. New, Non-Residential Construction: Temporary buildings and structures incidental to non-residential construction work, except temporary buildings and structures to be used as dwelling units are permitted. Said temporary buildings shall be removed within fifteen (15) days after construction is complete, but in no case shall the building or structure be allowed for more than twelve (12) months, unless expressly authorized by a Special Use Permit.
  6. Churches & Schools: Temporary buildings incidental to a church or school, are permitted, provided that all wiring, plumbing, fire protection and exits are approved by the Fire Chief and Building Official, and by relevant state agencies.

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<sup>80</sup> Ordinance #139, Amendment #160 adopted on January 27, 2010

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7. Habitation of Accessory Structures and Travel Trailers: No garage, barn, or accessory building, or cellar, whether fixed or portable (like a travel trailer), shall be used or occupied as a dwelling except as authorized by this Ordinance.
8. Recreational units used other than during construction of a permanent dwelling:
  - a. The parking or setup of a recreational unit, maintained in sound running condition with a current vehicle license, is permissible on the owner's property provided it is not used for more than one hundred and twenty (120) days in any twelve (12) month period and provided such use shall not be undertaken on a commercial rental basis.
  - b. Furthermore, safe, sanitary and effective systems for water and waste disposal must be provided whether self-contained or otherwise, in accord with local and State health standards.
9. The owner of any lot in zoning districts in which a dwelling may be erected may not use more than one house trailer or mobile home upon the premises, and occupy the same during actual construction of a dwelling thereon, for a time not exceeding one (1) year from the date of issuance of zoning and building permits therefore, provided that each of the following requirements are met:
  - a. Shall not endanger the health, safety, and welfare.
  - b. Shall not be detrimental to adjoining uses.
  - c. Safe and sanitary effective systems for water supply and waste disposal.<sup>81</sup>

### SECTION 21.18 - CONDOMINIUM SUBDIVISIONS

All condominium subdivisions shall conform to the following provisions in addition to all other applicable district provisions and shall be approved pursuant to the requirements of Article Twenty-Four, Planned Unit Development (PUD):

- A. A condominium unit, including single family detached units, shall comply with the applicable site development standards contained in the district in which it is located unless those standards are waived as part of a PUD approval pursuant to the requirements of Article Twenty-Four.
- B. A condominium subdivision shall comply with the requirements of the Michigan Department of Environmental Quality and the County Health Department pertaining to potable water supply and waste disposal facilities.
- C. The condominium subdivision shall provide for dedication of easements to the appropriate public agencies for the purposes of construction, operation, maintenance, inspection, repair, alteration, replacement and/or removal of pipelines, conduits, mains and other installations of a similar character for the purpose of providing public utility services, including conveyance of sewage, potable water and storm-water runoff across, through and under the property

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<sup>81</sup> Ordinance #115, Amendment #136 adopted on June 10, 2003

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subject to said easement, and excavation and refilling of ditches and trenches necessary for the location of such installations.

- D. In addition to the materials required by Article Twenty-Five (Site Plan Review) and other requirements of Article Twenty-Four (Planned Unit Developments), a PUD permit application for a condominium subdivision shall include a condominium subdivision plan containing the following information:
1. A site plan showing the location, size, shape, area and width of all condominium units.
  2. A description of the common elements of the condominium subdivision as will be contained in the master deed.
  3. Proposed use and occupancy restrictions as will be contained in the master deed.
- E. All provisions of the condominium subdivision plan which are approved by the Planning Commission shall be incorporated, as approved, in the master deed for the condominium subdivision. Any proposed changes to the approved condominium subdivision plan shall be subject to review and approval by the Planning Commission as a major amendment to a Planned Unit Development, subject to the procedures of Article Twenty-Four.
- F. All condominium projects which consist in whole or in part of condominium units which are building sites shall be marked with monuments as provided below:
1. Monuments shall be located in the ground and made according to the following requirements. But it is not intended or required that monuments be placed within the traveled portion of a street to mark angles in the boundary of the condominium subdivision if the angle points can be readily reestablished by reference to monuments along the sidelines of the streets.
  2. All monuments used shall be made of solid iron or steel bars at least one-half (1/2) inch in diameter and thirty-six (36) inches long and completely encased in concrete at least four (4) inches in diameter.
  3. Monuments shall be located in the ground at all angles in the boundaries of the condominium subdivision; at the intersection lines of streets with the boundaries of the condominium subdivision and at the intersection of alleys with the boundaries of the condominium subdivision; at all points of curvature, points of tangency, points of compound curvature, points of reverse curvature and angle points in the side lines of streets and alleys; and at all angles of an intermediate traverse line.
  4. If the required location of a monument is in an inaccessible place, or where the locating of a monument would be clearly impracticable, it is sufficient to place a reference monument nearby and the precise location thereof be clearly indicated on the condominium subdivision plan and referenced to the true point.
  5. If a point required to be monumented is on a bedrock outcropping, a steel rod, at least one-half (1/2) inch in diameter shall be drilled and grouted into solid rock to a depth of at least eight (8) inches.

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6. All required monuments shall be placed flush with the ground where practicable.
  7. All lot corners shall be monumented in the field by iron or steel bars or iron pipes at least eighteen (18) inches long and one-half (1/2) inch in diameter or other approved markers.
  8. The Planning Commission may waive the placing of any of the required monuments and markers for a reasonable time, not to exceed one year, on condition that the proprietor deposits with the County Treasurer cash or a certified check, or irrevocable bank letter of credit naming to the municipality, whichever the proprietor selects, in an amount not less than \$25.00 per monument and not less than \$100.00 in total, except that lot corner markers shall be at the rate of not less than \$10.00 per marker. The performance guarantee shall be returned to the proprietor pursuant to the provision of Section 21.29 upon receipt of a certificate by a surveyor that the monuments and markers have been placed as required within the time specified.
- G. All streets within a condominium subdivision shall be public, unless private roads are separately approved, and shall be constructed in compliance with the construction standards of this Ordinance or as otherwise required by the County Road Commission.

### **SECTION 21.19 - EXTERIOR LIGHTING**

- A. All outdoor lighting (includes light source and lenses) in all use districts used to light the general area of a specific site shall be shielded to reduce glare and shall be so arranged as to reflect lights away from all adjacent residential districts or adjacent residences. Lighting shall also be shielded on the top to prevent unnecessary lighting of the night sky. Lighting fixtures shall be a down-type having one hundred (100) percent cutoff. The light rays may not be emitted by the installed fixture at angles above the horizontal plane, as maybe certified by a photometric test.
- B. All outdoor lighting in all use districts shall be directed toward, and confined to the ground areas of, lawns and parking lots. Parking lots shall not be lit between the hours of 9:00 am and 4:00 pm, unless conditions regarding weather, employment, or parking lot use patterns warrant otherwise.
- C. All lighting in nonresidential districts used for the external illumination of buildings, so as to feature said buildings, shall be placed and shielded so as not to interfere with the vision of persons on adjacent highways or adjacent property.
- D. Illumination of signs shall be directed or shaded downward so as not to interfere with the vision of persons on the adjacent highways or adjacent property.
- E. All illumination of signs and any other outdoor feature shall not be of a flashing, moving or intermittent type except for an approved time and temperature sign. Artificial light shall be maintained stationary and constant in intensity and color at all times when in use.
- F. All freestanding and outdoor lighting shall not exceed thirty (30) feet in height except to light a stadium.

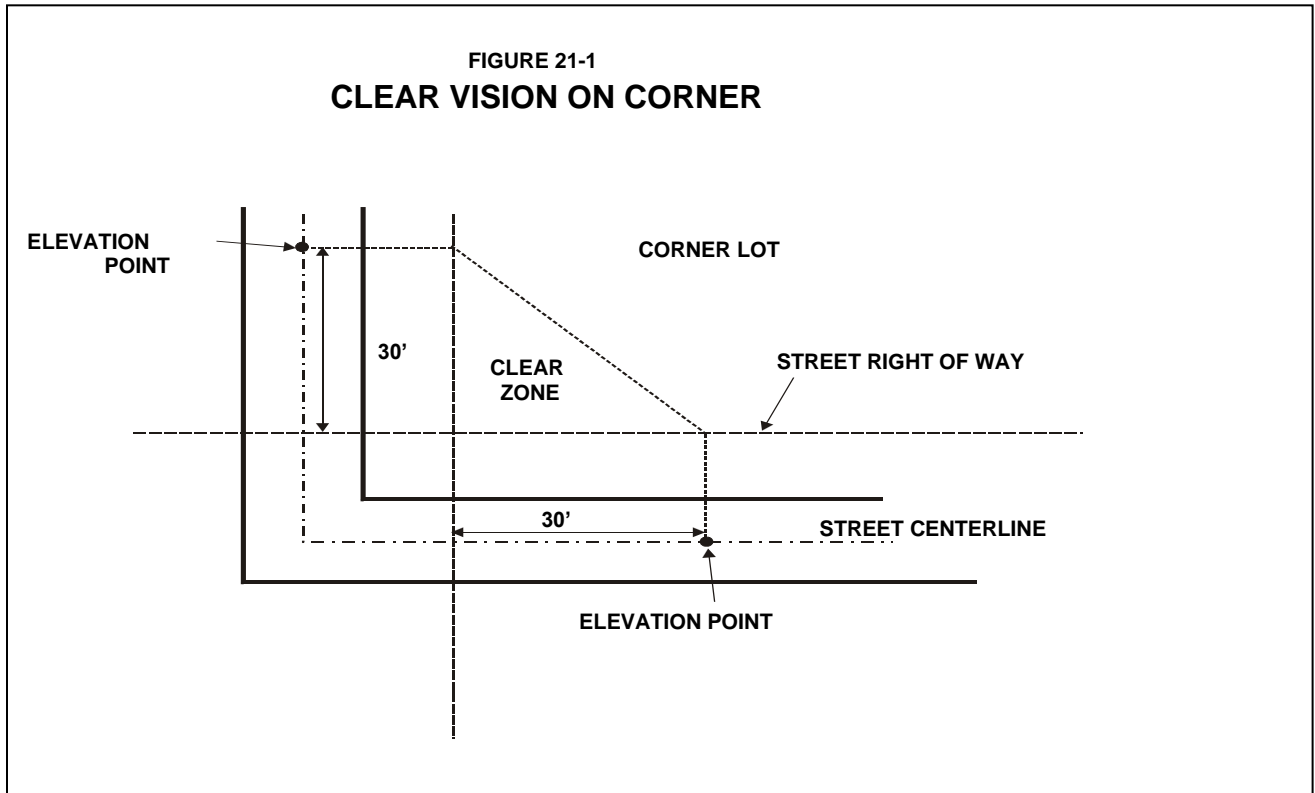
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- G. Unless otherwise approved by the Planning Commission, parking lot light sources shall be high pressure sodium. Other light sources should use warm white or natural lamp colors.

## SECTION 21.20 - CLEAR VISION CORNERS

- A. In order to preserve sight distance, an unobstructed view shall be maintained within the following triangular areas (see Figure 21-1):
1. At the intersection of two (2) streets, or where a street intersects with an alley: a triangle defined by measuring thirty (30) feet in length along each street/road edge from their point of intersection, the third side being a diagonal line connecting the first two (2).
  2. The County may require a greater distance in certain high volume or high speed traffic intersections.
- B. No shrubs, ground covers, boulders, berms, fences, or other material constituting visual obstructions shall exceed a height of thirty (30) inches above grade of the lower roadway within the triangular areas except for mailboxes and newspaper boxes, provided they can be safely seen around.



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### **SECTION 21.21 - FENCES**

Fences are permitted or required, subject to the following:

- A. All fences shall have the finish side facing out, away from the property on which the fence is located.
- B. Fences may be erected along property lines or within yards, irrespective of the setback requirements of this Ordinance.
- C. No fence may be erected between a dwelling unit or a business and waterfront of a size or material that obstructs a clear view to the waterfront from an abutting lot of an existing riparian lot owner.

### **SECTION 21.22 - FRONTAGE REQUIREMENTS**

- A. All parcels, lots in a platted subdivision or condominium subdivision, hereinafter created in the County shall have frontage on a public street or an approved private road, and take their access from such frontage so as to provide safe, convenient access for fire protection, other emergency vehicles, and any required off-street parking. Wherever a corner lot exists at the intersection of two (2) major thoroughfares, then access shall be taken from the thoroughfare presenting the least hazard in the opinion of the Zoning Administrator after consultation with the County Road Commission. For all other corner lots, the side of the lot which has the narrowest dimension bordering on a public street shall be deemed to be the front of the lot, unless the landowner, with the approval of the Zoning Administrator, selects the other side, and doing so does not create a nuisance or harm to abutting properties or the public's ability to provide services to the lot. Once a structure has been erected on the corner lot, the front of the lot is established and cannot be changed as long as the structure remains.
- B. No public street shall be longer than eight hundred (800) feet without connecting to another public street or pre-existing private street that is not a dead end. There shall be no more than five hundred (500) feet between water hydrants where public water service is available. The Planning Commission may require a tighter spacing to meet safe access and fire flow standards, especially in commercial and industrial areas.

### **SECTION 21.23 - ACCESS STANDARDS**

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



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1. All plans for structures to be erected, altered, moved or reconstructed, and use of premises within the County shall contain a plan for the proposed driveway access to the premises. Said plan shall be approved by the Zoning Administrator prior to the issuance of a Zoning Permit. No such plan shall be approved unless such driveway access is onto a dedicated public street or a pre-existing private street. Driveways shall, at a minimum, meet the following standards:
  - a. Storm drains, or culverts, if allowed, shall be installed in line with and on the same grade as those being connected with.
  - b. Two-way driveways shall enter perpendicular to the existing public street, private street, or alley.
  - c. No portion of the driveway entrance within the right-of-way shall have a grade of greater than eight (8) percent, that is one (1) foot vertical rise in twelve and one-half (12.5) feet of horizontal distance, unless a greater slope is necessary to meet the elevation of an existing sidewalk from the street.
  - d. The driveway shall have a clear vision in both directions.
  - e. Driveways shall be a minimum of fifty (50) feet from the nearest right-of-way line of an intersecting road or street except on a nonconforming lot of record, in which case the maximum separation feasible shall be achieved, but in no case shall it be less than twenty-five (25) feet.
  - f. Driveways shall be designed to minimize runoff and erosion and shall not alter existing drainage unless approved by the County Soil Erosion and Sedimentation Control Officer.
2. The Zoning Administrator shall inspect the driveway as developed for compliance with the above standards and shall so notify the Building Official prior to issuance of a certificate of occupancy.
3. In nonresidential zones, no more than one driveway shall be allowed per lot or parcel unless separated by two hundred (200) feet, or unless traffic safety requires another driveway within a shorter distance as established by a qualified Michigan Department of Transportation (MDOT) or County Road Commission traffic engineer, or unless additional driveways are permitted via special use standards for a particular use, such as drive-through restaurants.
4. The new driveways shall align with existing or planned driveways, crossovers, turn lanes or other access features. This shall only be required if the resulting alignment provides safe access and if all other access requirements of this Ordinance are met.
5. The location of new driveways shall conform with road improvement plans or corridor plans that have been adopted by the County Road Commission or MDOT.
6. An individual driveway serving more than one (1) non-residential use is encouraged provided the design conforms with all Ordinance requirements.

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7. No single or two (2) family driveway shall have a width less than nine (9) feet nor more than sixteen (16) feet at the street right-of-way line. The curb cut, including flares, shall not be more than one and one-half (1.5) times the width of the driveway at the street right-of-way.
  8. Nonresidential driveway width at the sidewalk or right-of-way shall be at least twenty-five (25) feet for two-way access and at least fifteen (15) feet for one-way access. The curb cut, including flares, shall not be more than one and one-half (1.5) times the width of the driveway at the street right-of-way.
- B. Nonresidential Access: No nonresidential access shall cross residentially-zoned property.
- C. One Driveway per Parcel: All parcels having a single tax code number, except those in an agricultural tax class, as of the date of the amendment adding this provision to the Ordinance, which front on a major thoroughfare or county primary road shall be entitled to only one (1) driveway access from said street or highway, unless a traffic engineering analysis reveals a second driveway is safer. Subsequent subdivision of each parcel, either as metes and bounds descriptions, as plats created in accord with P.A. 288 of 1967 as amended, or as site condominiums in accord with Act 59 of 1978 as amended, shall provide access by a single subdivision road, other public road or by an approved service drive. No direct additional access to the major thoroughfare or county primary shall be permitted with subsequent divisions.
- D. Service Drives: Service drives which parallel the main access road and connect multiple parcels in either the front or the rear of the property are encouraged. The Planning Commission shall review and either approve, deny or approve with conditions all service drives to insure safe and adequate continuity of the service drive between contiguous parcels. The Planning Commission shall not act until it receives a report on the proposed service drive from a Traffic Engineer it hires to review the proposal. The standards for service drives follow:
1. Width: A minimum of twenty-four (24) feet with construction to standards recommended by a traffic engineer for base and thickness of asphalt.
  2. A minimum of fifteen (15) feet snow storage/landscaping area must be reserved along both sides of the service drive with the edge of the service drive located a minimum of fifteen (15) feet from the major thoroughfare or county primary right-of-way.
  3. All driveway radii shall be concrete curbs.
  4. The entrance to the service drive from a public road other than the major thoroughfare shall be at least one hundred fifty (150) feet from the centerline of the major thoroughfare to provide for adequate stacking and maneuvering.
  5. The service drive shall be a public street, or a private road maintained by adjoining property owners or users who shall enter into a formal agreement together for the joint maintenance of the service drive. The County Attorney shall approve the terms of the agreement before it is recorded with the County Register of Deeds (see Section 25.09). No service drive shall be established on existing public right-of-way.

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6. Landscaping along the service drive shall conform with the requirements of Article Eighteen. Installation and maintenance of landscaping shall be the responsibility of the developer or a property owners association.
7. All separate parking areas shall use no more than one (1) access point or driveway to the service drive.
8. All traffic signage and pavement markings along the service drive shall conform to the current Michigan Manual of Uniform Traffic Control Devices.

### **SECTION 21.24 - RESERVED FOR FUTURE USE <sup>82</sup>**

### **SECTION 21.25 - SWIMMING POOLS**

- A. 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, hot tubs, and spas. 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.
- B. 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:
  1. 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 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.
  2. 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.
  3. 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.
  4. 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.

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<sup>82</sup> Ordinance #130, Amendment #151 adopted on October 9, 2007

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5. No pool shall be located in an easement.
6. 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 without doorways 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 any 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.

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10. The following shall be exempt from provision (b) above:

- a. A spa or hot tub with an approved safety cover that is re-installed after each use.<sup>83</sup>
- b. Fixtures which are drained after each use.

### **SECTION 21.26 - COMMUNICATION TOWERS**

The following uses are specifically permitted in any zone, but may be subject to the same information submittal requirements as found in Section 23.10.U, at the discretion of the Planning Commission:

- A. Telecommunication towers and alternative tower structures located on property owned, leased or otherwise controlled by Kalkaska County provided a license or lease authorizing such telecommunication tower or alternative tower structure has been approved by the County of Kalkaska.
- B. Antenna co-located on existing telecommunication towers or alternative tower structures.

### **SECTION 21.27 - KEEPING OF WILD ANIMALS**

No wild animal or vicious animal shall be kept permanently or temporarily in any district except in a facility accredited by the American Association of Zoological Parks and Aquariums, the U.S. Department of Agriculture, or the Michigan Department of Natural Resources (MDNR), or in a licensed veterinary care facility.

### **SECTION 21.28 - EQUINE BOARDING STABLES**

The following regulations are established for boarding stables as a Primary Use in the Agricultural-Residential (A-R) and Forest-Recreational (F/R) Districts. See Section 23.10.P for similar standards for equine boarding stables as a Special Use in Resort-Residential (R-R) and Commercial (C-1) Districts, except those in compliance with Generally Acceptable Agricultural and Management Practices<sup>84</sup> (GAAMP) and Right to Farm Act (RTFA) requirements:

- A. All lots shall have a minimum of three (3) acres for the first horse, with one (1) additional acre per each additional horse (not applicable to young equines under one (1) year of age, whichever is greater).
- B. No equine dwelling shall be kept closer than one hundred (100) feet to an off premises residential structure.
- C. No equine dwelling unit shall be kept closer than seventy-five (75) feet to any water well.

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<sup>83</sup> Ordinance #134, Amendment #155 adopted on August 12, 2008

<sup>84</sup> Ordinance #144, Amendment #165 adopted on October 10, 2012

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- D. The keeping of equine shall be subject to the following development standards:
1. Corral/Paddock Size: Every corral/paddock to be provided shall have a minimum dimension of not less than twelve (12) feet and shall contain not less than two hundred forty (240) square feet of area.
  2. Box Stall: The following minimum sizes for stalls in a roofed, permanently enclosed structure are recommended:
    - (a) cob (small) 8' x 8';
    - (b) light weight horses (medium) 10' x 10';
    - (c) draft horses (large) 12'x 12'.
  3. Tie Stall: The following minimum size for tie stalls in a roofed, permanently enclosed structure is 4' x 8'.
  4. Fencing to be provided shall be subject to the following:
    - a. Materials and Construction. Fencing may be constructed of wood, chain link, masonry, metal and materials with the appropriate structural strength and safety required to restrain the equines.
    - b. Fence Posts. Fence posts may be constructed of wood, metal, concrete or materials with the appropriate structural strength.
    - c. Fence Height. Fences to be provided for enclosure shall be maintained not less than four and one-half (4 1/2) feet in height.
    - d. Maintenance. All stalls, corrals and structures shall be continuously maintained with preservatives, fasteners and other materials so as to maintain appearance and prevent deterioration and equine escapement.
  5. Loafing Shed/Lean-To. In conjunction with paddocks/pastures, a roofed area shall be provided in the absence of other acceptable shelter, having minimum dimensions of not less than eight (8) feet in width and twelve (12) feet in length.
  6. Water Facilities. Running water facilities shall be provided and each equine shall have access to fresh water.
  7. Containment Devices Substantial and acceptable locking or latching devices shall be provided and installed on all gates and doors to equine areas located thereon in such a manner so as to be inaccessible to equine and small children for the prevention of equine escape and unauthorized entry, as per Public Act 351 of 1994.
  8. Feeding Facilities. Feeding facilities and/or boxes shall be provided in each corral and/or box stall located in such a manner so as to be maintained above ground, and such facilities shall be maintained accessible by equine to be served.

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9. Drainage All areas adjacent to any pen, coop, stable, stall, barn, corral, grazing or work-out or training areas, or other building structures and areas where equine are kept and maintained, shall be graded to drain away from such facilities so as to prevent ponding and harboring of insects.<sup>85</sup>
  10. Dust Control. All areas used as arenas for exercising, training, or exhibition of animals shall be maintained in a dust-free manner by an approved and acceptable means for the prevention of detrimental and nuisance effects of dust emission to surrounding properties.
  11. Compliance With Health Regulations Required. The keeping and maintenance of equine, as provided for in this Section, shall comply with all regulations and provisions of the health and sanitation laws of the County and State. All premises and facilities upon which animals are permitted to be kept shall be maintained in a clean, orderly and sanitary condition at all times. All manure shall be removed or spread so as not to constitute a nuisance and in accord with Michigan Department of Agriculture (MDA) and State and County Health Department regulations. All premises and facilities shall be treated with biologically, ecologically and environmentally approved pesticides for the control of odors, insects and rodents, which in any way can be considered a clear and present nuisance or detriment to the health safety, comfort, welfare, peace and/or tranquility of the general public. All animals shall be maintained in a healthy condition and carefully handled. The facility shall be constructed and maintained so that dust and drainage front the stable will not create a nuisance or hazard to adjoining property or uses.
- E. Commercial stables shall provide off-street parking at a minimum of one (1) parking space per five (5)<sup>86</sup> animals, based on the number of horse stalls or maximum number of horses that can be accommodated in the stables.
- F. Stables may not be located in platted subdivision.
- G. Enclosed riding arenas associated with commercial stables shall not exceed ten thousand (10,000) square feet in gross floor area on a minimum of ten (10) acre site, except that an additional fifteen hundred (1500) square feet of floor area may be permitted for each additional full acre in a lot area, provided that no riding arena shall exceed fifteen thousand (15,000) square feet in gross floor area.
1. Riding arenas are permitted providing they meet height and setback restrictions of the district and they do not exceed forty-five hundred (4,500) square feet in gross floor area.
  2. No living quarters shall be located in any arena building.
  3. Special events for which a fee is paid, such as shows, exhibitions, and contests shall only be permitted only after a temporary Zoning Permit has been secured.

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<sup>85</sup> Ordinance #139, Amendment #160 adopted on January 27, 2010

<sup>86</sup> Ordinance #144, Amendment #165 adopted on October 10, 2012

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### **SECTION 21.29 - WIND TURBINE GENERATORS, COMMERCIAL INSTALLATIONS<sup>87</sup>**

Wind turbine generators for commercial power generating usage may be permitted by the Planning Commission for location in Forest- Recreational (F-R) and Agricultural- Residential (A-R) Districts subject to the following standards:

#### **SECTION 21.29.A - INTENT**

To establish Special Use Permit standards for reviewing proposals for commercial Wind Turbine Generators, whether a public utility, municipality, or business provider, intended to produce electrical energy in Forest-Recreational (F-R) and Agricultural-Residential (A-R) zoning districts. Wind Turbine Generators (WTG) require treatment as a special or conditional use because:

1. WTGs are large structures, projecting up to 400 feet in height, dominating the skyline in local situations, and multiple units may be constructed in a concentrated area (e.g. wind energy farm).
2. WTGs are a relatively new technology and are intended to provide electrical energy from wind forces as opposed to fossil fuel combustion (oil, gas, coal).
3. WTGs require special sites with favorable wind and land surface conditions not necessarily limited to a zoning district.
4. Wind generators influence the landscape and, therefore, require special consideration to fit into areas where permanent or seasonal housing exists, especially in scenic view plains and prominent hill tops.

#### **SECTION 21.29.B - SITING STANDARDS for WIND TURBINE GENERATORS (WTGs)**

The following standards shall apply to all commercial WTGs proposed to locate in Forest-Recreational (F-R) and Agricultural-Residential (A-R) Districts:

1. Satisfy all Site Plan standards as outlined in Article Twenty-Five (Site Plan Review) and include electrical transmission/distribution lines at or on the site whether used or not.
2. Be setback from all property lines and off-premises roads a distance equal to the height of the tower including the top of the blade in its vertical position.
3. The maximum level of noise generated by any WTG shall not exceed sixty (60) decibels as measured on the dB(A) scale, measured at the property line, including downwind. The

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<sup>87</sup> Ordinance #113, Amendment #134 adopted on September 11, 2002



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applicant/owner shall provide certification before and after construction that the WTGs do not exceed the maximum noise standard.

4. Lighting: WTG towers shall require the applicant to make application to the Federal Aviation Administration to apply for lighting standards that:
  - a) Are of the lowest intensity available.
  - b) Avoids strobe lighting or other intermittent white lighting fixtures.
  - c) May be green or red top light that does not pulsate or blink.
  - d) Are in compliance with legal minimums per FAA requirements. A written FAA report shall be submitted to verify lighting requirements.
5. WTG's shall not cause human detectable vibrations at the property line of the tower site.
6. The lowest point of the arc created by rotating blades shall be at least twenty (20) feet above ground level at the tower location.
7. All WTGs shall be removed from the site by the property owner or lessee within ninety (90) days of being abandoned or no longer used.
8. Towers shall be secured or protected to prohibit access by unauthorized persons and a security fence may be required if determined to be in the best interest of the community.
9. The location of any WTG site shall not be approved without having the full review findings and recommendations of the Township Board in the Township of impact.
10. The minimum eligible site area shall be forty (40) acres, but a minimum of five (5) acres of site area is required for each WTG tower proposed within an eligible property.

### **SECTION 21.29.C – WIND ENERGY SYSTEMS (WES) FOR PERSONAL USE<sup>88</sup>**

1. **Intent**: It is the purpose of this section not to negatively impact the public health, safety, or welfare of the citizens/inhabitants of Kalkaska County.
2. **Definitions**:

ABANDONMENT A small wind energy system (WES) that is inoperable and has not functioned for at least eighteen (18) months shall be deemed to have been abandoned and the Zoning Administrator may order the removal of the turbine and tower at the owner's expense.

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<sup>88</sup> Ordinance #142, Amendment #163 adopted o August 17, 2011

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ANEMOMETER TOWER or MET means a freestanding meteorological tower containing instrumentation such as anemometers that are designed to provide present moment wind data for use by the supervisory control and data acquisition (SCADA) system which is an accessory land use to a WIND ENERGY SYSTEM.

AMBIENT NOISE means regularly occurring background noise not produced by the object or device in question.

ANSI means the American National Standard Institute.

dB(A) means the sound pressure level in decibels. It refers to the “a” weighted scale defined by ANSI. This is a method for weighing the frequency spectrum to mimic the human ear.

DECIBEL means the unit of measure used to express the magnitude of sound pressure and sound intensity.

DECOMMISSIONING is the process of terminating operation and completely removing a Wind Energy System (WES) and tower, not to exceed six (6) months.

ROTOR means an element of a wind energy system that acts as a multi-bladed airfoil assembly, thereby extracting through rotation, kinetic energy directly from the wind.

SHADOW FLICKER means alternating changes in light intensity caused by the moving blade of a wind energy system casting shadows on the ground and stationary objects such as, but not limited to, the window of a dwelling.

SOUND PRESSURE LEVEL means the sound pressure mapped to a logarithmic scale and reported in decibels (dB).

WIND ENERGY SYSTEM (WES) (ON SITE) means a land use for generating power by use of a wind turbine generator and includes the turbine, blades, and tower as well as related electrical equipment. This does not include wiring to connect the wind energy system to the grid.

### A. Required Information

A small WES is a permitted use in all zoning districts if it meets the requirements and regulations of this section.

### B. Permit Requirements

A zoning permit application with site plan (drawn to scale) must be completed and approved by the Zoning Administrator. It shall consist of, but shall not be limited to, the following information:

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1. Property lines and physical dimensions of the property.
2. Location, dimensions, and types of existing and proposed structures on the property.
3. Location of the proposed WES.
4. The right-of-way of any public and/or private roads or easements that are contiguous with the property.
5. All overhead utility lines.
6. WES specifications, including but not limited to, manufacturer, model, rotor diameter, tower height, tower type (freestanding or guyed), and color.
7. Soil composition and installation of WES must meet the manufacturer's requirements.
8. All other information necessary to demonstrate compliance with the requirements and regulations of this section.
9. The Zoning Administrator may forward the WES application to the Planning Commission for review.

### **C. Regulations**

1. Additional Towers: A small WES may include more than one turbine and/or a wind monitoring system if all other requirements are met including the setbacks. The total of all turbines on the site shall not exceed the greater of fifty (50) kilowatts or three (3) times the owner's average annual usage (specific number of kilowatts is to distinguish from Commercial WES).
2. Advertising: There shall be no advertising other than the manufacturer's logo and cautionary signage.
3. Aesthetics: No lights permitted. WES paint shall be neutral matte in color or factory default.
4. Approval Required: A small WES shall bear an approved certificate from a certification program recognized by the American Wind Energy Association. The applicant shall demonstrate that all components of the proposed wind turbine meet all applicable safety standards and is UL certified. Any unit that is not UL certified or approved by the American Wind Energy Association shall meet all other application requirements.

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5. Blade Clearance: Blade tips on a small WES shall have a minimum clearance from the ground of fifteen (15) feet unless tips are enclosed.
6. Compliance with Uniform Building Code and Electrical: The applicant must obtain electrical and building code permits as part of the approval process.
7. Noise: The applicant shall not exceed noise over fifty-five (55) decibels at property line closest to the WES. If the ambient noise exceeds fifty-five (55) decibels, then the standard shall be ambient noise plus five (5) decibels.
8. Recommendation: No ladder rungs should be allowed within eight (8) feet of the ground to eliminate access by unauthorized persons.
9. Setback: The tower of a WES shall be set back from all adjoining property lines, right-of-ways (public or private), and easements by one hundred (100) percent of the tower height, based on tip of blade in vertical position to the natural grade. The Zoning Administrator may waive the setback requirements with a stamped engineered document to show the tower will fall within a footprint not to exceed the property line. The setback from the property owner's buildings/accessory buildings may be zero (0) feet. The WES building/accessory building shall meet the standards for accessory building setbacks from adjacent property lines.
10. Shadow Flicker: The applicant shall consider shadow flicker when designing the site plan to minimize the effects on off-site habitable structures.
11. Tower Height: On a parcel of land less than one (1) acre in size the maximum height of a WES (based on tip of blade in vertical position to the natural grade) shall not exceed eighty (80) feet. On a parcel of land over one (1) acre in size the maximum height of a WES (based on tip of blade in vertical position to the natural grade) shall not exceed one hundred ninety-nine and one half (199.5) feet.
  - a. Under no circumstances shall a WES exceed 199.5 feet in total height.

### D. New Technology

1. These regulations pertaining to small WES are intended to respond to equipment available at the time of adoption. Kalkaska County recognizes that this is an emerging technology and that new means of collecting wind energy, including but not limited to vertical axis wind turbine generators, are under development. Accordingly, these standards may be reviewed or amended as technology advances.

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### SECTION 21.30 - PERFORMANCE GUARANTEES AND PERFORMANCE BONDING FOR COMPLIANCE

- A. Requirements: In authorizing any Zoning Permit, Temporary Zoning Permit, Certificate of Zoning Compliance, Special Use Permit, Planned Unit Development, site plan approval or variance, the body or official which approves the respective request, as designated by this Ordinance, may require that a performance guarantee or bond be furnished: (1) to insure compliance with the requirements, specifications and conditions imposed with the grant of such approval, permit or variance; (2) to insure the discontinuance of a temporary use by a stipulated time; and (3) to provide sufficient resources for the County to complete required improvements or conditions in the event the permit holder does not.
- B. Improvements Covered: Improvements that shall be covered by the performance guarantee or bond include, but are not necessarily limited to: streets and other roadways, utilities, fencing, screening, landscaping, common open space improvements, lighting, drainage and sidewalks. The performance guarantee shall meet the following requirements:
1. Form. The performance guarantee shall be in the form of cash, certified check, irrevocable bank letter of credit, surety bond, or similar instrument acceptable to the County Treasurer, which names the property owner as the obligor and the County as the obligee.
  2. Time when Required. The performance guarantee or bond shall be submitted at the time of issuance of the permit authorizing the activity of the project. If appropriate, based on the type of performance guarantee submitted, the County shall deposit the funds in an interest bearing account in a financial institution with which the County regularly conducts business.
  3. Amount. The amount of the performance guarantee or bond should be sufficient to cover the estimated cost of the improvements or conditions. Additional guidelines for establishing the amount of a performance guarantee or bond may be prescribed by resolution of the County Board of Commissioners. If none are specified or applicable to the particular use or development, the County Board of Commissioners shall by resolution establish a guideline which it deems adequate to deal with the particular problem while ensuring the protection of the County and its inhabitants.
- C. Return of Performance Guarantee or Bond: The Zoning Administrator, upon the written request of the obligor, and pursuant to the procedure in the next subsection, shall rebate portions of the performance guarantee upon determination that the improvements for which the rebate has been requested have been satisfactorily completed. The portion of the performance guarantee to be rebated shall be in the same amount as stated in the itemized cost estimate for the applicable improvement or condition.
- D. Withholding and Partial Withholding of Performance Bond: As required improvements are completed, or when all of the required improvements have been completed, the obligor shall send written notice to the Zoning Administrator of completion of said improvements. Thereupon, the Zoning Administrator shall inspect all of the improvements and shall transmit recommendation to the Planning Commission and County Board of Commissioners indicating either approval, partial approval, or rejection of the improvements or conditions with a

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statement of the reasons for any rejections. If partial approval is indicated, the cost of the improvement or condition rejected shall be set forth.

1. The Planning Commission shall either approve, partially approve or reject the improvements or conditions and shall notify the obligor in writing of the action of the Planning Commission within thirty (30) days after receipt of the notice from the obligor of the completion of the improvements. Where partial approval is granted, the obligor shall be released from liability pursuant to relevant portions of the performance guarantee or bond, except for that portion adequately sufficient to secure provision of the improvements not yet approved.
  2. Should installation of improvements begin and fail to meet full completion based on the approved Site Plan, or if the project area is reduced in size and improvements are only partially completed or conditions only partially met, the County may complete the necessary improvements or conditions itself or by contract to an independent developer, and assess all costs of completing the improvements or conditions against the performance guarantee or bond. Any unused balance remaining would be returned to the applicant, and any excess expense would be recorded as a lien on the property.
- E. Record of Performance Guarantees: A record of authorized performance guarantees shall be maintained by the Zoning Administrator.

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**ARTICLE TWENTY-TWO**

**RESERVED FOR FUTURE USE**

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## ARTICLE TWENTY-THREE

### SPECIAL USES

#### SECTION 23.01 - PURPOSE

- A. Special uses are those uses of land which are not essentially incompatible with the uses permitted in a zoning district, but require individual review and restriction in order to avoid incompatibility with the character of the surrounding area, public services and facilities, and adjacent uses of land. The purpose of this Article is to establish equitable procedures and criteria which shall be applied in the determination of requests to establish a special use. The criteria for decision and requirements provided for under the provisions of this Article shall be in addition to those required elsewhere in this Ordinance which are applicable to the special use under consideration. This Article authorizes the County Planning Commission to issue a Special Use Permit provided:
1. The proposed use is one listed as a special use for that district in which said use is located;
  2. The Planning Commission insures before approving a Special Use Permit request that both:
    - a. the standards of the district in which the special use is to be located are fulfilled; and
    - b. the standards or other requirements of this Article are fully complied with.

#### SECTION 23.02 - APPLICATION PROCEDURES

An application for permission to establish a special use shall be submitted and acted upon in accordance with the following procedures:

A. Applicant

Any person owning or having an interest in the subject property may file an application for one or more Special Use Permits provided for in this Ordinance in the zoning district in which the land is situated.

B. Application

Applications for Special Use Permits shall be submitted through the Zoning Administrator to the County Planning Commission. Each application shall be accompanied by the payment of a fee in accordance with the schedule of fees adopted by the County Board of Commissioners to cover the costs of processing the application. No part of any fee shall be refundable.

C. Required Information

One copy of an application for a Special Use Permit shall be presented to the Zoning Administrator and accompanied by the following documents and information:

1. A special use application form supplied by the Zoning Administrator which has been completed in full by the applicant. Said form shall:
  - a. state the name of the applicant and owner of premises;
  - b. include a legally recorded description of the premises, and



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- c. include a description of the proposed use, including parking facilities, if required. See also Section 23.02.
2. A site plan, meeting the requirements of Article Twenty-Five.
3. For residence-based occupations (see Section 23.10.HHH)
  - a. Required Information:
    - 1) Written description of nature of business/occupation to be performed away from residence.
    - 2) Written Description of Nature of Business/occupation to be performed by property owner, or if by renter, to be supervised by property owner.
  - b. Other Required Information:
    - 1) Size and use of accessory structures, if required.
    - 2) Number and size of vehicles.
    - 3) Number of employees - for residence-based occupation performed at a location, away from that site only.
    - 4) Hours of operation.
    - 5) A site drawing of proposed structures.
    - 6) A visual buffer zone where possible, or adequate setback.
    - 7) Twelve month projection of operation and proposed expansion beyond the original proposal.
    - 8) Adequate off-street parking.
  - c. The Planning Commission may recommend restrictions pertaining to hours of operation, communication restrictions (2-way mobile truck radios), and size and number of personal and business vehicles, etc.

### D. Incomplete Application

An application which is incomplete or otherwise not in compliance with this Ordinance shall be returned to the applicant. No application shall be processed until properly prepared and submitted and all required fees paid in full.

### E. Reserved for Future Use

### F. Copy of Application to Township

The Zoning Administrator shall forward a copy of the application for the special use request to the Township Board within seven (7) days of receiving the request. The Township may review the application and make recommendations within twenty-one (21) days after receipt thereof, to the County Planning Commission, for consideration thereby. All comments or recommendations shall be advisory and shall be submitted in writing to the County Planning Commission.

### G. Hearing

Upon receipt of a complete application for a Special Use Permit, the Planning Commission shall call a public hearing for the purpose of receiving comments relative to the Special Use Permit application. A

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notice shall be published in a newspaper which circulates in the County and sent by mail or personal delivery to the owner or owners of the property, to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question, and to the occupants of all structures within three hundred (300) feet. The notice shall be given not less than fifteen (15) days before the date of the hearing.<sup>1</sup> The notice shall:

1. Describe the nature of the Special Use Permit application.
2. Indicate the property which is the subject of the Special Use Permit application.
3. State when and where the Special Use Permit application will be considered.
4. Indicate when and where written comments will be received concerning the application.

## H. Prompt Decision

### 1. Prompt Decision.

Within a reasonable time following the conclusion of the public hearing on the application, the County Planning Commission shall review the Special Use Permit application, the testimony and evidence received at the public hearing, and any other materials submitted in relation to the application, and shall make a decision either approving, denying or approving with conditions the Special Use application using the criteria set forth in Section 23.03 of this Ordinance, and such other standards contained in this Ordinance relating to the special use under consideration. The County Planning Commission may request a report on any special use application from the Zoning Administrator and/or any other County or State agency, as appropriate. Such a report shall assess the conformance of a special use request with the requirements of this Ordinance and the development objectives of the County, and any other applicable County or State regulations concerned with the special use request.

### 2. Prompt Decision Regarding Sexually Oriented Businesses.

In the case of an application for a Special Use Permit in regard to a sexually oriented business, the County Planning Commission shall review the application as set forth in this subsection H, above, except that if the Planning Commission has not made and adopted findings of fact with respect to a proposed sexually oriented business and either approved, approved with conditions or denied the application for a Special Use Permit for that business within sixty (60) days of the close of its public hearing on same, then the application for Special Use Permit shall be deemed to have been approved.

## I. Issuance of a Special Use Permit

Upon approval by the County Planning Commission, the Zoning Administrator shall issue a Special Use Permit to the applicant. It shall be the responsibility of the Zoning Administrator to insure compliance with the terms, conditions and restrictions of any Special Use Permit. The terms of a Special Use Permit shall be recorded with the Register of Deeds and shall be signed by the original permittee in any district. Any conditions shall be binding on subsequent owners.<sup>2</sup>

## J. Appeal to the Zoning Board of Appeals

1. Within fifteen (15) days following the date of decision on any Special Use Permit, an applicant or any aggrieved party, including any governmental body or agency, may appeal the decision of the County Planning Commission to the Board of Appeals. Upon the filing of an

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<sup>1</sup> Ordinance #138, Amendment #159 adopted on June 9, 2009

<sup>2</sup> Ordinance #134, Amendment #155 adopted on August 12, 2008

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appeal, the application, all relevant documents and testimony, and the findings and decision of the County Planning Commission shall be transmitted to the Board of Appeals.

2. Appeal to the Zoning Board of Appeals - Sexually Oriented Business. If the Planning Commission denies a site plan, application for a Special Use Permit, or both, for a sexually oriented business, the applicant shall be entitled to prompt review by the County Zoning Board of Appeals upon written request to the Zoning Administrator. The Zoning Board of Appeals shall convene a meeting within seven (7) business days of the Zoning Administrator's receipt of the applicant's request for review of the Planning Commission decision. The Zoning Board of Appeals shall review the record of the proceedings conducted before the Planning Commission and determine whether:
  - a. the Planning Commission's decision was based upon competent, material and substantial evidence, and
  - b. the Planning Commission's decision complies with the procedural requirements of the Zoning Ordinance and with Michigan and Federal Law. The Zoning Board of Appeals shall issue a written decision either affirming or reversing the Planning Commission's denial and stating the grounds thereof. If the Zoning Board of Appeals has not issued its written decision within thirty (30) days of the date the written request for Zoning Board of Appeals review was filed with the Zoning Administrator, the subject site plan or Special Use Permit, or both, shall be deemed to have been approved. If the Zoning Board of Appeals affirms the Planning Commission's denial of a Special Use Permit application to operate a sexually oriented business, then, upon written request from the applicant to the Zoning Administrator, the County shall within three (3)
    - 1) File a petition in the Circuit Court for the County of Kalkaska seeking a judicial determination with respect to the validity of such denial and, in connection therewith, file a motion for a preliminary and permanent injunction restraining the applicant from operating the sexually oriented business in violation of the County Zoning Ordinance;
    - 2) Request that the motion for issuance of a preliminary injunction be set for a show-cause hearing within five (5) business days or as soon thereafter as is possible after the filing of such petition. In the event the applicant appears at or before the time of such show-cause hearing, waives the notice otherwise provided by Michigan Court Rules, and requests that at the time set for such hearing the Court proceed to hear the case under applicable rules of civil procedure for the issuance of such permanent injunction on its merits, the County shall be required to waive its motion for preliminary injunction and shall join in such request. In the event that applicant does not waive notice and/or does not request an early hearing on the County's motion for permanent injunction, it shall nevertheless be the duty of the County 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 Zoning Board of Appeals' denial of a Special Use Permit shall not in any way affect the validity of such denial, but such denial shall be deemed invalid, and the Special Use Permit application automatically approved if, within five (5) business days of the filing the County's petition, a show-cause hearing has not been scheduled.

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## K. Decisions

All decisions of the County Planning Commission and Board of Appeals relating to special use applications, including any findings supporting any decision, shall be recorded in written form and retained as permanent records on file with the Zoning Administrator and a copy in the Office of the County Clerk.

## L. Reapplication

No application for a Special Use Permit for the same or a very similar use which has been denied wholly or in part by the Planning Commission shall be resubmitted until the expiration of one (1) year or more from the date of such denial, except on the grounds of newly-discovered evidence or proof of changed conditions. A reapplication shall require a new fee and the process will have to begin all over again.

## **SECTION 23.03 - BASIS OF DETERMINATIONS**

Prior to approval of a special use application, the County Planning Commission shall insure that the standards specified in this section as well as applicable standards established elsewhere in this Ordinance, shall be satisfied by the completion and operation of the special use under consideration.

### A. General Standards

The County Planning Commission shall review the particular circumstances of the special use request under consideration in terms of the following standards, and shall approve a special use only upon a finding of compliance with each of the following standards, as well as applicable standards established elsewhere in this Ordinance:

1. The special use shall be designed, constructed, operated and maintained in a manner harmonious with the character of adjacent property and the surrounding area.
2. The special use shall not change the essential character of the surrounding area.
3. The special use shall not interfere with the general enjoyment of adjacent property.
4. The special use shall represent an improvement to the property under consideration and the surrounding area in general.
5. The special use shall not be hazardous to adjacent property, or involve uses, activities, materials or equipment which will be detrimental to the health, safety, or welfare of persons or property through the excessive production of traffic, noise, smoke, odor, fumes or glare.
6. The special use shall be adequately served by essential public facilities and services, or it shall be demonstrated that the person responsible for the proposed special use shall be able to continually provide adequately for the services and facilities deemed essential to the special use under consideration. Services include but are not limited to whether the proposed sewage disposal and water supply will be safe and adequate.
7. The special use shall not place demands on public services and facilities in excess of current capacity.
8. The special use shall be consistent with the intent and purpose of this Ordinance, and the objectives of any currently adopted County Master Plan.
9. Side and/or rear boundaries abutting a residence or residential property shall be provided with screening from adjacent premises, which screening shall consist of either a solid uniformly

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finished and maintained wall or fence of durable material (see Section 18.05) or by a well maintained dense evergreen planting, as provided in Section 18.04.

10. Any special use on a waterfront lot conforms with the requirements of Article Sixteen.

## B. Conditions

1. The County Planning Commission may impose conditions with the approval of a special use which are necessary to insure compliance with the standards for approval stated in this section and any other applicable standards contained in this Ordinance. Such conditions shall be considered an integral part of the special use permit and shall be enforced by the Zoning Administrator.
2. In authorizing a Special Use Permit, the County Planning Commission may require that a cash deposit, certified check, irrevocable bank letter of credit, surety bond, or other financial guarantee acceptable to the County, be furnished by the developer to insure compliance with such special use requirements. In fixing the amount of such financial guarantee, the County Planning Commission shall take into account the size and scope of the proposed use, current prevailing cost of rehabilitating the premises upon default of the operator of the use, estimated expenses to compel the operator to comply by Court Decree, and such other factors and conditions as might be relevant in determining the sum reasonable in the light of all facts and circumstances surrounding each application. See Section 21.29, Performance Guarantees.
3. The terms of a Special Use Permit shall be recorded with the Register of Deeds and shall be signed by the Applicant.

## SECTION 23.04 - EFFECTIVE DATE

- A. The Special Use Permit shall become effective when the application and site plan have been approved by the County Planning Commission. The Planning Commission may record notice of the permit and all conditions with the Register of Deeds so that all subsequent owners will have legal notice thereof.
  1. Building Permit Contingent on Special Use Permit  
A building permit shall not be issued until approval of such Special Use Permit is given by the County Planning Commission.
  2. No Building Without Building Permit  
Until a building permit has been granted pursuant to the Special Use Permit, there shall be no construction or excavation on said land, nor shall use of the land be made toward the intended purposes of such Special Use Permit.

## SECTION 23.05 - PERMIT VALIDITY

- A. Special Use Permit Valid with Change in Ownership  
A Special Use Permit shall be valid regardless of change of ownership, provided that all terms and conditions of the permit are met by any subsequent owner.

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### **B. Permit Review if Construction not Begun**

In instances where development authorized by a Special Use Permit has not commenced within one (1) year from the date of issuance or the last date of review authorized by this subsection, the County Planning Commission shall review the permit in relation to the applicable standards and requirements of this Ordinance. The permit holder shall be notified of the date, time and place of the meeting at which the permit will be reviewed. The permit may remain valid for an additional year, if, upon a finding by the Planning Commission that: a) the permit holder has not taken action to utilize the authorization inherent in the Special Use Permit, b) it is satisfied that the owner or developer is maintaining a good faith intention to proceed with construction, c) there have been no changes in conditions on the property or the surrounding area, and d) the provisions of this Ordinance applicable to the Special Use Permit under review have not changed in a way to make the permit no longer in conformance with the requirements of this Ordinance. If the Planning Commission fails to find all four of the above factors, then the Special Use Permit shall become null and void and no building permit shall be issued or reissued in reliance upon it.

### **SECTION 23.06 - REQUIREMENT FOR COMPLIANCE – PENALTIES**

- A. It shall be the duty and obligation of the owner(s) and occupant(s) or operator(s) under a Special Use Permit that the continued use of such land shall at all times be in compliance with the use requirements of this Ordinance. Failure thereof shall be a violation of this Ordinance and subject to the penalties and remedies provided in Section 28.02 and the continuance thereof is declared to be a nuisance per se.
- B. The Planning Commission shall have the authority to revoke any Special Use Permit following a hearing, after it has been demonstrated that the holder of the permit has failed to comply with one or more of the applicable conditions specified in the permit. The reasons for any revocation shall be documented in writing and shall accompany the action to terminate. After a revocation notice has been given, the use for which the permit was granted must cease within sixty (60) days. Failure to terminate the use for which the permit was revoked within sixty (60) days is declared to be a nuisance per se and a violation of this Ordinance. See Article Twenty-Eight.

### **SECTION 23.07 - ONCE GRANTED A SPECIAL USE PERMIT, THE USE IS A PERMITTED USE**

- A. Any use for which a Special Use Permit may be granted shall be deemed a conforming use permitted in the district in which such use is located provided: 1) such permit was issued in conformity with the provisions of this Ordinance; and 2) such permit shall be deemed to effect only the lot or portion thereof and uses thereupon for which the Special Use Permit shall have been explicitly granted.
- B. Uses of land and/or development projects granted special use status by the County prior to the adoption of this amendment to the Zoning Ordinance, may continue to have the status of permitted uses, provided the rules, regulations, requirements, and conditions of the permit issued for the special use continue to be met. Any changes to a previously approved special use shall be processed according to the procedures and standards of this Ordinance for special uses, if the use is listed as a special use in this Ordinance.

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## **SECTION 23.08- RESERVED FOR FUTURE USE**

## **SECTION 23.09- RESERVED FOR FUTURE USE**

## **SECTION 23.10- STANDARDS FOR SPECIFIC SPECIAL LAND USES**

The foregoing general requirements are basic and apply to all special uses. The specific requirements in the following sections relating to particular use(s) are in addition to the foregoing general requirements, and shall be required, in all applicable situations. The following standards apply to the uses of land permitted by Special Use Permit in Articles Three through Thirteen of this Ordinance. The regulations contained in this Article shall be applied in addition to any other applicable standard or regulations contained elsewhere in this Ordinance (such as for site plans in Section 25.05) unless specifically noted.

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## A. ADDITIONAL DWELLINGS ON ONE (1) PARCEL <sup>3</sup>

Not more than two (2) one-family dwellings<sup>4</sup> shall be permitted in addition to the primary dwelling on the same parcel in the Agricultural-Residential (A-R), Forest-Recreational (F-R), Lakefront-Residential (L-R), and Resort-Residential (R-R) districts, provided however that the minimum lot size is at least two (2) times the minimum lot size per Table 15-1, and the following requirements are met:

1. Property owners must prepare a site plan for the parcel depicting the theoretical property lines for the individual lots in compliance with Table 15-1 and Section 27.03 of this Ordinance. The site plan shall also be prepared in accordance with the Land Division Act, and shall locate the additional dwelling(s) as if the property were divided into individual lots. In locating the additional dwelling(s), the site plan shall ensure compliance with the dimensional requirements of Table 15-1 for the Zoning District in which the property is located. The site plan shall be approved by the Zoning Administrator prior to issuance of a Zoning Permit. No such plan shall be approved unless the Zoning Administrator determines compliance with Table 15-1 and Section 27.03 of this Ordinance.
2. Additional dwellings are encouraged to share driveway access with the primary dwelling; however, if an additional driveway access is requested, the property owner, notwithstanding any provisions to the contrary contained in this Ordinance, shall receive approval of the additional driveway location and cross section specifications from the County Road Commission if the additional driveway will connect to a County road or to a private street, or from the Michigan Department of Transportation if the additional driveway will connect to a State Highway. The property owner shall submit a plan for the proposed additional driveway access. Said plan shall be approved by the Zoning Administrator prior to issuance of a Zoning Permit. Additional driveways shall meet the standards and requirements set forth in Section 21.23(A) of this Ordinance prior to receiving approval by the Zoning Administrator.
3. Regardless of whether access is shared or separate, the property owner must obtain an address for any additional dwelling.
4. This section is not applicable to any land within a platted subdivision.
5. This section is exempted from complying with Article Twenty-Five.<sup>5</sup>

## B. ADULT FOSTER CARE FACILITIES, FAMILY DAY-CARE HOMES & GROUP DAY-CARE HOMES <sup>6</sup>

1. Location Requirements: Adult foster care facilities and other group day care homes for more than six persons are permitted by Special Use Permit in the Residential (R), Resort-Residential (R-R), Lakefront-Residential (L-R)<sup>7</sup>, Agricultural-Residential (A-R), Forest-Recreational (F-R), and Commercial (C-1) districts.

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<sup>3</sup> Ordinance #120, Amendment #141 adopted on November 14, 2006

<sup>4</sup> Ordinance #149, Amendment #170 adopted on July 13, 2016

<sup>5</sup> Ordinance #143, Amendment #164 adopted on June 29, 2012

<sup>6</sup> Ordinance #139, Amendment #160 adopted on January 27, 2010

<sup>7</sup> Ordinance #139, Amendment #160 adopted on January 27, 2010

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2. Site Requirements: Access to the site shall be from a year round public maintained road or an approved private road.
3. Buffering Requirements:
  - a. Adequate provision shall be made to reduce noise impacts on surrounding residential properties by use of a berm, buffer strip, fence/wall, or greenbelt pursuant to the requirements of Sections 18.03, 18.04, 18.05 or 18.06 respectively. The choice of the option shall be made by the applicant.
  - b. The outdoor storage of trash or rubbish shall be screened in accordance with Section 18.09.
4. Performance Standards:
  - a. Operation and maintenance of all adult foster care and group day care facilities shall conform to existing applicable county, state and federal regulations.
  - b. Applicants shall file a copy of all permits, licenses, certifications or applications that have been received from or filed with county, state or federal agencies for the adult foster care or group day care facility with the Zoning Administrator.
  - c. All outdoor play areas for children shall be enclosed with fencing, a minimum of four (4) feet high.
  - d. Playground equipment shall not be located in the front yard Parking shall be adequate for staff and visitors (see Article Seventeen). Any parking area larger than ten (10) vehicles shall be landscaped pursuant to the requirements of Article Eighteen.
  - e. All lighting must be shielded to prevent glare on abutting properties or roads pursuant to the requirements of Section 21.19.
  - f. Assure compliance with Michigan Zoning Enabling Act (MZEA) P.A. 110 of 2006, as amended, Section 125.3206 standards.<sup>8</sup>

### C. AGRICULTURAL SUPPLIES AND SERVICE CENTERS

Such uses shall include, but need not be limited to, the following:

- a. Grain elevators for storage, drying and sales.
  - b. Bulk feed and fertilizer outlets and distribution centers.
  - c. Seed dealership outlets and distribution centers.
  - d. Grain and livestock, truck and cartage facilities.
  - e. Agricultural products, production and processing operations (factory level).
  - f. Animal sales yards.
  - g. Stockyards.
  - h. Slaughter houses.
  - i. Sawmills.
  - j. Agricultural implements sales and service.
1. Location Requirements: Agricultural supplies and service centers with any of the uses listed above are permitted by Special Use Permit in the Agricultural-Residential (A-R) and General Industrial (G-I) districts.<sup>9</sup>

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<sup>8</sup> Ordinance #143, Amendment #164 adopted on June 29, 2012

<sup>9</sup> Ordinance #138, Amendment #159 adopted on June 9, 2009

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2. Site Requirements: Minimum lot or parcel size shall be two (2) acres and have a minimum lot frontage of three hundred thirty (330) feet. Area must be adequate to meet all County Health Department and Michigan Department of Environmental Quality standards, as applicable.
3. Buffering Requirements:
  - a. Trucking, outside storage, loading and dock areas shall be fenced and designed pursuant to the requirements of Section 17.05. If the use is within three hundred (300) feet of a residence, it shall be screened, pursuant to the requirements of either Section 18.03 or 18.04 at the choice of the applicant.
  - b. The outdoor storage of trash or rubbish shall be screened in accordance with Section 18.09 of this Ordinance.
4. Performance Standards:
  - a. No storage or loading activities shall be permitted within one hundred (100) feet of any lot line.
  - b. All buildings shall be set back a minimum of fifty (50) feet from any lot line, except for buildings housing slaughtering activities which shall be set back a minimum of one hundred (100) feet from any lot line.
  - c. All agricultural supplies and service establishments shall be located at least one hundred (100) feet from any driveway affecting access to a farm dwelling or field, and at least three hundred (300) feet from any single-family dwelling.
  - d. Agricultural implements sales and service establishments must also meet the requirements for an open air business establishment in Section 23.10.VV.
  - e. All lighting must be shielded to prevent glare on abutting properties or roads pursuant to the requirements of Section 21.19.

### D. AIRFIELDS AND LANDING STRIPS

1. Location Requirements: Airfields and landing strips are permitted by Special Use Permit in the Resort-Residential (R-R), Agricultural-Residential (A-R), and Forest-Recreational (F-R) districts.
2. Site Requirements: Lodges, schools, churches, or other public meeting places shall not be within five hundred (500) feet of said strip or hanger. No concentrated animal feeding operation shall be within one thousand (1,000) feet of the landing strip or hanger, or within the flight path of planes landing or taking off.
3. Buffering Requirements: A greenbelt per the requirements of Section 18.06 shall be provided.
4. Performance Standards: All Federal and State aviation safety regulations shall be complied with.

### E. RESERVED FOR FUTURE USE

### F. AMUSEMENT CENTERS

1. Location Requirements:
  - a. Amusement centers and game arcades are permitted by right in the Commercial (C-1) district and by Special Use Permit in the Resort-Residential (R-R) district.

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- b. Amusement centers shall not be located closer than one hundred and fifty (150) feet from any front, rear, or side yard of adjacent residentially zoned properties. Amusement centers shall not be located closer than five hundred (500) feet from the property line of another amusement center or any school.
2. Site Requirements: The facility shall be located on a year round public maintained street or road.
  3. Buffering Requirements:
    - a. Appropriate screening shall be provided to limit noise reaching adjacent land uses per the requirements of Section 18.04 or 18.05 as determined by the Planning Commission.
    - b. The outdoor storage of trash or rubbish shall be screened in accordance with Section 18.09.
  4. Performance Standards:
    - a. No betting or gambling shall be allowed on the premises except for state approved raffles, bingo or sale of lottery tickets.
    - b. Children under age sixteen (16) may not remain on the premises after 9:00 p.m.
    - c. The operator shall document either a past history of, or submit an acceptable plan of his/her methods for, preventing potential noise, litter, loitering, and/or crowd problems.
    - d. A bicycle rack capable of holding at least ten (10) bicycles shall be provided for non-motorists.
    - e. All lighting must be shielded to prevent glare on abutting properties or roads pursuant to the requirements of Section 21.19.
    - f.

### **G. RESERVED FOR FUTURE USE**

### **H. AUTOMOBILE SERVICE AND REPAIR STATIONS**

1. Location Requirements:
  - a. Automobile service stations are permitted by Special Use Permit in the Resort-Residential (R-R) district.
  - b. Automobile service stations shall be located adjacent to paved major thoroughfares.
  - c. Underground storage tanks shall be sited in conformance with requirements of the Michigan Department of Environmental Quality.
  - d. Ingress and egress to the facility shall be only from a paved major thoroughfare, or from a shared access or service drive to such roadway.
  - e. No driveway or curb cut shall be located less than ten (10) feet from any lot line, measured from the edge of the driveway to the lot line.
  - f. The site shall be no less than two hundred (200) feet from any place of public assembly, including any hospital, sanitarium, school, church or other institution. Measurement shall be the closest distance between exterior lot lines.
2. Site Requirements:
  - a. Permitted uses: The following uses may be permitted by issuance of a Special Use Permit in conjunction with automobile service stations:
    - 1) Retail sales of gasoline, oil, tires, belts and similar products.
    - 2) Vehicle washing.
    - 3) Automobile maintenance including minor mechanical repairs.
    - 4) Convenience grocery items, beverages and snacks.

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- 5) Fast food restaurant items. If there is drive-through pickup, all the standards of Section 23.10.AA must be met.
- b. Site development standards: Automobile service stations shall comply with the following site development standards:
  - 1) The minimum site size shall be 15,000 square feet.
  - 2) Gasoline service stations shall have five hundred (500) square feet of site area for each additional pump over four and one thousand (1,000) square feet of site area for each additional service bay over two.
- c. The minimum site width shall be two hundred (200) feet.
- d. Building setbacks: The service station building or buildings, gasoline pump accessory structures or islands shall be set back no less than fifty (50) feet from all street or highway right-of-way lines and shall not be located closer than twenty-five (25) feet to any property line abutting a residential district. Hydraulic hoists, pits and all lubrication, greasing, automobile washing, and repair equipment shall be entirely enclosed within a building.
- e. Access drives: There shall be no more than two (2) access driveway approaches for any automobile service station, each of which, however, shall not exceed thirty (30) feet in width at the property line.
  - 1) If the service station site fronts on two or more streets, the driveways shall be located as far from the street intersection as practical but no less than fifty feet.
  - 2) No driveway or curb cut for a driveway shall be located within ten feet of an adjoining property line as extended to the curb or pavement or within twenty feet of any exterior lot line as extended.
  - 3) Any two driveways providing access to a major thoroughfare shall be separated by an island with a minimum distance of twenty feet in width along the curb or edge of the pavement.
  - 4) The entire service area shall be paved with a permanent surface of concrete or asphalt.
3. Buffering Requirements:
  - a. A landscaped buffer strip shall be provided in accordance with the provisions of Section 18.04
  - b. All equipment including hydraulic hoist, pits and oil lubrication, greasing and automobile washing, repairing equipment and body repair shall be entirely enclosed within a building. Any such portion of a building containing washing areas shall consist of a solid masonry wall or equivalent, in conformance with the State Construction Code, Public Act 230 of 1972<sup>10</sup>, as amended, with no openings other than those required for access. There shall be no outdoor storage of merchandise such as tires, lubricants and other accessory equipment.
  - c. The outdoor storage of trash or rubbish shall be screened in accordance with Section 18.09.
  - d. The view of all restroom doors shall be shielded from adjacent streets and residential districts.
  - e. All lighting shall be shielded from adjacent streets and residential districts per the requirements of Section 21.19.
4. Performance Standards:
  - a. All activities, except those required to be performed at the fuel pump, shall be carried on inside a building. All vehicles, upon which work is performed, shall be located entirely within a building.
  - b. There shall be no above ground tanks for the storage of gasoline, liquefied petroleum gas, oil or other inflammable liquids or gas.

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<sup>10</sup> Ordinance #144, Amendment #165 adopted on October 10, 2012

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- c. Automatic or self-service car wash operations shall have public sanitary sewer service.
- d. No subject facility existing on the effective date of this Ordinance shall be structurally altered so as to provide a lesser degree of conformity with the provisions of this Section than existed on the said date.
- e. In the event that an automobile service station has not been used as a service station for a period of more than one (1) year, as shown by examination of the premises or other means, the Planning Commission shall give the operator written notice of their intention to prove the service station to be abandoned. Within thirty (30) days following receipt of the notice, the owner or operator shall have an opportunity to submit evidence that the use is continuing. If the Planning Commission proves that the owner or operator intends to abandon the use and by some act, or omission to act, has manifested a voluntary decision to abandon the use, the Planning Commission may find an abandonment of the use.
- f. In the event that an automobile service station has been abandoned, all underground gasoline storage tanks shall be removed from the premises according to all state requirements for such removal and disposal.
- g. Storage of vehicles rendered inoperative for any reason, and vehicles without current license plates and registration, shall be limited to a period of not more than thirty (30) days and then only for the purpose of temporary storage pending transfer to a junk yard. Such storage shall not occur in front of the building. Such storage shall be completely fenced with obscuring material for any vehicle stored for more than two weeks.
- h. Sales of new and used motorized vehicles shall not be permitted.
- i. No public address system shall be audible from any abutting residential parcel.
- j. All floor drains shall be connected to a public sanitary sewer system with the approval of the sewer authority or connected to an approved holding tank.
- k. All flammable liquids, solvents, cleaners, and other hazardous substances capable of contaminating groundwater shall be stored within the building and secondary containment measures shall be installed and utilized to prevent spilled materials from contacting the ground.
- l. All handling of flammable or hazardous substances shall be in accordance with state and federal laws and all required state and federal permits shall be obtained and the establishment shall remain in conformance therewith.
- m. A vehicle wash may be established as part of the principal structure or as a separate structure but shall conform to all setback requirements for a principal structure and the requirements of Section 23.10.RRR.
- n. Signs shall conform with the requirements of Article Nineteen.

### **I. RESERVED FOR FUTURE USE**

### **J. BED AND BREAKFAST INNS**

- 1. Location Requirements: Bed and breakfast inns are permitted by Special Use Permit in the Residential (R), Lakefront-Residential (L-R), Resort-Residential (R-R), Forest-Recreational (F-R), and Agricultural-Residential (A-R) districts. It is the intent of this Ordinance to allow for the construction of new bed and breakfast inns as well as the conversion of old residential homes of suitable size into bed and breakfast inns when such use can be accomplished within an existing residential dwelling, and without expanding the existing dwelling. Nonresidential buildings may also be converted to a bed and breakfast inn pursuant to the relevant standards of this Section.

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2. Site Requirements: The parcel on which the inn is to operate must meet or exceed the minimum requirements of the zoning district.
3. Buffering Requirements:
  - a. One (1) parking space per room to be rented shall be provided on site, in addition to the parking required for a one-family dwelling. Parking shall be arranged so as not to pose negative impacts on adjacent properties or necessitate on-street parking. Parking areas shall be landscaped as required by the Planning Commission per the requirements of Article Eighteen.
  - b. The outdoor storage of trash or rubbish shall be screened in accordance with Section 18.09.
4. Performance Standards:
  - a. The primary use of a bed and breakfast inn must be as a residence for the owner or manager, who operates and occupies said structure. The bed and breakfast inn may have up to six (6) bedrooms used for transient guests for compensation and by pre-arrangement. Up to twelve (12) bedrooms may be provided by adaptive reuse of an existing nonresidential structure (such as a church) in a residential zone.
  - b. The applicant shall provide a scaled floor plan of the premise as part of the special use application.
  - c. The exterior appearance of the structure shall not be altered from its residential district character.
  - d. Each sleeping room shall have a separate smoke alarm as required in the building code.
  - e. A fire escape plan shall be developed and graphically displayed in each guest room.
  - f. A minimum of one (1) fire extinguisher, in proper working order, shall be located on each floor.
  - g. The establishment shall contain at least two exits to the outdoors.
  - h. No guest room shall be located in a basement or cellar.
  - i. Lavatories and bathing facilities shall be available to all persons using the premises.
  - j. No separate or additional kitchen facilities shall be provided for the guests.
  - k. Retail sales are not permitted beyond those activities serving the registered overnight patrons.
  - l. Meals shall not be served to the public at large but only to registered guests. Meal preparation and service shall conform with all applicable public health requirements.
  - m. No receptions, private parties or activities for which a fee is paid shall be permitted except for those which involve only registered guests.
  - n. Street entry shall be paved and parking for less than six (6) shall be maintained as a dustless surface and for more than six (6) vehicles shall be paved.
  - o. Parking shall be provided in conformance with the parking requirements of Article Seventeen unless waived by the Planning Commission.
  - p. The rental sleeping rooms shall have a minimum size of one-hundred (100) square feet for each two (2) occupants, with an additional thirty (30) square feet for each occupant, to a maximum of four (4) occupants per room.
  - q. All lighting must be shielded to prevent glare on abutting properties or roads pursuant to the requirements of Section 21.19.

### **K. RESERVED FOR FUTURE USE**

### **L. BOAT STORAGE AND REPAIR**

1. Location Requirements:
  - a. Boat storage and repair is permitted by Special Use Permit in the Resort-Residential (R-R) district.



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2. Site Requirements:
  - a. Repair facilities must be contained within a wholly enclosed building.
  - b. All driveways, outdoor storage space, and other outdoor vehicle parking, loading and maneuvering areas shall be improved with an all-weather surface. The surfacing shall be set back from lot lines, except those abutting a street, by a least twenty-five (25) feet.
3. Buffering Requirements:
  - a. Adequate provision shall be made to reduce noise impacts on surrounding residential properties by use of a berm, buffer strip, fence/wall, or greenbelt pursuant to the requirements of Sections 18.03, 18.04, 18.05 or 18.06 respectively. The choice of the option shall be made by the applicant and approved by the Planning Commission.
  - b. The outdoor storage of trash or rubbish shall be screened in accordance with Section 18.09 of this Ordinance.
4. Performance Standards:
  - a. Outdoor storage of boats shall be arranged to minimize problems of access to and within the site. No boats, trailers or other equipment shall be stored between the right-of-way and the building line.
  - b. Outdoor lighting shall be directed away from residential property and public streets per the requirements of Section 21.19.

### **M. RESERVED FOR FUTURE USE**

### **N. CEMETERIES, CREMATORIES, COLUMBARIUMS, AND/OR MAUSOLEUMS**

1. Location Requirements:
  - a. Cemeteries and mausoleums are permitted by Special Use Permit in the Resort-Residential (R-R) and Agricultural-Residential (A-R) districts. Crematories are permitted in the Commercial (C-1) district as a separate Special Use Permit that may be added to a funeral home.
  - b. All ingress and egress to the site shall be from a paved street unless waived by the Planning Commission.
  - c. The site shall not interfere with the future development of a system of major thoroughfares or larger streets in the vicinity.
2. Site Requirements:
  - a. The minimum lot or parcel size for cemeteries, crematories, and/or mausoleums shall be five (5) acres.
  - b. No more than five (5) percent of the site area shall be occupied by buildings.
  - c. All burial plots and all structures including but not limited to a mausoleum shall be set back no less than thirty (30) feet from any lot line or street right-of-way.
  - d. Adequate parking shall be provided on the site, at least fifty (50) feet from any lot line, and no cemetery parking shall be permitted on any public street.

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### 3. Buffering Requirements:

- a. A ten (10) foot buffer strip containing natural plant materials approved by the Planning Commission is to be provided adjacent to all exterior lot lines pursuant to the requirements of Section 18.04b. The outdoor storage of trash or rubbish shall be screened in accordance with Section 18.09.

### 4. Performance Standards:

- a. All facilities for the ground burial area of the site shall be designed and constructed in accordance with the requirements of the County Health Department and the State of Michigan.
- b. All lighting must be shielded to prevent glare on abutting properties or roads pursuant to the requirements of Section 21.19.

## **O. CHURCHES AND RELIGIOUS INSTITUTIONS**

### 1. Location Requirements:

- a. Churches and religious institutions shall be permitted by Special Use Permit located in the Lakefront-Residential (L-R) zoning districts.
- b. The site shall have at least one (1) lot line on a year round public maintained road.
- c. All ingress and egress for the site shall be from a road maintained by the County Road Commission or State Department of Transportation.

### 2. Site Requirements:

- a. The site shall be at least two (2) acres in size, plus one-half (1/2) acre per one hundred (100) seats in the main sanctuary.
- b. No more than twenty-five (25) percent of the site area shall be covered by buildings. No more than sixty percent (60%) of the site shall be covered by impervious surface
- c. No building shall be closer than fifty (50) feet from any lot line or right-of-way.
- d. No building shall be erected to a height greater than that permitted in the district in which it is located.

### 3. Buffering Requirements:

- a. Parking areas shall be screened from adjacent residential areas by a berm, buffer strip or greenbelt at the option of the Planning Commission, pursuant to the standards of Section 18.03, 18.04 and 18.06 respectively.
- b. The outdoor storage of trash or rubbish shall be screened in accordance with Section 18.09 of this Ordinance.

### 4. Performance Standards:

- a. No day care center, school, homeless shelter or other use requiring a Special Use Permit shall be allowed without a separately approved Special Use Permit for each use. All lighting must be shielded to prevent glare on abutting properties or roads pursuant to Section 21.19 requirements.

## **P. COMMERCIAL EQUINE ESTABLISHMENTS**

1. Location Requirements: An equine breeding facility, equine boarding stables and equine training facilities are permitted by Special Use Permit in the Resort-Residential (R-R) and Commercial (C-1) districts. Equine riding academies, time rental riding facilities, and other commercial equine

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establishments are permitted by Special Use Permit in the Resort-Residential (R-R), Agricultural-Residential (A-R), Forest-Recreational (F-R), and Commercial (C-1) districts. See also Section 21.28.

### 2. Site Requirements:

- a. All lots shall have a minimum of three (3) acres for the first horse with one (1) additional acre per each additional horse. (Not applicable to young equines below one (1) year of age.
- b. No equine structure shall be located closer to an off premises residential dwelling unit than one-hundred (100) feet.
- c. No equine structure shall be kept closer than seventy-five (75) feet to any water well.

### 3. Buffering Requirements:

- a. A greenbelt meeting the requirements of Section 18.06 shall be provided.
- b. The outdoor storage of trash or rubbish shall be screened in accordance with Section 18.09 of this Ordinance.

### 4. Performance Standards: The keeping of equine in a commercial equine establishment shall be subject to the following development standards:

- a. Corral/Paddock Size: Every corral/paddock to be provided shall have a minimum dimension of not less than twelve (12) feet and shall contain not less than two hundred forty (240) square feet of area.
- b. Box Stall: The following minimum sizes for stalls in a roofed, permanently enclosed structure are recommended, (a) cob (small) 8' x 8'; (b) light weight horses (medium) 10' x 10'; (c) draft horses (large) 12'x 12'.
- c. Tie Stall: The minimum size for tie stalls in a roofed, permanently enclosed structure is 4' x 8'.
- d. Fencing: Fencing to be provided shall be subject to the following:
  - 1) Materials and Construction: Fencing may be constructed of wood, chain link, masonry, metal and materials with the appropriate structural strength and safety required to restrain the equines.
  - 2) Fence Posts: Fence posts may be constructed of wood, metal, concrete or materials with the appropriate structural strength.
  - 3) Fence Height: Fences to be provided for enclosure shall be maintained not less than four and one-half (4 1/2) feet in height.
- e. Maintenance: All stalls, corrals and structures shall be continuously maintained with preservatives, fasteners and other materials so as to maintain appearance and prevent deterioration and equine escapement.
- f. Loafing Shed/Lean-To: In conjunction with paddocks/pastures, a roofed area shall be provided in the absence of other acceptable shelter, having minimum dimensions of not less than eight (8) feet in width and twelve (12) feet in length.

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- g. Water Facilities: Running water facilities shall be provided and each equine shall have access to fresh water.
- h. Containment Devices: Substantial and acceptable locking or latching devices shall be provided and installed on all gates and doors to equine areas located thereon in such a manner so as to be inaccessible to equine and small children for the prevention of equine escape and unauthorized entry, as per Public Act 351 of 1994.
- i. Feeding Facilities: Feeding facilities and/or boxes shall be provided in each corral and/or box stall located in such a manner so as to be maintained above ground, and such facilities shall be maintained accessible by equine to be served.
- j. Drainage: All areas adjacent to any pen, coop, stable, stall, barn, corral, grazing or work-out or training areas, or other building structures and areas where equine are kept and maintained, shall be graded to drain away from such facilities so as to prevent ponding and insect harborage.
- k. Dust Control: All areas used as arenas for exercising, training, or exhibition of animals shall be maintained in a dust-free manner by an approved and acceptable means for the prevention of detrimental and nuisance effects of dust emission to surrounding properties.
- l. Compliance With Health Regulations Required: The keeping and maintenance of equine, as provided for in this Section, shall comply with all regulations and provisions of the health and sanitation laws of the County and State. All premises and facilities upon which animals are permitted to be kept shall be maintained in a clean, orderly and sanitary condition at all times. All manure shall be removed or spread so as not to constitute a nuisance and in accord with Michigan Department of Agriculture and State and County Health Department regulations. All premises and facilities shall be treated with biologically, ecologically and environmentally approved pesticides for the control of odors, insects and rodents, which in any way can be considered a clear and present nuisance or detriment to the health safety, comfort, welfare, peace and/or tranquility of the general public. All animals shall be maintained in a healthy condition and carefully handled. The facility shall be constructed and maintained so that dust and drainage will not create a nuisance or hazard to adjoining property or uses.
- m. Commercial equine establishments shall provide off-street parking at a minimum of one parking space per two (2) animals, based on the number of horse stalls or maximum number of horses that can be accommodated in the stables. It shall be maintained in a dust free condition.
- n. Enclosed riding arenas associated with commercial equine establishments shall not exceed 10,000 square feet in gross floor area on a minimum of ten (10) acre site, except that an additional 1,500 square feet of floor area may be permitted for each additional full acre in a lot area. The following standards also apply:
  - 1) No living quarters shall be located in any arena building or boarding stable.
  - 2) Special events for which a fee is paid, such as shows, exhibitions, and contests shall be permitted only after a Temporary Zoning Permit has been secured pursuant to the requirements of Section 27.03.
- o. All lighting must be shielded to prevent glare on abutting properties or roads pursuant to the requirements of Section 21.19.

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## Q. COMMERCIAL KENNELS

1. Location Requirements: Commercial kennels are permitted by Special Use Permit in the Resort-Residential (R-R), Forest-Recreational (F-R), Commercial (C-1), Light-Industrial (L-I), and Agricultural-Residential (A-R) districts on parcels with less than ten (10) acres of land<sup>11</sup>.
2. Site Requirements: Commercial kennels shall be on a lot with at least two hundred (200) feet of frontage, have a minimum lot size of one (1) acre for the first eleven (11) animals and an additional one-third (1/3) acre for each animal thereafter.
3. Buffering Requirements:
  - a. Buildings where animals are kept, runs, and exercise areas shall not be located nearer than one hundred feet (100) to any adjacent residential lot line or any adjacent building used by the general public and shall not be located between the right-of-way and the front building line.
  - b. The Planning Commission may require a berm, buffer strip, fence/wall or greenbelt pursuant to Section 18.03, 18.04, 18.05 and 18.06 respectively, if analysis shows that such a buffer is necessary to minimize nuisances on abutting property.
4. Performance Standards:
  - a. All kennels shall be operated in conformance with all applicable county, state and federal regulations.
  - b. The main kennel building used to house the animals shall be insulated in such a manner that animal noises are minimized.
  - c. Habitual barking or unusual noise from the kennel which results in a nuisance to neighboring land owners or residents is prohibited.
  - d. The intensity level of sounds shall not exceed seventy (70) decibels (dBA) at the lot line of industrial uses; sixty five (65) decibels at the lot line of commercial uses and fifty-five (55) decibels at the common lot line when adjacent to residential uses and residential districts. The sound levels shall be measured with a type of audio output meter approved by the United States Bureau of Standards.
  - e. Exercise yards, when provided for training or exercising shall not be used between the hours of 10:00 p.m. and 7:00 a.m.
  - f. During the hours of 7 a.m. until 10 p.m. animals shall be permitted in outdoor runs or pens. Animals shall be kept confined and not allowed to run at large on the property, except as part of supervised training.
  - g. Runs and/or exercise areas, and buildings where the animals are maintained shall be located in the rear yard only.
  - h. The outside perimeter of the run and/or exercise area of a commercial kennel shall be enclosed by chain link or cyclone fencing at sufficient height or completely covered on sides and top to prohibit the escape of animals.
  - i. All animals must be licensed and maintained in a healthy condition.
  - j. Outdoor runs and breeding areas in commercial kennels shall have concrete surfaces, suitable for cleaning by high-pressure water, and shall be provided with an adequate septic system.
  - k. The premises shall be kept in a clean and sanitary manner to prevent the accumulation of flies, the spread of disease or offensive odor.
  - l. Animal odors shall not be detectable beyond the lot lines of the property in which the kennel is located.

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<sup>11</sup> Ordinance #143, Amendment #164 adopted on June 29, 2012

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- m. Dust and drainage from the kennel enclosure shall not create a nuisance or hazard to adjoining property or uses.
- n. All lighting must be shielded to prevent glare on abutting properties or roads pursuant to the requirements of Section 21.19.
- o. The commercial kennel must be operated in conformance with the requirements of the Kalkaska County Animal Control Ordinance.

### **R. COMMERCIAL RECREATION (INDOOR)**

Indoor commercial recreation establishments shall include, but need not be limited to, the following<sup>12</sup>:

- a. Bars and taverns, nightclubs, cabarets.
- b. Bingo parlors.
- c. Bowling alleys, ice or roller blade rinks.
- d. Dance halls.
- e. Hotels, motels and other temporary lodging with an average length of stay of less than 30 days (hotels, motels and other temporary lodging are not indoor commercial recreation establishments if there is no entertainment offered).
- f. Indoor golf ranges.
- g. Membership clubs and lodges.
- h. Miniature golf facilities.
- i. Personal fitness centers.
- j. Pool or billiard halls.
- k. Restaurants, cafes (restaurants and cafes without entertainment are not indoor commercial recreation establishments).
- l. Sauna, hot tub and similar establishments.
- m. Soccer fields and racquet courts.
- n. Swimming pools.
- o. Theaters.
- p. Video rental stores.
- q. Uses accessory to the above uses.
- r. Uses similar to and compatible with the above establishments.

1. Location Requirements: Indoor commercial recreation establishments are permitted by Special Use Permit following site plan review in the Resort-Residential (R-R) and Commercial (C-1) districts.<sup>13</sup>
2. Site Requirements:
  - a. The site shall be located on a year around public maintained road with a minimum of one hundred-fifty (150) feet of frontage
  - b. Minimum site area shall be one-half (1/2) acre.
3. Buffering Requirements:
  - a. No building shall be located within fifty (50) feet of a lot line of adjoining residentially zoned property.
  - b. Front, side and rear yards shall conform to district regulations.

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<sup>12</sup> Ordinance #138, Amendment #159 adopted on June 9, 2009

<sup>13</sup> Ordinance #138, Amendment #159 adopted on June 9, 2009

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- c. Whenever parking areas are adjacent to land zoned or used for residential purposes, a five (5) foot high wall or greater shall be provided along the sides of the parking area adjacent to such residential land.
  - d. Appropriate screening shall be provided to limit noise reaching adjacent land uses per the requirements of Section 18.03, 18.04, 18.05 or 18.06 as determined by the Planning Commission.
  - e. The outdoor storage of trash or rubbish shall be screened in accordance with Section 18.09 of this Ordinance.
4. Performance Standards:
- a. The applicant shall provide evidence of compliance with all required federal, state, county and local permits.
  - b. Facilities shall provide off-street parking and passenger loading areas in accordance with Article Seventeen.
  - c. Facilities which have a participant or customer capacity greater than 100 people at one time shall provide letters of review from the County Sheriff and County Road Commission with respect to the adequacy of the safety of the design of the proposed project for ingress, egress and internal circulation.
  - d. Exterior lighting shall be installed in such a manner that it does not impede the vision of traffic along adjacent streets.
  - e. All off-street parking areas shall be illuminated during all hours of operation, and until one hour after the business closes.
  - f. Facilities using night lighting adjoining a residentially- zoned property or a residence shall deflect lighting away from these areas. In addition, all lighting must be shielded to prevent glare on abutting properties or roads pursuant to the requirements of Section 21.19.
  - g. Excessive dust, noise, traffic, and trespassing shall not be inflicted on adjacent properties.
  - h. Sites shall be regularly cleared of debris so that litter does not accumulate on adjacent properties.
  - i. The intensity level of sounds shall not exceed seventy (70) decibels (dBA) at the lot line of industrial uses; sixty five (65) decibels at the lot line of commercial uses and fifty-five (55) decibels at the lot line of residential uses. The sound levels shall be measured with a type of audio output meter approved by the United States Bureau of Standards.
  - j. All sanitary facilities shall be designed and constructed in strict conformance with County Health Department regulations.
  - k. Adequate trash receptacles shall be provided, as needed throughout the site.
  - l. Operating hours for all uses shall be determined by the Planning Commission based on the nature of the use and the nuisance potential to adjoining property owners.
  - m. All indoor commercial recreation establishments which serve alcohol shall comply with the following standards:
    - 1) At all times shall remain in conformance with all rules, regulations, license conditions, permits, approvals, sanctions or other requirements of the Michigan Liquor Control Commission.
    - 2) Apply for and receive site plan review and approval from the Kalkaska County Planning Commission before any change of use that requires a new or modified license or permit from the Michigan Liquor Control Commission before such a license or permit has been obtained from the Michigan Liquor Control Commission.

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## S. COMMERCIAL RECREATION (OUTDOOR)

Outdoor commercial recreation uses shall include, but need not be limited to, the following<sup>14</sup>:

- a. Airgun or survival games.
- b. Amphitheaters.
- c. Amusement parks.
- d. Amusement and water parks.
- e. Animal racing, go-cart, automobile or motorcycle tracks.
- f. Baseball/softball fields/stadiums.
- g. Batting cages.
- h. Campgrounds (including youth camps, religious retreats and hunting camps); recreational vehicle parks or travel trailer parks; and seasonal mobile home parks which comply with the requirements of P.A. 96 of 1987, the Mobile Home Commission Act.
- i. Drive-in theaters.
- j. Fairgrounds.
- k. Flea markets.
- l. Football fields/stadiums.
- m. Miniature golf and outdoor golf driving ranges.
- n. Resorts.
- o. Skate board park.
- p. Ski slope.
- q. Soccer fields/stadiums.
- r. Uses similar to the above uses.
- s. Uses accessory to the above uses, such as restaurants, refreshment stands, retail shops selling items related to the above uses, maintenance buildings, office for management functions, spectator seating and service areas, including locker rooms and rest rooms.

1. Location Requirements: Outdoor commercial recreational uses are permitted by Special Use in the Resort-Residential (R-R), Agricultural-Residential (A-R), Forest-Recreational (F-R), and Commercial (C-1) districts.<sup>15</sup>

2. Site Requirements:

- a. The site shall be located on a road maintained by the County Road Commission or State Department of Transportation.
- b. Minimum site area shall be:
  - 1) Three (3) acres for; flea markets, batting cages, skateboard parks and mini-golf. Minimum lot width shall be two hundred (200) feet.
  - 2) Ten (10) acres for amphitheater and amusement parks.
  - 3) Fifteen (15) acres for resorts and campgrounds.
  - 4) For automobile or other vehicular or animal racing, the Applicant shall provide funds to the county sufficient to acquire an Independent Technical Engineering Evaluation, particularly to determine if the site proposed will be large enough for the proposed use. This requirement may be waived (all or in part) by the Planning Commission.<sup>16</sup>
  - 5) Twenty (20) acres for all other listed commercial recreation uses.

<sup>14</sup> Ordinance #138, Amendment #159 adopted on June 9, 2009

<sup>15</sup> Ordinance #138, Amendment #159 adopted on June 9, 2009

<sup>16</sup> Ordinance #130, Amendment #151 adopted on October 9, 2007



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### 3. Buffering Requirements:

- a. No building or spectator seating facility shall be located within one hundred (100) feet of a lot line of adjoining residentially zoned property.
- b. Front, side and rear yards shall be at least eighty (80) feet. The first fifty (50) feet of the front yard shall be kept free of off-street parking and shall be landscaped.
- c. Whenever parking areas are adjacent to land zoned or used for residential purposes, a five (5) foot wall or greater shall be provided along the sides of the parking area adjacent to such residential land.
- d. Race tracks and drive-in theaters shall be enclosed and the entire periphery with an obscuring screen fence at least eight (8) feet in height. Fences shall be of permanent finished construction, painted or otherwise finished neatly, attractively and inconspicuously.
- e. Appropriate screening shall be provided to limit noise reaching adjacent land uses per the requirements of Section 18.03, 18.04, 18.05 or 18.06 as determined by the Planning Commission.
- f. The outdoor storage of trash or rubbish shall be screened in accordance with Section 18.09 of this Ordinance.

### 4. Performance Standards:

- a. The applicant shall provide evidence of compliance with all required federal, state, county and local permits.
- b. Facilities shall provide adequate off-street parking and passenger loading areas per the requirements of Article Seventeen.
- c. Adequate stacking area shall be provided for vehicles waiting to enter or exit the lot.
- d. Facilities which have a participant capacity greater than 500 people shall provide letters of review from the County Sheriff and County Road Commission with respect to the proposed project.
- e. Exterior lighting shall be installed in such a manner that so that it does not impede the vision of traffic along adjacent streets. In addition, facilities using night lighting adjoining a residentially-zoned property shall deflect lighting away from these areas.
- f. All lighting must be shielded to prevent glare on abutting properties or roads pursuant to the requirements of Section 21.19.
- g. Excessive dust, noise, traffic, and trespassing shall not be inflicted on adjacent properties.
- h. Outside storage shall be screened.
- i. Landscaped areas shall be maintained in a healthy condition pursuant to Article Eighteen.
- j. Sites shall be periodically cleared of debris so that litter does not accumulate or drift onto adjacent properties.
- k. In no case shall a recreational accessory use predate the installation and operation of the principal use. When the principal use ceases operation, the accessory use shall immediately cease.
- l. Accessory commercial activities shall be limited to those necessary to serve only the seasonal patrons of the facility, with the exception of restaurant facilities.
- m. Not more than sixty five (65%) of the land area shall be covered by recreational uses.
- n. Central loudspeakers/paging systems are prohibited within one-hundred 100 feet of residentially zoned property.
- o. The intensity level of sounds shall not exceed seventy (70) decibels (dBA) at the lot line of industrial uses; sixty five (65) decibels at the lot line of commercial uses and fifty-five (55) decibels at the lot line of residential uses. The sound levels shall be measured with a type of audio output meter approved by the United States Bureau of Standards.
- p. All such recreational uses shall be located at least five-hundred (500) feet from any other such use.
- q. No temporary sanitary facility or trash receptacle shall be located within two hundred (200) feet of an existing dwelling.
- r. Security fencing shall be provided adjacent to residential districts or uses.

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- s. All sanitary facilities shall be designed and constructed in strict conformance with County Health Department regulations.
- t. Adequate trash receptacles shall be provided, as needed throughout the site.
- u. Drive-in theater screens shall not face any public street and shall be so located as to be out of view from any major thoroughfare and not capable of being viewed from adjacent residences.
- v. Operating hours for all uses shall be determined by the Planning Commission based on the nature of the use and the nuisance potential to adjoining property owners.
- w. In the case of non-primitive camping facilities and recreational vehicle parks:
  - 1) Each campsite shall contain a minimum of one thousand five-hundred (1,500) square feet.
  - 2) Each campsite shall be set back from any right-of-way or lot line at least seventy (70) feet.
  - 3) A common use area shall be provided in the parcel of five hundred (500) square feet per campsite.
  - 4) There shall be no permanent storage of tents, campers, travel trailers and no temporary or permanent placement or storage of a mobile home larger than 8.5 feet by 35 feet in the campground unless specifically permitted by the Planning Commission.
  - 5) At least one public telephone shall be provided in the facility for each twenty (20) campsites.
  - 6) Maximum density for campgrounds shall be twenty (20) campsites per acre.
  - 7) No more than one permanent dwelling shall be allowed in a campground which shall only be occupied by the owner, manager or an employee.
  - 8) Separate toilet and bathing facilities shall be provided for each sex and shall contain hot and cold water at a ratio of one facility per 20 campsites.
  - 9) Each campsite shall have a picnic table and designated place for fires.
  - 10) The campground must be in full compliance with the State Public Health Code, P.A. 368 of 1978, as amended and any other applicable codes and regulations.
- x. In the case of primitive campgrounds, the campground must be in full compliance with the State Public Health Code, P.A. 368 of 1978, as amended and any other applicable codes and regulations. If any facilities described above for a non-primitive campground are provided, the applicable standards above shall apply.
- y. All outdoor commercial recreation establishments which serve alcohol shall comply with the following standards:
  - 1) At all times shall remain in conformance with all rules, regulations, license conditions, permits, approvals, sanctions or other requirements of the Michigan Liquor Control Commission.
  - 2) Apply for and receive site plan review and approval from the Kalkaska County Planning Commission before any change of use that requires a new or modified license or permit from the Michigan Liquor Control Commission before such a license or permit has been obtained from the Michigan Liquor Control Commission.

## **T. RESERVED FOR FUTURE USE**

## **U. COMMUNICATION TOWERS**

- 1. Location Requirements: Communication towers, telecommunication towers and facilities and alternative tower structures are permitted by Special Use Permit in the Residential (R), Lakefront-

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Residential (L-R), Resort-Residential (R-R), Agricultural-Residential (A-R), Forest-Recreational (F-R), Commercial (C-1), General Industrial (G-I), and Light Industrial (L-I) districts.

2. Purpose: The purpose of this Section is to establish standards for the location of communication towers, wireless telecommunication towers, alternative tower structures and antennas. The County recognizes that it is in the public interest to permit the location of wireless telecommunication towers, alternative tower structures and antennas within the County. The County also recognizes the need to protect the scenic beauty of Kalkaska County from unnecessary and unreasonable visual interference, and that wireless telecommunication towers, alternative tower structures and antennas may have negative aesthetic impacts upon adjoining and neighboring uses. As such, this ordinance seeks to:
  - a. Protect residential areas from potential adverse impact of towers and antennas;
  - b. Encourage the location of towers in nonresidential areas;
  - c. Minimize the total number of towers throughout the community,-
  - d. Encourage the joint use of new and existing tower sites rather than the construction of additional towers;
  - e. Encourage developers of towers and antennas to configure them in a way that minimizes their adverse visual impact;
  - f. Enhance the ability of providers of telecommunication services to provide such services to the community quickly, effectively and efficiently;
  - g. Consider the public health and safety of telecommunication towers and alternative tower structures; and
  - h. Avoid potential damage to adjacent property from tower failure.
3. Setbacks and Height: The following setback requirements shall apply to all towers for which a Special Use Permit is required; provided, however, that the County Planning Commission may reduce the standard setback requirements if the goals of this Ordinance would be better served thereby:
  - a. A tower must be set back a distance equal to at least one hundred percent (100 %) of the height of the tower from any adjoining lot line.
  - b. Guy wires and accessory buildings must satisfy the minimum zoning district setback requirements.
  - c. A tower approved pursuant to this Section is excepted from the height requirements of Table 15-1, Schedule of Regulations.
4. Security Fencing: Communication towers and attendant accessory structures may be enclosed by security fencing at the discretion of the tower/facility owner.
5. Landscaping: The following requirements shall govern the landscaping surrounding towers for which a Special Use Permit is required; provided however, that the County Planning Commission may waive such requirements if the goals of this Ordinance would be better served thereby.
  - a. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the compound.
  - b. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived
  - c. Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.

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6. State or Federal Requirements: All towers must meet or exceed the standards and regulations of the FAA, the FCC, and any other agency of the State or Federal Government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this Ordinance shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling State or Federal Agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.
7. Aesthetics and Noise: Towers and antennas shall meet the following requirements:
  - a. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
  - b. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
  - c. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
  - d. Where a feasible alternative exists, towers, alternative tower structures and supporting structures shall not utilize a power source which generates more than 60 dB(A) at adjoining property lines or public property; however, this section shall not be construed as limiting the use of temporary generators or similar devices used to create power during periods of interruption of the primary power source.
8. Lighting: Towers shall not be artificially lighted unless the applicant demonstrates that the tower must be of such a height as to require lighting pursuant to appropriate regulatory authority. Applicant shall demonstrate that the lighting alternatives and design chosen cause the least disturbance to the surrounding views.
9. Compliance with Codes: Antenna and metal towers shall be grounded for protection against a direct lightning strike and electrical connections, wiring, and structural integrity shall comply with all applicable state and local building codes and the applicable standards for towers published by the Electronic Industries Association, as amended from time to time.
10. Interference with Residential Reception: Towers shall be located so that they do not interfere with television and radio reception of neighboring residential areas.
11. Signs: No signs shall be allowed on an antenna or tower, except any sign required on said antenna or tower by law, and excepting a single sign no larger than one foot by two feet (1' x 2') located at the base of a tower or on the exterior of any fence surrounding the tower facility, which provides the name of the owner or operator of the tower facility and a phone number where same may be reached in case of emergency.
12. Spacing:
  - a. Towers shall be located no closer than one (1) mile from an existing telecommunication tower or alternative tower structure, as measured in a straight line between the base of the existing tower and the base of the proposed tower.

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- b. A tower shall not be located within two hundred feet (200 ) or three hundred percent (300%) of the height of the tower, whichever is greater, of a one-family, two-family or multiple family dwelling unit, church, school or other structure normally used and actually used for the congregation of persons. Distance for the purpose of this section shall be measured from the base of the tower structure to the lot line of the one, two or multiple family dwelling unit, church, school or other structure normally used and actually used for the congregation of persons. Compliance with this requirement may be waived by the Planning Commission upon presentation by the Applicant of technical proof that the tower is designed to be self-collapsing.<sup>17</sup>
13. Abandoned antennas and towers: Any antenna or tower that is not operated for a continuous period of twelve (12) months as shown by examination of the premises, or other means, the Planning Commission shall give the operator written notice of their intention to prove the antenna or tower to be abandoned. Within thirty (30) days following receipt of the notice, the owner or operator shall have an opportunity to submit evidence that the use is continuing. If the Planning Commission proves that the owner or operator intends to abandon the use and by some act, or omission to act, has manifested a voluntary decision to abandon the use, the Planning Commission may find an abandonment of the use. If abandonment is found, the owner of such antenna or tower shall remove the same within ninety (90) days of receipt of notice from the County notifying the owner of such abandonment. Along with said removal, said owner shall restore the site of said antenna or tower to its original condition prior to location of the antenna or tower subject to reasonable wear and tear. Failure to remove an abandoned antenna or tower within said ninety (90) days shall be grounds to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower. The County Planning Commission may require the applicant to file into an escrow account a bond, irrevocable letter of credit, cashier's check or other acceptable security equal to the reasonable cost of removing the tower, antenna, alternative tower structure or other supporting or incidental structure(s) as a condition of a Special Use Permit given pursuant to this Section.
14. Additional standards for communication towers and alternative tower structures: In addition to the standards set forth in a particular zone and the standards set forth above, the uses below must meet the following additional standards:
- a. Application requirements: The following information shall be provided in support of an application to construct a wireless telecommunication tower or alternative tower structure.
- 1) Construction plans certified by a Michigan Licensed Structural Engineer. The plans shall indicate the manner in which the proposed tower is designed to collapse.
  - 2) A map depicting the existing and known proposed location of wireless telecommunication facilities, including wireless telecommunication antenna attached to alternative tower structures, within Kalkaska County as well as the proposed service area radius.
  - 3) The name, address and telephone number of the person to contact regarding site maintenance or other notification purposes. This information shall be periodically updated by the tower owner.
  - 4) A statement which indicated the applicant's intent to allow the co-location of other antenna.
  - 5) INDEPENDENT TECHNICAL AND ENGINEERING EVALUATION. The applicant shall provide funds to the County sufficient to acquire an independent technical and

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<sup>17</sup> Ordinance #134, Amendment #155 adopted on August 12, 2008

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engineering evaluation, particularly of the need for any additional tower in excess of sixty (60) feet. If the technical evaluation shows that comparable service could be provided by a sixty (60) foot or less tower, no tower in excess of sixty (60) feet shall be allowed.<sup>18</sup>

- b. Evidentiary requirements: The applicant must demonstrate that no existing tower, alternative tower structure or alternative technology not requiring the use of towers or alternative tower structures can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the County Planning Commission related to the availability of suitable existing towers, other alternative towers or alternative technology. Evidence submitted to demonstrate that no existing tower, alternative tower structure or alternative technology can accommodate the applicant's proposed antenna must establish that:
- 1) No existing towers or alternative tower structures are located within the geographic area which meets the applicant's engineering requirements.
  - 2) Existing towers or alternative tower structures are not of sufficient height to meet applicant's engineering requirements.
  - 3) Existing towers or alternative tower structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
  - 4) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or alternative tower structures, or the antenna on the existing towers or alternative tower structures would cause interference with the applicant's proposed antenna.
  - 5) The fees, costs, or contractual provisions required by the owner in order to share an existing tower or alternative tower structure or to adapt an existing tower or alternative tower structure for sharing are unreasonable. Costs exceeding new tower developments are presumed to be unreasonable.
  - 6) Other limiting factors exist that render existing towers and potential alternative tower structures unsuitable.
  - 7) Alternative technology that do not require the use of towers or alternative tower structures such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

### V. CONTRACTOR'S ESTABLISHMENTS

1. Location Requirements: Contractor's establishments for general building contractors, heavy equipment contractors, and oil well equipment contractors are permitted by Special Use Permit in the Commercial (C-1)<sup>19</sup>, General Industrial (G-I)<sup>20</sup>, and Light-Industrial (L-I) districts.
2. Site Requirements:
  - a. The site shall be at least two (2) acres in size.
  - b. The site shall be on a year around public maintained road.
  - c. No driveway or curb cut shall be located less than twenty (20) feet from any lot line measured from the edge of the driveway to the lot line.

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<sup>18</sup> Ordinance #115, Amendment #136 adopted on June 10, 2003

<sup>19</sup> Ordinance #138, Amendment #159 adopted on June 9, 2009

<sup>20</sup> Ordinance #138, Amendment #159 adopted on June 9, 2009

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3. Buffering Requirements
  - a. A landscaped buffer strip shall be provided in accordance with the provisions of Section 18.04.
  - b. The outdoor storage of trash or rubbish shall be screened in accordance with Section 18.09.
4. Performance Standards:
  - a. Storage of all construction equipment and vehicles shall be in the rear yard and not within any required setback area.
  - b. All flammable liquids and other hazardous substances shall be stored within a building and secondary containment measures shall be installed and properly maintained. Except, any fuel tanks shall be buried below ground, constructed of materials approved by, sited and installed pursuant to the requirements of the Michigan Department of Environmental Quality. No fueling area shall be closer than fifty (50) feet to a lot line.
  - c. Not more than two access driveways at least one hundred (100) feet apart shall serve the property. No driveway shall be closer than one-hundred (100) feet from an intersection.
  - d. All equipment and vehicle servicing shall be completely within an enclosed building with a solid masonry wall or equivalent which complies with the State Construction Code, Public Act 230 of 1972, as amended.
  - e. All activities, except those required to be performed at a fuel pump, shall be carried on inside a building.
  - f. All lighting must be shielded to prevent glare on abutting properties or roads pursuant to the requirements of Section 21.19.

### W. RESERVED FOR FUTURE USE

### X. CONVALESCENT OR NURSING HOMES

1. Location Requirements: Convalescent or nursing homes are permitted by Special Use Permit in the Resort-Residential (R-R), Residential (R), Agricultural-Residential (A-R), Forest-Recreational (F-R), and Commercial (C-1) districts.
2. Site Requirements:
  - a. There shall be a minimum of one thousand five-hundred (1,500) square feet of open site area for each bed in the facility to provide for landscaping, parking, service drives, yards, recreational areas and accessory uses.
3. Buffering requirements:
  - a. Appropriate screening shall be provided to limit noise reaching adjacent land uses per the requirements of Section 18.03, 18.04, 18.05 or 18.06 as determined by the Planning Commission..
  - b. No building shall be closer than forty (40) feet to any lot line.
  - c. The outdoor storage of trash or rubbish shall be screened in accordance with Section 18.09 of this Ordinance.
4. Performance standards:
  - a. No more than twenty-five (25) percent of the site area shall be covered by buildings.
  - b. Parking areas shall not be located within fifty (50) feet of a residential district or use.

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- c. All facilities shall be licensed by the state of Michigan and shall conform to applicable state and federal laws.
- d. The site shall be served by a year round public maintained road.
- e. Buildings shall conform to the height limitations of the district.
- f. All lighting must be shielded to prevent glare on abutting properties or roads pursuant to the requirements of Section 21.19.

### Y. CONVENIENCE STORE AND PARTY STORES

1. Location Requirements:
  - a. Convenience stores and party stores are permitted by Special Use Permit in the Resort-Residential (R-R), Agricultural-Residential (A-R), and Forest-Recreational (F-R) districts.
2. Site Requirements: Shall be located on a public maintained road.
3. Buffering Requirements:
  - a. Appropriate screening shall be provided to limit noise reaching adjacent land uses per the requirements of Section 18.03, 18.04, 18.05 or 18.06 as determined by the Planning Commission.
  - b. The outdoor storage of trash or rubbish shall be screened in accordance with Section 18.09.
4. Performance Standards:
  - a. Outdoor display of items for sale shall not exceed fifty (50) square feet.
  - b. Parking shall comply with the requirements of Article Seventeen.
  - c. Signs shall comply with the requirements of Article 19.
  - d. Access shall comply with the requirements of Section 21.23.
  - e. No driveway shall be closer than one-hundred (100) feet from an intersection or another driveway.
  - f. All lighting must be shielded to prevent glare on abutting properties or roads pursuant to the requirements of Section 21.19.

### Z. DETACHED ACCESSORY DWELLING UNITS <sup>21</sup>

1. The primary structure or the accessory dwelling unit shall be owner occupied.
2. Accessory dwellings are only permitted with standard detached single-family dwelling units in Residential (R), Lakefront-Residential (L-R), Resort-Residential (R-R), Agricultural-Residential (A-R), Forest-Recreational (F-R), and Commercial (C-1)<sup>22</sup> districts.
3. The residence containing an accessory dwelling shall be designed to retain a single-family appearance in terms of doorway<sup>23</sup> entry, building materials, and roof lines.
4. The total square footage of the accessory dwelling unit shall not exceed 45% of the square footage contained in the primary residence<sup>24</sup> subject to the minimum requirement of the Building Codes.
5. There shall be a minimum of one (1) and a maximum of two (2) designated parking spaces for the accessory dwelling unit.

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<sup>21</sup> Ordinance #119, Amendment #140 adopted on October 10, 2006

<sup>22</sup> Ordinance #143, Amendment #164 adopted on June 29, 2012

<sup>23</sup> Ordinance #134, Amendment #155 adopted on August 12, 2008

<sup>24</sup> Ordinance #149, Amendment #170 adopted on July 1, 2016



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6. Subject to all Building and Health Department Codes.
7. If located within a platted residential subdivision, will be subject to all deed restrictions and covenants.
8. No more than one (1) detached accessory dwelling unit will be allowed per parcel.
9. This section is exempt from complying with Article Twenty-Five.<sup>25</sup>

## **AA. DRIVE-IN AND DRIVE-THROUGH ESTABLISHMENTS**

1. Location Requirements: Drive-in and drive-through establishments are permitted by Special Use Permit in the Resort-Residential (R-R), Forest-Recreational (F-R), and Commercial (C-1) districts.
2. Site Requirements:
  - a. Minimum lot area shall be twenty thousand (20,000) square feet.
  - b. The minimum lot width shall be one hundred twenty-five (125) feet.
  - c. The site shall have at least one (1) lot line on a paved major thoroughfare.
3. Buffering Requirements:
  - a. Appropriate screening shall be provided to limit noise reaching adjacent land uses per the requirements of Section 18.03, 18.04, 18.05 or 18.06 as determined by the Planning Commission.
  - b. The outdoor storage of trash or rubbish shall be screened in accordance with Section 18.09.
4. Performance Standards:
  - a. The outdoor space used for parking and vehicle stacking, shall be hard surfaced with asphalt or concrete and adequately drained unless an alternative dustless surface is approved by the Planning Commission.
  - b. Drive-in restaurant management shall provide adequate trash and litter policing for the parking lot and the shoulders of adjacent roadways. These areas shall be completely cleared of accumulated debris as often as necessary.
  - c. No driveway shall be closer to any other drive than seventy-five (75) feet and the maximum number of driveways permitted on a major thoroughfare is two (2).
  - d. No driveway shall be closer than one hundred (100) feet from an intersection.
  - e. Vehicular circulation patterns into and out of such businesses shall be located and designed to minimize disruption of and conflicts with through traffic movement on abutting streets.
  - f. Devices for the transmission or broadcasting of voices or music shall be so directed or muffled as to prevent said sound or music from being audible beyond the boundaries of the site.
  - g. All lighting must be shielded to prevent glare on abutting properties or roads pursuant to the requirements of Section 21.19.

## **BB. RESERVED FOR FUTURE USE**

## **CC. RESERVED FOR FUTURE USE**

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<sup>25</sup> Ordinance #143, Amendment #164 adopted on June 29, 2012

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### DD. FUEL STORAGE FACILITIES

1. Location Requirements: Fuel storage facilities are permitted by Special Use Permit in the Commercial (C-1) and Light-Industrial (L-I) districts.
2. Site Requirements:
  - a. Minimum lot size for above ground fuel tanks or storage shall be three (3) acres.
  - b. Above ground storage tanks other than those holding water shall be located not less than seventy-five feet from any occupied building or any lot line and shall be mounted on a solid concrete slab to prevent overturn and spilling, according to EPA specifications.
3. Buffering Requirements:
  - a. Appropriate screening shall be provided to limit noise reaching adjacent land uses per the requirements of Section 18.03, 18.04, 18.05 or 18.06 as determined by the Planning Commission. Fuel storage facilities shall also be fenced for safety.
  - b. All lighting shall be shielded from adjacent streets and residential districts.
4. Performance Standards:
  - a. A Pollution Incidence Prevention Plan shall be approved by the DEQ and compliance therewith conditioned as part of the Special Use Permit.
  - b. Approval of the State Fire Marshal shall be obtained and compliance with the terms of any permit issued shall be conditioned as part of the Special Use Permit.
  - c. Adequate space for truck movement shall be provided on site.
  - d. All lighting must be shielded to prevent glare on abutting properties or roads pursuant to the requirements of Section 21.19.

### EE. FUNERAL HOMES AND MORTUARIES

1. Location Requirements:
  - a. Funeral homes and mortuaries are permitted in the Residential (R) district by Special Use Permit.
  - b. Site location: The proposed site shall front upon a year round public maintained road with all ingress and egress directly from said street.
2. Site Requirements:
  - a. Minimum site size: One acre site with a minimum width of one hundred fifty (150) feet.
  - b. Yards: Front, side and rear yards shall be at least fifty (50) feet except on those sides adjacent to non-residential districts where it shall be twenty (20) feet. All yards shall be appropriately landscaped with trees, shrubs and grass. No structures or parking areas shall be permitted in said yards.
  - c. Site coverage: No more than thirty (30%) percent of the gross site area shall be covered by buildings including accessory buildings.
  - d. Maximum building height: No building shall be erected to a height greater than that permitted in the Residential (R) district.
3. Buffering Requirements:
  - a. Appropriate screening shall be provided to limit noise reaching adjacent land uses per the requirements of Section 18.03, 18.04, 18.05 or 18.06 as determined by the Planning Commission.
  - b. The outdoor storage of trash or rubbish shall be screened in accordance with Section 18.09.

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### 4. Performance Standards:

- a. The conduct of all activities related to such uses shall take place within the principal building and not in an accessory building. A caretaker's residence may be provided within the principal building.
- b. Appearance: All buildings shall be harmonious in appearance with the surrounding area.
- c. Signs shall be in compliance with the provisions of Article 19.
- d. Off-street parking shall be in compliance with the provisions of Article Seventeen.
- e. All lighting must be shielded to prevent glare on abutting properties or roads pursuant to the requirements of Section 21.19.

## **FF. RESERVED FOR FUTURE USE**

## **GG. GOLF COURSES AND COUNTRY CLUBS**

1. Location Requirements: Golf courses and country clubs are permitted by Special Use Permit in the Lakefront-Residential (L-R), Resort-Residential (R-R), Agricultural-Residential (A-R), and Forest-Recreational (F-R) districts.

2. Site Requirements:

- a. Minimum site shall be eighty (80) acres for a nine (9) hole course.
- b. Minimum site shall be one hundred sixty (160) acres for an eighteen (18) hole course.
- c. The minimum site for tennis, racket sport and swimming facilities shall be four (4) acres.

3. Buffering Requirements:

- a. A landscaped buffer strip per the requirements of Section 18.04, shall be provided between the parking and principal building area and any adjacent residential development.
- b. A 50 foot minimum native vegetation strip between turf areas and natural water bodies, watercourses or wetlands must be maintained. The native vegetation strip shall not be chemically treated.
- c. The outdoor storage of trash or rubbish shall be screened in accordance with Section 18.09.

4. Performance Standards:

- a. Accessory uses may include; clubhouse/pro shop, managerial facilities, maintenance shed, toilets, lockers, standard restaurant and drinking establishments, tennis, racket sport, and swimming facilities.
- b. The clubhouse design is to be of a residential character and exterior materials are to be primarily wood or brick.
- c. Major accessory uses such as a restaurant and bar shall be housed in a single building with the club house. Minor accessory uses strictly related to the operation of the golf course itself, such as maintenance garage and pro shop or golf shop may be located in separate structures.
- d. All lighting must be shielded to prevent glare on abutting properties or roads pursuant to the requirements of Section 21.19.
- e. A site plan of the proposed development shall be reviewed and approved in accordance with Article Twenty-five of this Ordinance. Such site plan shall indicate the location of each proposed hole of the golf course, as well as of the service roads, entrances, driveways and parking areas

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and shall be so designed in relationship to the public streets that pedestrian and vehicular traffic safety is maximized.

- f. Development features shall be shown on said site plans; including the principal and accessory buildings, structures and parking areas, and shall be so located as to minimize possible adverse effects upon adjacent property.
- g. All principal or accessory buildings and parking areas shall be not less than two hundred (200) feet from any lot line or abutting residentially zoned lands; provided that where topographic conditions are such that buildings would be screened from view, the Planning Commission may modify this requirement.
- h. Access shall be so designed as to provide all ingress and egress directly onto or from a year round public maintained road.
- i. No building shall be erected to a height greater than that permitted in the district in which it is located.
- j. The total lot area covered with principal and accessory buildings shall not exceed fifteen (15) percent.
- k. Additional parking is required for accessory uses that may be allowed.
- l. All parking areas shall be surfaced or so treated as to prevent any dust nuisance.
- m. Swimming pools shall conform with the requirements of Section 21.25.
- n. No outdoor loudspeaker or call system shall be audible on adjoining property.
- o. Outside storage shall be properly screened.
- p. No dwelling units shall be provided on the premises except for living quarters for a resident manager, watchman or caretaker or other dwelling units permitted by Special Use Permit under the requirements of this Ordinance. Those living quarters, if any, shall be constructed as part of the principal building.
- q. A golf driving range accessory to the principal use of the golf course is permitted provided the area devoted to this use shall maintain a seventy-five (75) foot front yard and a one hundred (100) foot side and rear yard setback. The area shall be buffered by natural vegetation and fencing to minimize the impact upon adjoining properties.
- r. Toilet facilities for use by patrons shall be located conveniently. Such facilities shall be approved by the County Health Department.
- s. In the consideration of golf driving ranges additional buffering conditions necessary to minimize the impact of possible safety threats from projectiles upon adjacent land uses may be imposed by the Planning Commission.
- t. A minimum of two satellite toilet facilities (restrooms) or other acceptable facilities are required for each nine (9) holes. The satellites are to be centrally located away from lot lines and painted or finished in an earth-tone color.
- u. Golf courses shall retain and preserve native vegetation over at least thirty (30) percent of the total upland area of the course to reduce water demand, excessive soil erosion and heavy nutrient run-off.
- v. Water quality protective measures are required as follows:
  - 1) Maintenance of erosion control barriers during construction and until all ground cover is established.
  - 2) To the extent practicable, runoff must be directed to on-site holding/sedimentation ponds with a water quality control structure installed at the outlet prior to water discharge from the premises.
  - 3) Site areas in proximity to fuel and chemical storage areas shall be designed to direct all runoff to an on-site ponding area.
  - 4) A chemical storage area must be designated within an accessory building. The area must provide secondary containment to prevent the spread of spills.

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- 5) All herbicide, insecticide, fungicide and rodenticide chemicals must be stored in a locked enclosure.
- 6) An inventory manifest of stored chemicals must be posted at the entrance of the accessory building. Said listing must also be filed with the County.
- 7) At any time widespread or non-spot application of herbicide, insecticide, fungicide or rodenticide is to occur, notification signs must be posted at lot lines. The signs are to state the type and name of the chemical, date and time of application, and other appropriate information.
- 8) All chemical applications must be by a Michigan Department of Agriculture Licensed Applicator.
- 9) Chemicals shall meet the requirements of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), the Environmental Protection Agency (EPA), and all appropriate state statutes and administrative directives.
- 10) In order to ensure that the site can be restored to prior conditions should golf course construction not be completed, the County may require posting of a performance guarantee or other acceptable security into an escrow account.

### **HH. GREENHOUSES AND NURSERIES**

1. Location Requirements:
  - a. Greenhouses, which may include flower shops, are permitted by Special Use Permit in the Resort-Residential (R-R) and Forest-Recreational (F-R) districts.
  - b. Ingress and egress to the business shall be only from a year-round public maintained road.
2. Site Requirements:
  - a. The minimum lot size shall be twenty thousand (20,000) square feet if a greenhouse is located on the site.
  - b. Off-street parking in accordance with Article Seventeen.
3. Buffering Requirements:
  - a. Appropriate screening shall be provided to limit noise reaching adjacent land uses per the requirements of Section 18.03, 18.04, 18.05 or 18.06 as determined by the Planning Commission.
  - b. The outdoor storage of trash or rubbish shall be screened in accordance with Section 18.09.
  - c. All lighting must be shielded to prevent glare on abutting properties or roads pursuant to the requirements of Section 21.19.

### **II. RESERVED FOR FUTURE USE**

#### **JJ. JUNKYARDS**

1. Location Requirements:
  - a. Junkyards are permitted by Special Use Permit in the Light-Industrial (L-I) and General-Industrial (G-I) districts. Junkyards shall not be located adjacent to property used for residences, schools, day care facilities, churches, hospitals, convalescent or nursing homes.

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- b. Ingress and egress to the facility shall be only from a year round public maintained road. The Planning Commission may approve access to other roads if the Commission finds that such access point will further minimize impacts on other properties.
2. Site Requirements:
    - a. The minimum lot or parcel size for junkyards shall be five (5) acres.
    - b. Setbacks:
      - 1) All enclosed areas shall be set back at least one hundred (100) feet from any lot line.
      - 2) Junkyards shall not be located closer than two hundred (200) feet from the border of an industrial district.
    - c. Adequate parking and unloading facilities shall be provided at the site so that no loaded vehicle at any time stands on a public right-of-way awaiting entrance to the site.
  3. Buffering Requirements:
    - a. The front yard shall be planted with trees, grass, and shrubs. The spacing and type of plant materials shall be consistent with the provisions of Article Eighteen of this Ordinance.
    - b. A solid fence, wall or earthen berm at least eight (8) feet in height shall be provided around all sides of the area used to store junk to screen said site from surrounding property. Such fence, wall or berm shall be of sound construction, painted or otherwise finished neatly and inconspicuously. Such fence, wall or berm shall be of permanent finish and construction and shall be well maintained.
    - c. Whenever the installation abuts a residential district, a buffer strip at least two hundred (200) feet in width shall be provided between the enclosed area and the adjoining district. Such strip shall contain plants, grass, and/or structural screens of a type approved by the Planning Commission pursuant to Article Eighteen.
    - d. The outdoor storage of trash or rubbish shall be screened in accordance with Section 18.09.
  4. Performance Standards:
    - a. All activities shall be confined within the enclosed area. There shall be no stocking of material above the height of the fence, wall, or berm, except that moveable equipment used on the site may exceed that height. No equipment, material, signs, or lighting shall be used or stored outside the enclosed area.
    - b. No open burning shall be permitted and all industrial processes involving the use of equipment for cutting, compressing, or packaging shall be conducted within a completely enclosed building.
    - c. All roads, driveways, parking lots, and loading and unloading areas within any junkyard shall be paved, watered, or chemically treated so as to limit the nuisance caused by wind-borne dust on adjoining lots and public roads.
    - d. The operation shall be licensed by the Michigan Secretary of State to sell used vehicle parts or tow non-operational vehicles. Before the state will issue the licenses, the Zoning Administrator and the County Sheriff shall certify that the facility is in a properly zoned area and that the operators have not been previously convicted as felons.
    - e. Any materials listed on the Michigan Critical Materials Register (gasoline and solvents) or other hazardous materials list maintained by the Michigan Department of Environmental Quality (DEQ) or other state or federal agency shall require secondary containment and a Pollution Incident Protection Plan shall be filed with the DEQ.
    - f. All lighting must be shielded to prevent glare on abutting properties or roads pursuant to the requirements of Section 21.19.

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### **KK. RESERVED FOR FUTURE USE**

### **LL. LAUNDRIES AND CLEANING ESTABLISHMENTS**

1. Location Requirements: Laundries and cleaning establishments are permitted by Special Use Permit in the Commercial (C-1), Light-Industrial (L-I), and General-Industrial (G-I) districts.
2. Site Requirements:
  - a. The site shall be located on a year round public maintained road/street.
  - b. All facilities shall be located at least five hundred (500) feet from any adjacent residentially used or zoned property line.
  - c. All facilities shall be served by public sewer and water.
3. Buffering Requirements:
  - a. Appropriate screening shall be provided to limit noise reaching adjacent land uses per the requirements of Section 18.03, 18.04, 18.05 or 18.06 as determined by the Planning Commission.
  - b. The outdoor storage of trash or rubbish shall be screened in accordance with Section 18.09.
4. Performance Standards:
  - a. All activities other than incidental storage are conducted wholly within a completely enclosed building.
  - b. The operation may contain such accessory functions as a dry cleaning pick-up point or alterations.
  - c. Any materials listed on the Michigan Critical Materials Register (gasoline and solvents) or other hazardous materials list maintained by the Michigan Department of Environmental Quality (DEQ) or other state or federal agency shall require secondary containment and a Pollution Incident Protection Plan shall be filed with the DEQ.
  - d. All lighting must be shielded to prevent glare on abutting properties or roads pursuant to the requirements of Section 21.19.

### **MM. RESERVED FOR FUTURE USE**

### **NN. MARINAS**

1. Location Requirements:
  - a. New marinas shall be located only in the Resort-Residential (R-R) and Commercial (C-1) districts. Expansion of any marina lawfully in existence on the effective date of this Ordinance that is not in one of these districts may be permitted by Special Use Permit if compliance with the standards of this Section is achieved.
  - b. Buildings, docks, and parking areas shall be located no closer than thirty-five (35) feet from any residential property line.
  - c. Marinas shall be located on a year round public maintained road/street.

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2. Site Requirements:
  - a. The minimum lot or parcel size for marinas shall be two (2) acres.
  - b. Adequate standing and parking facilities shall be provided at the site so that no loaded vehicle at any time stands on a public right-of-way awaiting entrance to the site.
  - c. Accessory uses shall occupy no more than four hundred (400) square feet of building area.
3. Buffering Requirements:
  - a. Appropriate screening shall be provided to limit noise reaching adjacent land uses per the requirements of Section 18.03, 18.04, 18.05 or 18.06 as determined by the Planning Commission.
  - b. The outdoor storage of trash or rubbish shall be screened in accordance with Section 18.09.
4. Performance Standards:
  - a. Toilet facilities (restrooms) shall be provided on the site and shall be approved by the County Health Department.
  - b. Adequate secondary containment shall be employed if any petroleum or other such products are sold on the premises.
  - c. Any materials listed on the Michigan Critical Materials Register (gasoline and solvents) or other hazardous materials list maintained by the Michigan Department of Environmental Quality (DEQ) or other state or federal agency shall require secondary containment and a Pollution Incident Protection Plan shall be filed with the DEQ.
  - d. There shall be no externally visible evidence of commercial activity from accessory uses.
  - e. A permit to erect, maintain, or operate a marina shall be secured from the DEQ in conjunction with any other approvals.
  - f. All such uses shall conform with Parts 801 and 301 of the Natural Resources and Environmental Protection Act of 1994, and all other applicable county, state, and federal regulations.
  - g. All lighting must be shielded to prevent glare on abutting properties or roads pursuant to the requirements of Section 21.19.

### **OO. MINI-WAREHOUSE AND RENTAL STORAGE BUILDINGS<sup>26</sup>**

1. Location Requirements:
  - a. Mini-storage facilities shall be permitted by Special Use Permit in the Resort-Residential (R-R)<sup>27</sup>, Forest-Recreational (F-R)<sup>28</sup> and Commercial (C-1) districts.
  - b. The facility shall have direct access to a year round public maintained road/street.
2. Site Requirements:
  - a. The minimum lot or parcel size for mini storage facilities shall be two (2) acres. Mini-warehouses shall occupy lots no larger than five (5) acres.
  - b. The individual areas used principally for storage, warehousing, or distribution shall not exceed five thousand (5,000) square feet in gross floor area or twenty-five (25) feet in height.
  - c. Off street parking shall be in accordance with Article Seventeen.
  - d. There shall be a minimum of thirty-five (35) feet if the driveway is one-way<sup>29</sup>, forty-five (45) feet if the driveway is two-way, between warehouses for driveway, parking, and fire lane purposes. Where no parking is provided within the building separation areas, said building separation need

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<sup>26</sup> Ordinance #138, Amendment #159 adopted on June 9, 2009

<sup>27</sup> Ordinance #138, Amendment #159 adopted on June 9, 2009

<sup>28</sup> Ordinance #138, Amendment #159 adopted on June 9, 2009

<sup>29</sup> Ordinance #134, Amendment #155 adopted on August 12, 2008



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only be twenty five (25) feet. Traffic direction and parking shall be designated by signaling or painting.

- e. The lot area used for parking and access shall be provided with a permanent, durable, dustless surface and shall be graded and drained so as to dispose of all surface water.

### 3. Buffering Requirements:

- a. When adjoining a residential district, a six (6) foot high wall, fence, or dense vegetation strip shall be erected and maintained along the connecting interior lot line.
- b. All lighting must be shielded to prevent glare on abutting properties or roads pursuant to the requirements of Section 21.19.
- c. A twenty (20) foot landscaped strip shall be required adjacent to any public streets.
- d. The outdoor storage of trash or rubbish shall be screened in accordance with Section 18.09.

### 4. Performance Standards:

- a. No retail, wholesale, fabrication, manufacturing, or service activities shall be conducted from the storage units by the lessees.
- b. Not more than three thousand six-hundred (3,600) square feet in total area shall be occupied or used by any single tenant.
- c. Storage of goods shall be limited to personal property with no commercial distribution allowed.
- d. All storage shall be within the enclosed building area. There shall be no outside storage or stockpiling of vehicles, boats or materials except in areas approved for such storage by the Planning Commission.
- e. The exterior of mini-storage buildings shall be of finished quality and maintained so as not to be offensive to adjacent property or abutting streets.
- f. No storage of hazardous substances, toxic, or explosive materials shall be permitted at the facility. Signs shall be posted at the facility describing such limitations.

## **PP. RESERVED FOR FUTURE USE**

## **QQ. MOTELS AND RENTAL CABINS**

### 1. Location Requirements:

- a. Motels and rental cabins are permitted by Special Use Permit in the Lakefront-Residential (L-R), Resort-Residential (R-R), Agricultural-Residential (A-R), and Forest-Recreational (F-R) districts. Hotels are only permitted in Commercial (C-1) districts.
- b. Ingress and egress to a motel shall be only from a year around public maintained road. Ingress and egress to rental cabins shall be from a publicly maintained road/street.

### 2. Site Requirements:

- a. The minimum lot size shall be one (1) acre with a minimum width of one hundred fifty (150) feet, provided that there shall be at least eight hundred (800) square feet of lot area for each guest.
- b. The maximum lot coverage of all buildings, including accessory buildings, shall not exceed twenty-five (25) percent of the area within the lot lines of land developed at any one time.
- c. Off-street parking and loading is as required in accordance with Article Seventeen.

### 3. Buffering Requirements:

- a. The front twenty-five (25) feet of the lot shall be landscaped buffer strip, unpaved, and shall not be used for off-street parking.

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- b. Appropriate screening shall be provided to limit noise reaching adjacent land uses per the requirements of Section 18.03, 18.04, 18.05 or 18.06 as determined by the Planning Commission.
  - c. The outdoor storage of trash or rubbish shall be screened in accordance with Section 18.09 of this Ordinance.
4. Performance Standards:
- a. No kitchen or cooking facilities shall be provided in guest rooms unless specifically approved as such by the Planning Commission and the Building Official.
  - b. The minimum floor area of each guest unit shall be two hundred-fifty (250) square feet.
  - c. No guest shall establish permanent residence at the facility.
  - d. All lighting must be shielded to prevent glare on abutting properties or roads pursuant to the requirements of Section 21.19.

### **RR. MULTIPLE FAMILY DEVELOPMENT**

1. Location Requirements: Multiple family dwellings and mobile home parks are permitted by Special Use Permit in the Residential (R), Lakefront-Residential (L-R), and Resort-Residential (R-R), Commercial (C-1) districts.<sup>30</sup>
2. Site Requirements: For multiple family developments with more than two (2) units, density shall be permitted at no greater than one unit for every four thousand square feet of parcel area not to exceed eight (8) dwelling units per acre when averaged across the entire parcel.
3. Buffering Requirements:
- a. Appropriate screening shall be provided to limit noise reaching adjacent land uses per the requirements of Section 18.03, 18.04, 18.05 or 18.06 as determined by the Planning Commission.
  - b. The outdoor storage of trash or rubbish shall be screened in accordance with Section 18.09.
4. Performance Standards:
- a. All developments for multiple family dwellings shall have direct access to a year round public maintained road/street unless an alternative means of access is approved by the Planning Commission.
  - b. Provisions shall be made for safe and efficient egress and ingress to public streets and highways serving any development which shall be designed to minimize congestion and interference with normal traffic flow.
  - c. All streets in the development shall be constructed as public streets and maintained with an all-weather road surface.
  - d. No dwelling unit shall be located more than one hundred fifty (150) feet from either an access drive or a public street, and the required off-street parking area.
  - e. The distance between any two (2) residential structures which occupy the same lot shall be not less than thirty (30) feet, if both of the walls facing each other contains windows or other openings, and not less than twenty (20) feet for all other situations; provided, however, a greater separation may be required where any structure exceeds thirty (30) feet in height and the location of such structure will tend to obstruct light to adjacent residential structures. Greater separation shall be at a rate of two (2) feet for each three (3) feet of additional height, unless more is clearly needed because of site conditions.

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<sup>30</sup> Ordinance #138, Amendment #159 adopted on June 9, 2009

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- f. Maximum lot coverage for a multiple family development shall cover no more than forty (40) percent of the parcel.
- g. All developments shall be served with adequate public sewer facilities.
- h. The site shall be developed and facilities shall be provided in such a manner so as to insure adequate drainage.
- i. There shall be provided easily accessible and useable open space in the development in an amount of ten (10%) of the site area or two thousand (2,000) square feet per four dwelling units, whichever is greater.
- j. All group off-street parking facilities shall be adequately lighted during hours of darkness.
- k. All streets and roadways within the development shall have a minimum pavement width of thirteen (13) feet for one-way streets, and twenty-four (24) feet for two-way streets. Driveways shall have a minimum paved width of twelve (12) feet.
- l. All multi-family developments shall provide for underground installation of all utilities.
- m. All lighting must be shielded to prevent glare on abutting properties or roads pursuant to the requirements of Section 21.19.
- n. Only the following accessory land and/or building uses shall be permitted:
  - 1) One (1) office space not greater than one thousand (1,000) square feet for conducting the business of the development.
  - 2) Utility areas for laundry facilities and auxiliary storage for tenants.
  - 3) Recreation area such as community buildings, playgrounds, swimming pools and open space for tenants.
- o. All mobile home parks must comply with the requirements of the Mobile Home Commission Act, Public act 96 of 1987, as amended, any applicable rules of the Michigan Manufactured Home Commission, and all other requirements of this Ordinance.

### **SS. RESERVED FOR FUTURE USE**

### **TT. NATURAL GAS COMPRESSOR FACILITIES**

- 1. Location Requirements: Natural gas compressor facilities are permitted by Special Use Permit in the Agricultural-Residential (A-R), Forest-Recreational (F-R), and Commercial (C-1) districts.
- 2. Site Requirements: Minimum lot size required shall be two and one-half (2 1/2) acres.
- 3. Buffering Requirements:
  - a. The facilities shall be fenced to prevent unauthorized access.
  - b. Appropriate screening shall be provided to limit noise reaching adjacent land uses per the requirements of Section 18.03, 18.04, 18.05 or 18.06 as determined by the Planning Commission.
- 4. Performance Standards:
  - a. The requirements of any permit or license from any state or federal agency shall be complied with.
  - b. All lighting shall be shielded from adjacent streets and residences and buildings. In addition, all lighting must be shielded to prevent glare on abutting properties or roads pursuant to the requirements of Section 21.19.

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## UU. RESERVED FOR FUTURE USE

## VV. OPEN AIR BUSINESSES

Open air businesses shall include, but need not be limited to, the following:

- a. Automobile, truck, recreational vehicle and boat sales.
  - b. Agricultural equipment sales.
  - c. Nursery, landscaping supplies.
  - d. Lumber yards.
  - e. Home and garden centers.
  - f. Mobile home sales
  - g. Outdoor auction house.
1. Location Requirements: Open air businesses are permitted by Special Use Permit in the Commercial (C-1), Light-Industrial (L-I), and General-Industrial (G-I) districts.
  2. Site Requirements:
    - a. Minimum lot area shall be one (1) acre.
    - b. The minimum lot width shall be two-hundred (200) feet.
    - c. No loading activities shall be permitted within seventy-five (75) feet of any lot line abutting a residential land use.
    - d. All buildings shall be set back a minimum of fifty (50) feet from any lot line.
    - e. Ingress and egress to the facility shall be only from a year round public maintained road/street, or from an approved shared access drive to such road.
    - f. No more than two (2) driveways onto a public maintained road shall be permitted per site. Driveway approach width shall not exceed thirty-five (35) feet.
  3. Buffering requirements:
    - a. Trucking, outside storage, loading and dock areas shall be fenced and screened, pursuant to the requirements of Article Eighteen.
    - b. Appropriate screening shall be provided to limit noise reaching adjacent land uses per the requirements of Section 18.03, 18.04, 18.05 or 18.06 as determined by the Planning Commission.
    - c. The outdoor storage of trash or rubbish shall be screened in accordance with Section 18.09.
  4. Performance Standards:
    - a. The site shall be kept in a neat and orderly fashion.
    - b. Not more than fifty (50) percent of the parcel shall be covered by buildings and outdoor storage of materials and goods.
    - c. Storage or display of goods and materials shall not occur in the required setbacks.
    - d. Displays are to be limited to front yards only.
    - e. No public address system shall be audible from any abutting residential parcel.
    - f. All lighting must be shielded to prevent glare on abutting properties or roads pursuant to the requirements of Section 21.19.
    - g. All flammable liquids, solvents, cleaners, and other hazardous substances capable of contaminating the soil, ground or surface water shall be stored within the building and secondary containment measures shall be installed and utilized to prevent spilled materials from contacting the ground.

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- h. The storage of any soil, fertilizer, or similar loosely packaged materials shall be sufficiently contained to prevent any adverse affect on adjacent properties, water bodies, wetlands and drainage-ways.
- i. Off-street loading and parking facilities shall be provided pursuant to the requirements of Article Seventeen.
- j. In the case of auto, truck or recreational vehicle sales:
  - 1) No vehicles which are inoperative shall be stored on the premises for more than two (2) weeks.
  - 2) All repair, assembly, disassembly or maintenance of vehicles shall occur within an enclosed building except minor maintenance, including tire replacement, adding oil and wiper replacement.
  - 3) For facilities with new underground storage tanks, the site shall be three-hundred (300) feet from any residential well, eight hundred (800) feet from a non-community public water well and two-thousand (2,000) feet from any public water well.
  - 4) All areas subject to vehicular use shall be paved with a durable dust-free surface, with appropriate bumper-guards where needed.

## WW. OPEN SPACE CLUSTER DEVELOPMENT

This residential development option in the Agricultural-Residential (A-R) and Forest-Recreational (F-R) districts is presented to permit a small part of a larger agricultural or forested property to be developed for residential use with the minimum impact on the amount of land consumed and on the economic operation of the farm. It is intended to be flexible in its application provided large areas of farm and forest land are preserved. No commonly owned open space is permitted in an open space cluster development. The equivalent of an open space cluster development can be created with common open space using the residential planned unit development provisions of Article Twenty-four, but no greater density is permitted if a Planned Unit Development (PUD) is created within an Agricultural-Residential (A-R) or Forest-Recreational (F-R) district.

- 1. Location Requirements: Open space cluster developments are permitted by Special Use Permit in the Agricultural-Residential (A-R) and Forest-Recreational (F-R) districts.
- 2. Site Requirements:
  - a. The following uses are permitted:
    - 1) Single family dwellings.
    - 2) Home occupations, as defined in Article Thirty-Two, but not residence-based occupations as defined in Article Thirty-Two and as provided for in Section 23.10.HHH.
  - b. Density: Dwellings may be clustered into a residential cluster at a density of one dwelling per ten (10) contiguous acres. This means if a farm has 240 contiguous acres, it could have twenty-four (24) residential lots in a cluster development.
  - c. Site Location: A cluster of residential dwellings is permitted if conformance is achieved with all of the following standards:
    - 1) The affected area shall be other than prime agricultural land and found unsuited for crop production because of soil conditions, unless all of the soil on the property is prime agricultural land; or the only non- prime agricultural land on the property is unsuited for

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- residential development, in which case the location of the cluster development shall minimize fragmentation of efficient agricultural operations.
- 2) The affected area is less than twenty (20) acres and more than five (5) acres in area and where natural features permit, is isolated by roads, steep lands or wetlands.
  - 3) The area has direct access to a public road/street.
  - 4) The site is not within one thousand three hundred twenty (1320) feet of a concentrated animal feeding operation.
- d. Site Development Requirements:
- 1) Lot size shall not be more than two and one-half (2 1/2) acres nor less than one-half acre and no parcel shall have an area less than that required to meet Public Health Department waste disposal requirements.
  - 2) Minimum width at the building line shall not be less than fifty (50) feet and no required yard shall be more than twenty percent (20%) less than the district for a single family dwelling.
- e. Site Plan: The petition shall be accompanied by a limited Site Plan. The plans shall be drawn to a scale of 1" = 100' and said plan shall include the following information:
- 1) Parcel boundary.
  - 2) Proposed lots within the parcel.
  - 3) Provisions for grading and stabilization that will minimize soil erosion.
  - 4) Description and mapping of existing buffer areas (wetlands, steep slopes, roads).
  - 5) Description and map of nearest agricultural activity and principal uses.
  - 6) An illustration showing, to scale, an alternative way that the same number of lots could be permitted by right without being permitted through the cluster option.
- f. Structure Spacing: Dwelling units shall be separated from nearby farm structures by at least five-hundred (500) feet.

### **XX. OVERSIZED NON-FARM STORAGE BUILDINGS FOR PERSONAL USE ONLY<sup>31</sup> (1,201-2,000 SQUARE FEET)<sup>32</sup>**

A Special Use Permit is required for accessory buildings over twelve hundred (1,200) square feet but less than two thousand (2,000) square feet and may be issued by the Planning Commission if the following conditions are met:

1. Accessory building may only be used for personal storage and may not be used for business, commercial or industrial purposes.
2. The lot shall be a minimum of twelve-thousand (12,000) square feet and less than three (3) acres in Residential (R) districts<sup>33</sup>, fifteen-thousand (15,000) square feet and less than three (3) acres in Resort-Residential (R-R) districts; a minimum of 20,000 square feet and less than three (3) acres in Lakefront Residential district (L-R) districts; and a minimum of one (1) acre and less than three (3) acres in Agricultural-Residential (A-R) district and Forest-Recreational (F-R) districts.<sup>34 35</sup>

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<sup>31</sup> Ordinance #149, Amendment #170 adopted on July 1, 2016

<sup>32</sup> Ordinance #117, Amendment #138 adopted on August 15, 2006

<sup>33</sup> Ordinance #140, Amendment #161 adopted on October 12, 2010

<sup>34</sup> Ordinance #114, Amendment #135 adopted on November 12, 2002

<sup>35</sup> Ordinance #117, Amendment #138 adopted on August 15, 2006

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3. No oversized accessory building and the principal structure together, shall exceed the maximum lot coverage permitted in the District as listed on the Schedule of Regulations (Table 15-1).
4. Maximum sidewall height shall not exceed sixteen (16) feet. An oversized accessory structure may not exceed twenty-four (24) feet in height.
5. An oversized accessory structure shall meet all required yard setbacks.
6. No consideration for oversized buildings will be given in cases where site preparation or construction has begun prior to obtaining a permit.

### **YY. OVERSIZED NON-FARM STORAGE BUILDINGS FOR PERSONAL USE ONLY<sup>36</sup> (OVER 2,000 SQUARE FEET)<sup>37</sup>**

A special use permit for accessory buildings in excess of two thousand (2,000) square feet may be issued by the Planning Commission under the following conditions. This Section does not apply to bona fide agricultural buildings on a farm within the Agricultural-Residential (A-R) district, which must only conform to District setback requirements.

1. Accessory structure may only be used for personal storage and may not be used for business, commercial or industrial purposes.
2. The lot shall be greater than three (3) acres in the Residential (R) district<sup>38</sup> and Lakefront-Residential (L-R) district, and less than three (3) acres in the Resort-Residential Districts (R-R), Agricultural-Residential (A-R), and Forest-Recreational (F-R) districts. Lots smaller than one (1) acre in size may not have accessory buildings over 2,000 square feet built in these districts.<sup>39 40</sup>
3. No oversized accessory building and the principal structure together, shall exceed the maximum lot coverage permitted in the District as listed on the Schedule of Regulations (Table 15-1).
4. Maximum sidewall height shall not exceed sixteen (16) feet in Lakefront-Residential (L-R) and Resort-Residential (R-R) districts and twenty-four (24) feet in Agricultural-Residential (A-R) and Forest-Recreational (F-R) districts.<sup>41</sup>
5. An oversized accessory structure may not exceed thirty (30) feet in height in Lakefront-Residential (L-R) and Resort-Residential (R-R) districts and thirty-six (36) feet in Agricultural-Residential (A-R) and Forest-Recreational (F-R) districts.<sup>42</sup>
6. An oversized accessory structure shall meet all required yard setbacks.
7. No consideration for oversized buildings will be given in cases where site preparation<sup>43</sup> or construction has begun prior to obtaining a permit, in any District.

### **ZZ. RESERVED FOR FUTURE USE**

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<sup>36</sup> Ordinance #149, Amendment #170 adopted on July 13, 2016

<sup>37</sup> Ordinance #117, Amendment #138 adopted on August 15, 2006

<sup>38</sup> Ordinance #140, Amendment #161 adopted on October 12, 2010

<sup>39</sup> Ordinance #114, Amendment #135 adopted on November 12, 2002

<sup>40</sup> Ordinance #117, Amendment #138 adopted on August 15, 2006

<sup>41</sup> Ordinance #117, Amendment #138 adopted on August 15, 2006

<sup>42</sup> Ordinance #117, Amendment #138 adopted on August 15, 2006

<sup>43</sup> Ordinance #134, Amendment #155 adopted on August 12, 2008

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## AAA. PRIVATE RECREATIONAL FACILITIES

Such uses shall include, but need not be limited to, the following:

- a. Private recreation centers.
  - b. Private clubs or lodges and other social and fraternal buildings.
  - c. Outdoor and sportsman clubs.
1. Location Requirements: Private recreational uses are permitted by Special Use Permit in the Resort-Residential (R-R) district.
  2. Site Requirements:
    - a. The site shall be located on a publicly maintained road/street.
    - b. Minimum lot size shall be one (1) acre.
  3. Buffering Requirements:
    - a. Appropriate screening shall be provided to limit noise reaching adjacent land uses per the requirements of Section 18.03, 18.04, 18.05 or 18.06 as determined by the Planning Commission.
    - b. The outdoor storage of trash or rubbish shall be screened in accordance with Section 18.09.
  4. Performance Standards:
    - a. Facilities shall provide off-street parking and passenger loading areas.
    - b. Sites shall be periodically cleared of debris so that litter does not accumulate or drift onto adjacent properties.
    - c. Not more than thirty-five percent (35%) of the land area shall be covered by recreational structures.
    - d. Central loudspeakers/paging systems are prohibited adjacent to residential property.
    - e. The intensity level of sounds shall not exceed seventy (70) decibels (dBA) at the lot line of industrial uses; sixty five (65) decibels at the lot line of commercial uses and fifty-five (55) decibels (dBA) at the common lot line when adjacent to residential uses and residential districts. The sound levels shall be measured with a type of audio output meter approved by the United States Bureau of Standards
    - f. Security fencing shall be provided adjacent to residential districts or uses.
    - g. Whenever a swimming pool is to be provided, said pool shall conform with the requirements of Section 21.25.
    - h. The clubhouse design is to be of a residential character and exterior materials are to be primarily wood or brick.
    - i. All parking areas shall be surfaced or so treated as to prevent any dust nuisance.
    - j. All lighting must be shielded to prevent glare on abutting properties or roads pursuant to the requirements of Section 21.19.

## BBB. PUBLIC FACILITIES

1. Location Requirements: Public facilities are permitted by Special Use Permit in all districts. Public facilities include, but are not limited to parks, administrative offices, fire and police facilities, libraries, museums, recreational centers, storage areas for public equipment and buildings for essential public services (including but not limited to electric substations, telephone substations, gas regulator stations), public sewer and public water storage or treatment facilities. In addition to the requirements of this Section, all public buildings and public facilities must be reviewed by the



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Planning Commission before being established pursuant to the Michigan Planning Enabling Act, PA 33 of 2008, as amended.<sup>44</sup>

2. Site Requirements:
  - a. Setbacks shall conform with the regulations of the district in which the proposed public facility or utility would be located.
  - b. No more than sixty percent (60%) of the lot area shall be covered by buildings.
  - c. Lot area and width shall not be less than that specified for the district in which the proposed use would be located.
  - d. No building shall be erected to a height greater than that permitted in the district in which the proposed use is located; except for a water tower which may be erected to whatever height is needed to accommodate the desired storage capacity. See also Section 21.11.
3. Buffering Requirements:
  - a. Where mechanical equipment is located in the open air, it shall be screened from the surrounding residential area by suitable plant material and it shall be fenced with a chain link fence six (6) feet in height.
  - b. All buildings housing mechanical equipment shall be landscaped and appropriately screened to limit noise reaching adjacent land uses per the requirements of Section 18.03, 18.04, 18.05 or 18.06 as determined by the Planning Commission.
  - c. The outdoor storage of trash or rubbish shall be screened in accordance with Section 18.09.
4. Performance Standards:
  - a. All buildings shall be harmonious in appearance with the surrounding area and shall be similar in design and appearance to other buildings on the same lot.
  - b. No adverse environmental conditions such as noise, air pollution, lighting or other disruptions result.
  - c. Outdoor storage areas shall be located a minimum of fifty (50) feet from any residentially zoned property.
  - d. All lighting must be shielded to prevent glare on abutting properties or roads pursuant to the requirements of Section 21.19.

### **CCC. RESERVED FOR FUTURE USE**

### **DDD. READY MIX CONCRETE AND ASPHALT PLANTS**

1. Location Requirements:
  - a. Asphalt and concrete batching facilities are permitted by Special Use Permit in the General-Industrial (G-I) and Light-Industrial (L-I) districts. Temporary batch plants are permitted by Special Use Permit in the Agricultural-Residential (A-R) and Forest-Recreational (F-R) districts.
  - b. Routes of supply vehicles or material handling vehicles shall be arranged so as to minimize nuisances or hazards to existing residential neighborhoods or commercial businesses.
  - c. Ingress and egress to the facility shall be only from a year round public maintained road. The Planning Commission may approve access to an unpaved or county local road after receiving a recommendation from the County Road Commission, if the Planning Commission finds that such access point will further minimize impacts on other properties.

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<sup>44</sup> Ordinance #139, Amendment #160 adopted on January 27, 2010

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- d. Before permit approval is granted for a temporary batching facility, the Planning Commission shall find that such batching facility is both incidental to and necessary for construction activities within fifteen (15) miles of the plant.
2. Site Requirements:
    - a. Asphalt batching facilities shall be located at least one-thousand (1,000) feet from any residential platted subdivision or condominium subdivision.
    - b. Asphalt processing and manufacturing facilities shall be located no closer than five hundred (500) feet from any existing residential dwelling.
  3. Buffering Requirements:
    - a. Appropriate screening shall be provided to limit noise reaching adjacent land uses per the requirements of Section 18.03, 18.04, 18.05 or 18.06 as determined by the Planning Commission.
    - b. The outdoor storage of trash or rubbish shall be screened in accordance with Section 18.09.
  4. Performance Standards:
    - a. No noise, dust, or fumes from the operation shall be discernable at or beyond the lot line.
    - b. Adequate measures will be taken to prevent lighting, drainage, and traffic from creating a nuisance on uses of adjacent properties
    - c. All permitted materials shall be maintained in a neat and orderly manner and shall be covered and/or wet down regularly so as to prevent debris from leaving the area of the site.
    - d. The hours of operation shall be set by the Planning Commission after consideration of the surrounding land uses and the particular traffic patterns on public haul routes in the area. The maximum range of hours is Monday through Saturday from 7:00 a.m. to 6:30 p.m. and shall be prohibited on legal holidays and Sundays. The Zoning Administrator may provide temporary exemptions from hours of operation for an operator who must repair equipment or for public emergencies.
    - e. If the plant is temporary, the Planning Commission shall require a performance guarantee (pursuant to Section 21.29) conditioned upon the removal of the facilities and return of the site to its condition prior to the temporary plant being constructed or to another condition acceptable to the Planning Commission, upon completion of activities and as specified in the Special Use Permit.
    - f. The facility shall comply with the environmental protection standards of this Ordinance and with all water and air quality permit requirements of the Michigan Department of Environmental Quality.
    - g. All lighting must be shielded to prevent glare on abutting properties or roads pursuant to the requirements of Section 21.19.

### **EEE. RECYCLING CENTER AND TRANSFER FACILITIES**

1. Location Requirements:
  - a. Recycling centers and transfer facilities are permitted in the Commercial (C-1), General-Industrial (G-I), and Light-Industrial (L-I) districts by Special Use Permit.
  - b. No facility shall be located closer than two hundred (200) feet to any existing dwelling unit, residential district, church, hospital, institution for human care, day nursery or school.
  - c. Ingress and egress to the facility shall be from a year round public maintained road/street, unless the Planning Commission approves access by other roads so as to minimize any negative impact upon the surrounding properties.

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### 2. Site Requirements:

- a. The site shall be a minimum of five (5) acres in size where there is outdoor storage. There shall be a minimum of three (3) acres if all material is stored within a completely enclosed building. No facility, either enclosed or outdoors, shall be over ten (10) acres in size.
- b. All facilities, either enclosed or outdoors, shall be set back a minimum of one (100) feet, from any street or road right-of-way.

### 3. Buffering Requirements:

- a. All facilities either enclosed or outdoors, shall be surrounded by a fence or berm, or a combination of both. The exterior of this fencing and/or berming shall be surrounded by a minimum of twenty (20) feet of planted trees, shrubs and grass. The type and height of fencing and/or berming shall be approved by the Planning Commission so as to minimize any negative impacts upon the surrounding properties. The spacing and type of planting material shall be approved by the Planning Commission per the requirements of Article Eighteen of this Ordinance.
- b. All unloading and loading shall be done within the confines of the bermed and/or fenced area of a facility. An adequate off-street parking area shall be provided for employees and visitors of a facility. All activities of subcontractors, or users of a facility, shall be conducted within the confines of the fenced and/or bermed area.
- c. Whenever a transfer facility abuts a residential district, there shall be a buffer strip of at least two (200) hundred feet of maintained grass, shrubs and trees. All such landscaping shall be of a type approved by the Planning Commission and shall meet the requirements of Article Eighteen of this Ordinance.
- d. All signs shall be in compliance with Article 19.
- e. All roads, driveways, parking lots and interior surfaces of such facilities, shall be paved, graveled, watered, or chemically treated so that any nuisance from use of these areas, is not extended beyond the fenced and/or bermed perimeter of a transfer facility or to any road, street or highway allowing ingress or egress to a facility.

### 4. Performance Standards:

- a. All activities of a transfer facility shall be in compliance with all County, State, and Federal standards, rules and regulations.
- b. There shall be no stacking of material or by-products of material above the height of the perimeter fence or berm. All by-products shall be contained within approved containers and shall be removed from a facility on a regular basis, so as to not create an accumulation of such by-products.
- c. The total amount of material held at a facility, at any time, shall be approved by the Planning Commission, so as to not overburden a facility or cause a nuisance to the surrounding areas.
- d. There shall be no permanent storage or disposal of material, or by-products of material, at a transfer facility location.
- e. All vehicle impoundments shall be supervised by the County Sheriff's Department.
- f. All contractors, subcontractors, firms, corporations, or individuals depositing material (unless material is personally owned), or removing material and/or material by-products must be licensed by the County and the State of Michigan; and, all must act in accordance with all applicable County, State, and Federal rules, regulations, and laws.
- g. If auctions of impounded vehicles or other solid waste occur, there must be adequate off-street parking on the lot or parcel to accommodate all expected vehicles and there shall be safe ingress and egress from the parking area to the public road providing access to the lot.

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- h. The hours of operation shall be posted at the facility and shall not exceed 7:00 a.m. to 6:00 p.m., Monday through Saturday, excluding legal holidays. Except that vehicles may be impounded under the supervision of a peace officer at any time.
- i. The storage of municipal solid waste, grass clippings and leaves shall be limited to a maximum period of forty-eight (48) hours on site.
- j. The storage of vehicles, which are normally purchased through a transfer of title, shall be limited to sixty (60) days. Except vehicles that have been confiscated or abandoned may be kept until the next auction; and vehicles being held as evidence or impounded may be stored until the legal action is resolved.
- k. All lighting must be shielded to prevent glare on abutting properties or roads pursuant to the requirements of Section 21.19.

### **FFF. RENTAL STORES**

For businesses renting machinery and equipment such as backhoes, bulldozers, power washers, jackhammers, commercial sanders, and other similar equipment the provisions of Section 23.10.VV OPEN AIR BUSINESSES shall be conformed with.

For businesses renting recreational equipment, such as downhill or cross country skiing, in-line skating, and other similar equipment, the provisions of Section 23.10.S, OUTDOOR COMMERCIAL RECREATION shall be conformed with.

For businesses renting videos and other indoor entertainments, the provisions of Section 23.10.R, INDOOR COMMERCIAL RECREATION shall be conformed with.

### **GGG. RESERVED FOR FUTURE USE**

### **HHH. RESIDENCE-BASED OCCUPATION**

Residence-based occupations may be carried on in a fully enclosed accessory building (but not an attached garage) to a one-family dwelling if the Planning Commission approves a Special Use Permit upon finding conformance with the following standards:

1. Location Requirement: The land where the residence is located is not in a platted subdivision or in a condominium subdivision except where lots are in excess of three (3) acres and are zoned Commercial (C-1)<sup>45</sup>, Lakefront-Residential (L-R), Residential (R)<sup>46</sup>, Resort-Residential (R-R), Agricultural-Residential (A-R), or Forest-Recreational (F-R).
2. Performance Standards:
  - a. Residence-based occupations are also home occupations and shall comply with all regulations applicable to home occupations (see Section 21.09) except they may be carried out in structures other than the principal dwelling unit and shall comply with all other applicable county, state or federal laws.

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<sup>45</sup> Ordinance #139, Amendment # 160 adopted on January 27, 2010

<sup>46</sup> Ordinance #139, Amendment #160 adopted on January 27, 2010

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- b. Accessory buildings used for a residence-based occupation shall be at least fifty (50) feet from a dwelling unit on another lot. The outside storage area and/or accessory building shall not exceed twelve-hundred (1,200) square feet.<sup>47</sup>
- c. No more than four (4) additional parking spaces (beyond the two required for a single-family dwelling) shall be added for residence-based occupations on the same lot, and at no time shall more than four (4) non-resident vehicles be present at residence-based occupations whether they be those of customers or employees. Parking spaces shall comply with the requirements of Article Seventeen.
- d. Outdoor parking or storage of vehicles with more than one (1) ton rated capacity shall be in a rear yard or, inside an accessory structure conforming with this Ordinance. No more than one semi-truck with or without a trailer may be parked or stored as part of a residence-based occupation. If the vehicle is routinely left idling for more than fifteen minutes a day, the place it is idled shall be at least five-hundred (500) feet from the nearest dwelling unit on another property.
- e. Outdoor storage of materials shall be completely fenced to obstruct view to a height equal to the elevation of the tallest material to be stored, which may not exceed six (6) feet. Outdoor storage areas shall be at least fifty (50) feet from any dwelling unit on another lot.
- f. Residence-based occupations shall not be permitted if the essential character of a lot or single-family dwelling within a residential district, in terms of use and appearance, traffic, or enjoyment of adjacent property, will be appreciably changed by the occurrence of such residence-based occupation.
- g. There shall be no external evidence of a residence-based occupation, except a small identification sign in accordance with Article 19, Section 19.02.
- h. No equipment or process shall be used in residence-based occupations which create noise, vibration, glare, fumes, odor, or electrical interference detectable to the normal senses of persons off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference with any radio or television receivers off the premises or causes fluctuations in line voltage off the premises.
- i. Neither the storage of farm equipment, the sale of seeds or other farm related activities which are accessory to a bona fide commercial agriculture or horticulture operation shall be considered or require approval as a residence-based occupation.
- j. The following residence-based occupations are prohibited:
  - 1) Automobile service station, parking garage, or commercial garage.
  - 2) Automobile salvage yard or junk yard.
  - 3) New and used vehicle sales.
  - 4) Auto body and/or paint shops.
  - 5) Other land uses which are specifically provided for elsewhere in this Ordinance by Special Use Permit, or land uses permitted only in the Industrial (Light or General) districts.
  - 6) Sexually oriented businesses.

### III. RESTAURANTS

The following provisions apply to standard restaurants in certain zones. A standard restaurant is an establishment which provides food and drink for consumption by persons seated within a principal building that is not part of a drive-in, or drive-through. This includes cafes, tea rooms and outdoor seating associated with a restaurant.

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<sup>47</sup> Ordinance #143, Amendment #164 adopted on June 29, 2012

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1. Location Requirements: Restaurants are permitted by Special Use Permit in the Resort-Residential (R-R), Agricultural-Residential (A-R), and Forest-Recreational (F-R) districts.
2. Site Requirements:
  - a. The principal building shall be setback at least one hundred (100) feet from a residential district.
  - b. Ingress and egress to the site must be directly from a year round public maintained road/street.
3. Buffering Requirements:
  - a. Appropriate screening shall be provided to limit noise reaching adjacent land uses per the requirements of Section 18.03, 18.04, 18.05 or 18.06 as determined by the Planning Commission.
  - b. The outdoor storage of trash or rubbish shall be screened in accordance with Section 18.09.
4. Performance Standards:
  - a. Design and orientation of the proposed use shall be such as to reasonably minimize noise, odors, traffic problems and similar factors.
  - b. All lighting must be shielded to prevent glare on abutting properties or roads pursuant to the requirements of Section 21.19.

## **JJJ. RESERVED FOR FUTURE USE**

## **KKK. SANITARY LANDFILLS**

1. Location Requirements:
  - a. Public and private sanitary landfills are permitted as a Special Use Permit use in the Agricultural-Residential (A-R) and Forest-Recreational (F-R) districts.
2. Site Requirements:
  - a. In addition to the necessary application and payment of fees, the petition shall be accompanied by a General Site Plan. The plan shall be drawn to a scale of 1" = 100', and said plan shall include the following information:
    - 1). The method and direction of land-filling.
    - 2) Surface overburden stripping and stockpiling plan.
    - 3) Provisions for grading, re-vegetation, and stabilization that will minimize soil erosion and sedimentation.
    - 4) Provisions for buffering, landscaping, fencing and screening.
    - 5) Legal description and physical location of each phase, number of acres included in each phase unit, estimated length of time to complete filling of each successive phase unit.
    - 6) A phase unit is a designated area of operations of not greater than twenty (20) acres. These phase units shall be clearly indicated on the general site plan. Prior to excavating or filling of any phase, written notification must be submitted a minimum of five (5) days in advance to the Zoning Administrator and an approved inspection ticket shall be issued by the Zoning Administrator upon compliance with the Ordinance and the submitted general plan. Re-establishment of vegetation on the areas to be abandoned, as outlined on the plans and specifications on file shall be accomplished prior to moving to the next phase. To insure the performance of the rehabilitation of the site, the Planning Commission may, after proper notification, utilize said financial guarantee as indicated in Section 21.29.

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- 7) Cross-section drawings showing the present elevations, the invert elevations, and the final elevations.
  - 8) Proposed use of parcel after completion.
  - 9) Drainage on and away from the fill area showing directional flow of water in drainage ways, natural water courses and streams, intermittent and flowing, including discharge from the filling operation.
  - 10) The haul routes of trucks regularly coming to and from the facility.
- b. Minimum Parcel Area: A minimum of forty (40) acres shall be required to utilize any site for sanitary landfill operations.
- c. Setbacks of the filling operation shall be required as follows:
- 1) Adjacent to residential district or existing residences = 500 feet.
  - 2) Adjacent to agricultural district = 300 feet.
  - 3) Public Right-of-way = 300 feet.
  - 4) Adjacent to commercial district = 250 feet.
  - 5) Adjacent to industrial district = 100 feet.
- d. Ingress and Egress Requirements: There shall not be more than one (1) entrance to the landfill site and such entrance shall be provided with a gate not less than six (6) feet high which shall be securely locked at the close of each work day or whenever the site is unattended.
- e. The general site plan may be modified at any time by mutual consent of the operator and the Planning Commission to adjust to changed conditions, technology or to correct an oversight. The Planning Commission shall solicit comment from the Township Boards and Township Planning Commission on any modifications.
3. Buffering Requirements:
- a. Fencing: The entire perimeter of any landfill site shall be enclosed by: a ) ten (10) foot high chain link fence along any road on which the site has frontage; and a four (4) foot woven wire farm fence with one strand of barbed wire on top along property lines to deter inadvertent entry and effectively retain papers. Additional fencing such as an eight (8) foot portable chicken wire fence along the unloading and spreading area may be required by the Planning Commission whenever necessary to control light rubbish blown by the wind.
4. Performance Standards:
- a. All uses shall be established and maintained in accordance with all applicable local ordinances, the County Solid Waste Management Plan and Part 115 of the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, as amended.
  - b. Conditions and Safeguards: The Planning Commission may impose such additional conditions and safeguards deemed necessary for the public health, safety and general welfare, the protection of individual property rights, and for insuring the intent and purpose of this Ordinance as are not contrary to state law. The breach of any condition, safeguard, or requirement shall be a violation of this Ordinance.
  - c. Hours of Operation: Operating hours shall be determined by the County Planning Commission based on nuisance potential to adjoining property owners.

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- d. Covered Loads: All refuse collection vehicles shall be covered with a rigid or fabric cover before entering or exiting the site. The cover must be securely attached to prevent any loss of materials from the vehicle during transit.
- e. Litter: Policing of the immediately adjoining property, perimeter berms, and/or fencing to prevent unauthorized dumping, or wind blown debris shall be required at the expense of the operator.
- f. Nuisances: Litter, odor, smoke, fumes, and dust shall be controlled so as not to cause a nuisance or hazard.
- g. The Planning Commission shall establish routes for truck movement in and out of the development in order to minimize traffic hazards, to minimize the wear on public streets, and to prevent encroachment of traffic or the by-products of traffic (such as dust and noise) upon adjacent properties.

### LLL. SCHOOLS

- 1. Location Requirements:
  - a. Schools are permitted by Special Use Permit in Residential (R), Agricultural-Residential (A-R), and Forest-Recreational (F-R) districts.
  - b. Ingress and egress to the site shall be only from a year round public maintained road/street.
  - c. A preferential location is one which would offer natural or man-made barriers or a buffer strip that would lessen the effect of the schools use on adjoining uses.
- 2. Site Requirements:
  - a. The minimum lot or parcel size for schools shall be two (2) acres.
  - b. No more than thirty-five (35) percent of the site area shall be covered by buildings.
  - c. No more than sixty (60) percent of the site shall be covered with impervious surface. The remainder shall be suitably landscaped.
  - d. Service areas and facilities, and intensive outdoor recreation facilities like stadiums, bleachers and similar uses, shall not be located within one hundred (100) feet of a residential district or use.
  - e. Parking areas shall not be located within fifty (50) feet of a residential district or use.
  - f. Student drop-off and vehicular turn-around facilities shall be provided on the site so that vehicles will not interfere with traffic.
  - g. No parking shall be allowed within the minimum front yard setback of fifty (50) feet.
  - h. The principal building shall be no closer than seventy-five (75) feet from any lot line or right-of-way.
- 3. Buffering Requirements:
  - a. Parking areas shall be screened from surrounding residential areas by a wall or fence, in combination with suitable plant materials as specified in Article Eighteen as determined by the Planning Commission.
  - b. The outdoor storage of trash or rubbish shall be screened in accordance with Section 18.09.
- 4. Performance Standards:
  - a. All buildings on the site shall conform to county, state, and federal laws.
  - b. All lighting must be shielded to prevent glare on abutting properties or roads pursuant to the requirements of Section 21.19.



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### MMM. SEXUALLY-ORIENTED BUSINESSES

In evaluating a proposed Special Use Permit for a sexually-oriented business permitted in the Commercial (C-1) district, the County Planning Commission shall consider the following standards upon which to base their decision to approve or disapprove the permit in addition to the standards described in Section 23.03 A.

1. No sexually oriented business shall be established on a parcel which is within one thousand three hundred twenty (1,320) feet of any parcel zoned Residential (R), Lakefront Residential (L-R), Resort-Residential (R-R), Agricultural-Residential (A-R), Forest-Recreational (F-R), General Industrial (G-I), or Light Industrial (L-I).
2. No sexually oriented business shall be established on a parcel within one thousand three hundred twenty (1,320) feet of any residence, park, school, child care organization or place of worship. The distance between a proposed sexually oriented business and any residence, park, school, child care organization, place of worship, or other sexually oriented business shall be measured in a straight line from the nearest property line upon which the proposed sexually oriented business is to be located to the nearest property line of the residence, school, child care organization, place of worship or other sexually oriented business.
3. The proposed use shall conform with all regulations of the zoning district in which it is located unless those regulations conflict with these standards, in which case these standards shall control.
4. The proposed use must meet all applicable written and duly promulgated standards of Kalkaska County and of other governments or governmental agencies having jurisdiction, and must, to the extent required, have the approval of these governments and/or governmental agencies or be reasonably assured of such approval.
5. The outdoor storage of trash or rubbish shall be screened from view and located so as not to be visible from neighboring properties or adjacent roadways in accordance with Section 18.09 of this Ordinance.
6. Any sign or signs proposed for the sexually-oriented business shall not include photographs, silhouettes, drawings, or pictorial representations of any type, or include animated or flashing illumination.
7. 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 from 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."
8. No product or service for sale or gift, or any picture or other representation of any product or service for sale or gift, shall be displayed so as to be visible from the nearest adjoining roadway or a neighboring property.
9. Hours of operation shall be limited to 10:00 AM to 9:00 PM., Monday through Saturday.

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10. All off-street parking areas shall be illuminated during all hours of operation of the sexually-oriented business, and until one hour after the business closes.
11. 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 shall:
  - a. Be handicap accessible to the extent required by the Americans with Disabilities Act;
  - b. Be unobstructed by any door, lock or other entrance and exit control device;
  - c. Have at least one side totally open to a public, lighted aisle so that there is an unobstructed view at all times from the adjoining aisle of any occupant;
  - d. Be illuminated by a light bulb of wattage of no less than twenty-five (25) watts;
  - e. Have no holes or openings in any side or rear walls not dedicated for use by a utility, or a heating, air conditioning or ventilation system.
12. No person shall reside in or permit a person to reside in the premises of a sexually-oriented business.

### NNN. SHOOTING RANGES

1. Location Requirements: Indoor or outdoor shooting ranges (rifle, skeet, trap, archery and pistol) are permitted by Special Use Permit in the Agricultural-Residential (A-R) and Forest-Recreational (F-R) districts and indoor only by Special Use Permit in the Commercial (C-1) district. A site plan meeting the requirements of Article Twenty-five and any additional requirements of this Section shall be submitted.
2. Site Requirements: Minimum lot area for outdoor ranges shall be twenty (20) acres in the Agricultural-Residential (A-R) and Forest-Recreational (F-R) districts and the minimum lot area for indoor ranges shall be one acre in the Commercial (C-1) district.
3. Buffering Requirements:
  - a. Minimum front, side and rear yard setbacks shall be two hundred fifty (250) feet in the Agricultural-Residential (A-R) and Forest-Recreational (F-R) districts and the same as the district requirements in the Commercial (C-1) district.
  - b. Appropriate screening shall be provided to limit noise reaching adjacent land uses per the requirements of Section 18.03, 18.04, 18.05 or 18.06 as determined by the Planning Commission.
  - c. The outdoor storage of trash or rubbish shall be screened in accordance with Section 18.09.
4. Performance Standards:
  - a. All federal, state and county codes and ordinances in regard to firearms shall be strictly adhered to. In addition, the requirements of the Sport Shooting Ranges Act, Public Act 269 of 1989, as amended, shall be adhered to.
  - b. A site plan for the range, whether indoor or outdoor, shall be submitted clearly indicating all safety provisions to assure that any missile fired within the confines of a shooting range shall not carry into or over an adjacent district or area.
  - c. The operator shall have the County Sheriff review and comment on the site plan prior to submitting it to the Zoning Administrator.
  - d. Rifle and pistol ranges shall have adequate backstops that meet the approval of the Site Plan Review Committee.

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- e. A five (5) foot high chain link fence shall be provided around any outdoor shooting area to assure that individuals will not unknowingly trespass on the property, particularly where firearms are being discharged. Signs designating the area as a shooting range shall be clearly posted.
- f. Hours of operation shall be between 8:00 a.m. and sunset.
- g. The intensity level of sounds shall not exceed seventy-five (75) decibels (dba) at the lot line of industrial uses; sixty-five (65) decibels at the lot line of commercial uses and fifty-five (55) decibels at the common lot line when adjacent to residential uses and residential districts. The sound levels shall be measured with a type of audio output meter approved by the United States Bureau of Standards.
- h. The applicant shall demonstrate that the layout of the shooting range is in conformance with national guidelines available from public and nonprofit gun safety organizations that are designed to enhance public safety, minimize accidents, guarantee insurance coverage and minimize liability.

### OOO. SURFACE MINING AND OTHER EXCAVATION

- 1. Location Requirements: Surface mining activities are permitted by Special Use Permit in the Agricultural-Residential (A-R) and Forest-Recreational (F-R) districts. All commercial excavations, mining operations, gravel processing operations, quarrying operations or surface mining existing on the effective date of this Ordinance, whether or not located in the Agricultural-Residential (A-R) or Forest-Recreational (F-R) districts, shall be subject to the regulations that follow with regard to future operations. Future operations shall be considered a new operation and shall require a Special Use Permit.
- 2. Site Requirements:
  - a. The minimum site size for surface mining shall be five (5) acres.
  - b. Areas subject to surface mining shall not be permitted closer than one hundred (100) feet from boundary lines of the property and any natural or existing water-body, watercourse or wetland.
  - c. No excavation shall be permitted closer than three hundred (300) feet to any residence or within three hundred (300) feet of any residential district.
  - d. Areas subjected to mining shall not be permitted within one hundred (100) feet of any adjoining private road or public rights-of-way except for the lowering of land adjoining said rights-of-way to the grade level of said rights-of-way.
  - e. The permanent processing plant and its accessory structure shall not be located closer than two hundred fifty (250) feet from the boundary lines and public rights-of-way or no less than five hundred (500) feet from any dwelling unit or residential district, and shall (where practicable) be as close to the center of the subject property as possible.
  - f. Storage, mixing or processing of other aggregate and related materials (but not asphalt) brought to the site from elsewhere is permitted on site, but must be located proximate to the permanent processing plant and are subject to all the same restrictions as other aggregate material extracted at the site.
  - g. The County Planning Commission may require the applicant to construct and/or improve a road to accommodate the truck travel necessitated by the operations as a condition of such operations and for the purpose of routing traffic around residential areas and preventing damage to existing roads which are not "all-weather" roads.
  - h. In addition to the data requirements of Section 23.02.C and Article Twenty-Five, each application for a Special Use Permit shall be accompanied by plans, drawings, and information prepared by appropriate registered professionals depicting, at a minimum:

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- 1) Name and address of surface owner and/or mineral rights owner of land from which excavation activities will take place.
  - 2) Name, address and telephone number of operator (person, firm or corporation who will be conducting the actual excavation).
  - 3) Location, size and legal description of the total site area to be excavated. Include legend showing a north point, scale and date.
  - 4) Location, width and grade of all easements or rights-of-way on or abutting the area subject to excavation.
  - 5) A statement from the applicant identifying all other federal, state and local permits required, if any.
  - 6) Proof of liability insurance from the operator that meets or exceeds minimum industry standards.<sup>48</sup>
  - 7) Notification of any deed restrictions on the property.
  - 8) Name of financial institution backing the excavation operation.
  - 9) Existing and proposed topography at two-foot contour intervals. Such topography shall extend a minimum of 150 feet beyond the top of the bank of excavation.
  - 10) The existing surface water and drainage patterns.
  - 11) A discussion of the proposed method of excavation, including:
    - a) The area and amount of material to be excavated in cubic yards.
    - b) Proposed side slopes and depths for all portions of the excavated area.
    - c) Proposed drainage system, settling ponds and retention ponds, as appropriate.
    - d) The time, duration, phasing by cell and proposed work schedule of the total project.
    - e) The proposed location of any buildings, storage areas, stockpiling areas, and sorting or crushing equipment as appropriate.
    - f) Area from which excavation will take place in the first year of operation and likewise for each successive year to completion.
  - 12) The proposed location of access points to the site and proposed haul routes for disposal of excavated material.
  - 13) Proposed plans for fencing, and signs.
  - 14) Provisions for fences, buffers, landscaping and screening.
  - 15) A detailed reclamation plan, drawn to an acceptable scale, and program to be performed upon completion of each phase the project. At a minimum, the plan of reclamation shall include:
    - a) Physical descriptions of the location of each cell, number of acres included in each cell, estimated length of time to complete each cell in excavation.
    - b) Depiction of finished, stabilized, side slopes, including methods and plant materials proposed for use.
    - c) Landscape plan for the portion of the property disturbed by excavation and associated activities, including an inventory of plant/tree species to be used.
    - d) A reuse plan for the site once excavation is complete.
  - 16) Site plan and associated background reports shall document the method of compliance with the performance standards of this Section.
3. **Buffering Requirements:**
- a. **Fencing:** If, in the opinion of the Planning Commission, any part of the surface mining site or activity might present a dangerous condition if left unprotected, the area involved in the use shall be enclosed by a chain link or similar fence. The following standards for fencing shall apply to entrances to property, pits, cell units, pond areas, extraction areas, or other slopes as determined by the Planning Commission to be a potential safety hazard. The Planning Commission shall, in

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<sup>48</sup> Ordinance #134, Amendment #155 adopted on August 12, 2008

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establishing the requirements for fencing, also take into account the scope of the proposed excavation and the population density of the surrounding area.

Said fence shall be located not less than ten (10) feet from the top edge of any slope or from the water's edge of a pond (see definition of water's edge). Where surface mining is authorized to proceed in stages, only the area excavated plus the area of the stage currently being excavated need be fenced. Fences shall be at least five and one-half (5 1/2) feet in height and constructed of woven wire fabric and barbed wire on metal posts. The bottom strand of the woven wire mesh shall be no more than two inches from the ground and the small mesh openings of the woven wire fabric near the ground. Gates, the same height as the fence, shall be installed at all points of vehicular or pedestrian ingress and shall be kept locked when not in regular use.

## b. Screening

- 1) Screening shall be provided along all setback lines (within 50 feet from property lines or right-of-ways) of the site. Such barriers shall consist of one or more of the following:
  - a) Earth berms constructed to a height of ten (10) feet above the mean elevation in the centerline of the adjacent public highway of ten (10) feet above the general level of terrain along property lines, as the case may be. Such berms shall have slopes that are not in excess of one (1) foot vertical to three (3) feet horizontal and shall be planted with grass and trees or shrubs.
  - b) Plantings of evergreen trees not more than ten (10) feet apart or shrubbery not more than five (5) feet apart, in three (3) staggered rows parallel to the boundaries of the property which shall be at least two year transplants at the time of planting and which grown to not less than ten (10) feet in height and sufficiently spaces to provide effective sight barriers when ten (10) feet in height. Trees which die must be replaced.
  - c) Earth berms planted with grass and evergreen trees or shrubbery as specified in (b) above, provided that the total height of the berm and the trees or the shrubbery at maturity will be at least ten (10) feet above the general level of the terrain along property lines or the mean elevation of the center line of the adjacent public highway to maximize the effectiveness of the screening.<sup>49</sup>
- 2) The ten (10) foot requirement for screening by means of a berm and/or plantings may be reduced by the Planning Commission to not less than six (6) feet if the particular site and terrain, with screening of a reduced height, will afford adequate screening.

## 4. Performance Standards:

- a. All operations shall be conducted in a safe manner, especially with respect to hazards to persons, damage to adjacent lands or collapse of supporting soil adjacent to an excavation.
- b. No operation shall be conducted in a manner so as to lower the water table on surrounding properties.
- c. All pit banks shall be graded in accordance with an approved reclamation plan with slopes no greater than three (3) feet horizontal to one (1) foot vertical, unless otherwise approved as part of a reclamation plan.
- d. Temporary stockpiling of topsoil or overburden, erosion, and similar operational problems shall not constitute a hazard to road traffic, pedestrians or adjoining property.
- e. Topsoil stockpiles shall be seeded to prevent wind and water erosion.

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<sup>49</sup> Ordinance #134, Amendment #155 adopted on August 12, 2008

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- f. All excavations shall use the most current best management practices (BMP) so as to control erosion and limit the amount of sediment reaching surface waters. No discharge from the site shall result in higher concentrations of silt than existed in offsite water prior to mining operations. All excavations shall be drained so that no stagnant water stands therein.
- g. The excavation shall be graded in a fashion that will not cause water to accumulate in stagnant pools.
- h. Trees and other vegetation or ground cover shall not be prematurely stripped off the surface of the ground so as to unnecessarily expose areas of ground that are prone to wind or water erosion that will cause ground or dust to be carried by wind or water onto adjoining or surrounding properties, or onto public or private roads, or to create a nuisance.
- i. The intensity level of sounds shall not exceed seventy (70) decibels (dba) at the lot line of industrial uses; sixty five (65) decibels at the lot line of commercial uses and fifty-five (55) decibels at the lot line of residential uses. The sound levels shall be measured with a type of audio output meter approved by the United States Bureau of Standards.
- j. Air pollution, noise and vibrations shall be minimized from any effect upon adjacent properties by adequate soundproofed equipment and buildings designed to accomplish such minimization and by the proper use of berms, walls, and natural planting screens.
- k. Access to excavation areas shall be arranged to minimize danger to traffic and nuisance to surrounding properties.
- l. Truck or heavy vehicle traffic related to excavation operations shall use approved access routes which minimize adverse impacts on residential neighborhoods.
- m. Interior roads, parking lots, haul road loading and unloading areas shall be treated so as to limit the nuisance caused by wind-blown dust or dust from truck traffic. Public streets within 1500 feet of the exit of the extractive use site shall be kept reasonably clear of mud, dirt and debris from vehicles exiting the site by the operator following maintenance standards established by the road authority with jurisdiction.
- n. Additional equipment or machinery for the operations on the premises shall not be permitted unless specifically applied for in the application and covered by the permit issued.
- o. Any excavator shall be responsible for notifying the Michigan Department of State, Bureau of History when human remains and/or historical artifacts are discovered.
- p. The excavation shall not be used for the disposal of foreign material without prior approval from appropriate local, county and state entities.
- q. All work shall be undertaken and completed on a cell by cell basis. No work can begin in the next cell until reclamation in the previous cell is satisfactorily completed or underway pursuant to a phasing plan approved by the Planning Commission.
- r. Maximum depth of excavation shall remain two (2) feet above the water table existing prior to construction<sup>50</sup>, except in such cases where the reclamation plan indicates that a lake or lakes will be part of the final use of the land or where such plan indicates that adequate fill from the overburden is to be used to refill such excavation for conformance to the approved reclamation plan. Operations shall be conducted in such a manner so as not to permanently lower the water table. If excavations are refilled, that filling process must be in accordance with water pollution control regulations. A Michigan Department of Environmental Quality (DEQ) permit requirement may apply to this activity and prior to any filling a determination of pertinent regulations shall be made by the Zoning Administrator.
- s. In the event the owner/operator desires to develop said land into residential or recreational property with the excavation as a lake therein, he/she may make application as a part of this Special Use Permit, provided said permit grades the borders of the excavation to a pitch of not more than one (1) foot drop to each four (4) feet of surface from the top of the bank to the high water mark, with a pitch from the high water mark into the water to a depth of eight (8) feet below the low water stage, with a drop of not more than one (1) foot to each eight (8) feet of surface.

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<sup>50</sup> Ordinance #134, Amendment #155 adopted on August 12, 2008

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- t. An operator shall remove all worthless debris and rubbish from the plant site and mining area within one (1) year of the date of termination of operations or abandonment of the property.
  - u. The hours of operation shall be set by the Planning Commission, after consideration of the surrounding land uses and the particular traffic patterns on public haul routes in the area. The maximum range of hours is Monday through Saturday from 7:00 a.m. to 6:30 p.m. and shall be prohibited on legal holidays and Sundays. The Zoning Administrator may provide temporary exemptions from hours of operation for an operator who must repair equipment or for public emergencies.
  - v. Before issuance of a Special Use Permit, there shall be filed by the applicant a surety bond to be determined by an independent technical evaluation<sup>51</sup> and executed by a reputable surety company authorized to do business in the State of Michigan, or an irrevocable bank letter of credit or cash bond pursuant to the requirements of Section 21.29 payable to Kalkaska County, conditioned upon the prompt compliance with all provisions of this Section and the requirements of the County and State.
5. Reclamation Standards: All reclamation activities shall be initiated at the earliest possible date in conformance with the following standards:
- a. Reclamation of the site concurrent with excavation activities shall be undertaken to the extent that the reclamation activities will not interfere with the excavating activity or if the excavating activity will damage the reclaimed areas. All reclaimed cell units shall be reasonably natural and inconspicuous and shall be reasonably lacking in hazard. All slopes and banks shall be graded to angles which do not exceed those found in the natural topography of surrounding areas except that in no instance shall slopes exceed three (3) foot horizontal to one (1) foot vertical.
  - b. All top soil shall be stockpiled on the premises and promptly redistributed on abandoned areas or where extraction operations have been substantially discontinued for any period in excess of one year. Such areas shall then be seeded and planted with at least temporary protection the first year and by the second year permanent seeding to lessen erosion and encourage proper growth within one year of termination of all activity.
  - c. Progressive reclamation shall lead to the final surface landform portrayed in the reclamation plan.
  - d. A mining area shall be reclaimed by an operator pursuant to provisions of this Ordinance and the reclamation plan within one (1) year after abandonment or within the time set forth in the operator's reclamation plan approved by the Planning Commission. A reclamation plan shall be considered approved with the approval of the Special Use Permit issued pursuant to this Section.
  - e. Upon written request of an operator, the Planning Commission may grant an extension of the reclamation period if necessary to accomplish acceptable reclamation.
  - f. Unless plant structures, buildings, stockpiles and equipment are included as approved elements of the reclamation plan, upon cessation of mining operations, the operating company, within a reasonable period of time not to exceed twenty-four (24) months thereafter shall remove all plant structures, buildings, stockpiles and equipment from the area included in the Special Use Permit.
  - g. The base map for this element should be the final landform map upon which shall be shown by overlays or separate drawings and notes one or more developed schemes for land use or uses, each demonstrating that developed areas are accessible by roads and that physical attributes of the final landform are compatible with proposed use or uses. This is to show that the final landform portrayed in the drawings has a viable land use compatible with land use trends of the surrounding area. The final landform map shall depict the following:
    - 1) Site mapping scales shall be no more than 1" = 100'.

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<sup>51</sup> Ordinance #134, Amendment #155 adopted on August 12, 2008

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- 2) Include a contour interval of ten (10) feet for a map scale of one (1) inch to one hundred (100) feet.
  - 3) Show location of any proposed roads within the reclaimed area and their connection to present public roads beyond.
  - 4) Show location of any lakes, ponds, or streams proposed within the reclaimed area and their connections to streams or drainage-ways beyond.
  - 5) Show location of any proposed works-of-man within the reclaimed area (dams, buildings, etc.).
  - 6) Show location of all buildings within three hundred (300) feet of the project site.
  - 7) Show areas where vegetation is to be established, and indicate types of vegetative cover.
  - 8) Describe any degree of flexibility considered to be needed in execution of the plan.
- h. Excavated areas shall be reclaimed under the following standards over the excavated area, except exposed rock surfaces, or areas lying below natural water level, to a minimum depth of four (4") inches in accordance with the approved contour plan:
- 1) Vegetation similar to that which existed prior to the excavation process shall be restored by the appropriate seeding of grasses or the planting of trees and shrubs to establish a permanent vegetative cover on the land surface to minimize erosion. Such vegetation shall be of sufficient diversity to support a variety of wildlife species.
  - 2) When excavation operations are completed, the excavated area shall be graded so that no gradients in disturbed earth are steeper than a slope of 3:1 (horizontal-vertical).
  - 3) A layer of arable topsoil, of a quality approved by the Zoning Administrator shall be spread
  - 4) Excavation which has created or extended lakes, ponds or other bodies of water shall meet standards and specifications (particularly with respect to underwater slopes and drop-offs) promulgated by the U.S. Department of Agriculture, Natural Resources Conservation Service, and shall be approved by that agency.
  - 5) Where excavation operation results in a body of water, owner or operator shall place appropriate "Keep Out-Danger" signs around said premises not more than one hundred fifty (150) feet apart.
  - 6) Backfill and grading materials shall not be noxious, flammable or toxic.
  - 7) Fill and soils shall not be overly compacted and of sufficient quality to be well drained, non-swelling. If the reuse plan involves development of dwellings or other buildings fill and soils shall be of proper bearing capacity to support foundations, and septic systems.
  - 8) All temporary structures shall be removed from the premises upon completion of the excavation activity unless said structures are of sound construction and are compatible with the reclamation goals. Said structures shall be accurately depicted upon the approved reclamation plan.
  - 9) If the reuse plan involves a recreational or wildlife facility reclamation plans shall be reviewed by recreation, fisheries and wildlife specialists in the Michigan Department of Natural Resources.
  - 10) Surface mining operations authorized by Special Use Permits shall be inspected with reasonable frequency to determine compliance with the reclamation plan, with this Ordinance and permits issued pursuant to this Ordinance as determined to be appropriate by either the Planning Commission or the Zoning Administrator.<sup>52</sup>
  - 11) The general reclamation plan may be modified at any time by mutual consent of the operator and the Planning Commission to adjust to changed conditions, technology or to correct an oversight. The Planning Commission shall solicit comment from the Township Board and Township Planning Commission on any modifications.

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<sup>52</sup> Ordinance #134, Amendment #155 adopted on August 12, 2008



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6. Notice of Abandonment, Evidence of Continuing Use: When activities on or use of the area subjected to mining, or any portion thereof, have ceased for more than one (1) year, as shown by examination of the premises or other means, the Planning Commission shall give the operator written notice of their intention to prove the area subjected to mining or portion thereof abandoned. Within thirty (30) days following receipt of the notice, the operator shall have an opportunity to submit evidence that the use of the area subjected to mining or portion thereof is continuing. If the Planning Commission proves that the operator intends to abandon the use and by some act, or omission to act, has manifested a voluntary decision to abandon the use, the Planning Commission may find an abandonment of the use.
7. Additional Standards for Approval of a Special Use Permit: A decision by the Planning Commission on a surface mining application for a Special Use Permit shall be based upon the site plan review and special use permit criteria set forth within the Ordinance and shall also be based on the following standards:
  - a. The most advantageous use of the land as determined by the County Land Use Plan resources and property.
  - b. The character of the area in question and its peculiar suitability, if any, for particular uses. Sources of information on this matter may include any or all of the following persons or commissions: the County Planner/Zoning Administrator <sup>53</sup>; the Director of the Kalkaska County Health Department; the County Planning Commission; the local township planning commission; and commissions or councils from affected cities or villages.
  - c. Conservation of natural resources and environmental factors, and the general appropriate trend and character of development in the subject area.
  - d. The protection and preservation of the general health, safety, and welfare of the County.
  - e. The scarcity or value of minerals sought to be mined as compared with the effect upon the adjacent community of the proposed operation.
  - f. In making any decision, the Commission shall have the right and authority to impose such additional conditions and safeguards as it deems necessary for the protection of the health, safety and general welfare of the neighborhood and of the adjoining residence and property owners.
8. Other Conditions on the Owner and Operator: The conditions of any Special Use Permit issued under this Section apply not only to the owner and run with the land but also to the operator who is either an owner or lessee of mineral rights or any other person engaged in or preparing to engage in excavation. When an operator disposes of his interest in an excavation area prior to final reclamation by sale, lease, assignment, termination of lease, or otherwise, the Zoning Administrator may release the operator from the duties imposed upon him by this Ordinance as to the operations, but only if the successor, operator or owner assumes the obligations of the former operator with reference to the reclamation activities. At that time the Special Use Permit may be transferred.

**PPP. RESERVED FOR FUTURE USE**

**QQQ. RESERVED FOR FUTURE USE**

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<sup>53</sup> Ordinance #134, Amendment #155 adopted on August 12, 2008

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### RRR. VEHICLE WASH FACILITIES

1. Location Requirements:
  - a. Vehicle washing facilities shall be permitted only in the Commercial (C-1) district with direct vehicular access to a year round public maintained road and as an accessory use to automobile service and repair stations.
2. Site Requirements:
  - a. The minimum lot or parcel size for vehicle washing facilities shall be twelve thousand (12,000) square feet.
  - b. The minimum front yard setback for the structure shall be fifty (50) feet; minimum side yard setback shall be twenty-five (25) feet; minimum rear yard setback shall be seventy-five (75) feet.
  - c. The entrances and exits of the facility shall not be from an adjoining residential street or alley unless the Planning Commission determines this is a safe alternative that does not pose a serious nuisance for nearby residences. A street or alley shall not be used as a maneuvering or parking area for vehicles using the facility.
  - d. The entire site, other than the portion occupied by the building and landscaping, shall be surfaced with concrete or bituminous surfacing to control dust and provide adequate drainage.
  - e. There shall be no above-ground outdoor storage/dispensing tanks on the site.
3. Buffering Requirements:
  - a. When adjoining a residential district, a six (6) foot high wall or fence shall be erected and maintained along the connecting interior lot line or other landscaping providing a six (6) foot high barrier may be approved by the Planning Commission.
  - b. The outdoor storage of trash or rubbish shall be screened in accordance with Section 18.09.
4. Performance Standards:
  - a. All washing activities shall be conducted within an enclosed structure, except for one tall vehicle washing area.
  - b. Vacuuming activities shall be at least twenty-five (25) feet from any lot line except where the property abuts a residential zone in which case a fifty (50) foot separation shall be maintained.
  - c. All drains shall be connected to a public sanitary sewer system or other approved drainage system.
  - d. Adequate provision shall be made to keep all drainage water from washing operations on the site.
  - e. Vehicle wash facilities shall not be operated between the hours of 11:00 p.m. and 8:00 a.m.
  - f. All lighting must be shielded to prevent glare on abutting properties or roads pursuant to the requirements of Section 21.19.

### SSS. VETERINARY CLINICS

1. Location Requirements: Veterinary clinics are permitted in the Forest-Recreational (F-R), Agricultural-Residential (A-R), Commercial (C-1), and Light-Industrial (L-I) districts.
2. Buffering Requirements:
  - a. Buildings where animals are kept, dog runs, paddocks, and/or exercise areas shall not be located nearer than one hundred feet (100) to any adjacent residential district lot line or any adjacent building used by the general public and shall not be located in any required yard.

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- b. The outdoor storage of trash or rubbish shall be screened in accordance with Section 18.09.
3. Performance Standards:
- a. Uses permitted include medical treatment, retail sales of animal supplies and boarding. Boarding of wild animals is prohibited unless in an American Association of Zoological Parks and Aquariums or U.S. Department of Agriculture (USDA) accredited facility.
  - b. All activities must be confined within a fully enclosed building that is soundproofed except for large animal paddock.
  - c. All principal use activities shall be conducted within a totally enclosed principal building.
  - d. There shall be no storage or boarding of animals outside a fully enclosed and soundproofed building.
  - e. No dogs shall be permitted in open run areas between the hours of 10:00 p.m. and 7:00 a.m.
  - f. An adequate, enclosed method of refuse storage and disposal shall be maintained so that no public nuisance shall be created at any time.
  - g. All lighting must be shielded to prevent glare on abutting properties or roads pursuant to the requirements of Section 21.19.

## **TTT. RESERVED FOR FUTURE USE**

## **UUU. WATERCRAFT LAUNCHING**

The following regulations apply only to watercraft launching where a fee is paid to launch, or at any public waterfront access site created after the effective date of the amendment establishing this provision. Watercraft include, but are not limited to: boats, canoes, kayaks, row boats, and motor boats.

1. Location Requirement:
- a. Watercraft launching at waterfront access sites are permitted in the Lakefront-Residential (L-R) district by Special Use Permit.
  - b. Parking areas shall be located no closer than thirty-five (35) feet from any residential property line.
2. Site Requirements:
- a. The minimum lot or parcel size shall be one (1) acre.
  - b. Adequate standing and parking facilities shall be provided at the site so that no loaded vehicle at any time stands on a public right-of-way awaiting entrance to the site.
  - c. Vehicle loading and boat launching shall occur pursuant to a one-way road design that provides adequate stacking space and safe and efficient flow for all in line. Signs shall indicate traffic flow and parking areas.
  - d. Each parking space shall be a minimum of ten (10) feet by forty (40) feet so it can be used as a tie down area and storage for vehicle and trailer while the boat is in the water.
  - e. Accessory uses shall occupy no more than four hundred (400) square feet of building area.
3. Buffering Requirements:
- a. Fences and screening in accordance with Article Eighteen of this Ordinance may be required by the Planning Commission to mitigate potential negative impacts on adjacent properties.
  - b. The outdoor storage of trash or rubbish shall be screened in accordance with Section 18.09.

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4. Performance Standards:
  - a. Sanitary facilities/restrooms shall be provided on the site per the requirements of the Health Department.
  - b. All watercraft access sites shall conform with Parts 301 and 801 of the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, as amended, and all other applicable county, state, and federal regulations.
  - c. Any boat launching ramp shall be constructed with quality hard surfaced materials to withstand anticipated use and maintained in good condition.
  - d. The slope of a boat launching ramp to and into the water shall not be more than one (1) to three (3) and shall be long enough to allow all wheels of a vehicle and its trailer to be on a hard surface while loading and unloading a boat or other watercraft.
  - e. All loading and unloading of a motorized boat or other watercraft into the water shall take place at an approved boat-launching ramp.
  - f. If there is no boat launching ramp, site use shall be restricted by sign to launching non-motorized watercraft only.
  - g. All lighting must be shielded to prevent glare on abutting properties or roads pursuant to the requirements of Section 21.19.

### **VVV. WILD GAME SHOOTING, GAME OR HUNTING PRESERVE**

1. Location Requirements: Game or hunting preserves operated for profit are permitted by Special Use Permit in the Agricultural-Residential (A-R) and Forest-Recreational (F-R) districts.
2. Site Requirements: Minimum lot area shall be eighty (80) acres.
3. Buffering Requirements: Minimum front, side and rear yard setbacks within which no shooting is permitted shall be two hundred fifty (250) feet.
4. Performance Standards:
  - a. All federal, state and county codes and ordinances in regard to firearms shall be strictly adhered to.
  - b. A site plan for the hunting preserve showing the location of all proposed structures and uses shall be submitted to the Planning Commission. The site plan shall clearly indicate all safety zones to assure that any missile fired within the hunting preserve shall not carry into or over an adjacent district or area.
  - c. The operator shall have the County Sheriff review and comment on the site plan prior to its review by the Planning Commission.
  - d. Rifle, shotgun and pistol ranges shall comply with the requirements for a shooting range in Section 23.10.NNN.
  - e. A twelve (12) foot high chain link fence shall be provided around the entire property to assure that individuals will not unknowingly trespass on the property, particularly where firearms are being discharged. Signs designating the area as a hunting area shall be clearly posted not more than fifty (50) feet apart and affixed to the fence.
  - f. Hours of operation shall be between one-half (1/2) hour before sunrise and one-half (1/2) hour after sunset.
  - g. All lighting must be shielded to prevent glare on abutting properties or roads pursuant to the requirements of Section 21.19.

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**ARTICLE TWENTY-FOUR**

**PLANNED UNIT DEVELOPMENT (PUD)**

**SECTION 24.01 - DESCRIPTION AND PURPOSE**

- A. It is the purpose of this Article to encourage innovation and variety in land use, design, layout, and type of structures constructed; to achieve economy and efficiency in the use of land, natural resources, energy and the provision of public services and utilities; encourage useful open space, and provide better housing opportunities particularly suited to the needs of the residents of the County and State, provided such opportunities do not unreasonably create any adverse economic, social or environmental impact on surrounding land uses.
  
- B. The use, area, height, bulk and placement regulations of this Ordinance are primarily applicable to the usual situation of one principal building on a lot. In certain developments, including but not limited to condominium, townhouse, and apartment developments, these requirements might result in design and land use arrangements with multiple buildings on a lot and a design less in the interest of public health, safety and welfare than if a controlled degree of flexibility in the regulation of land development were allowed. The Planned Unit Development (PUD) is intended to permit and control the development of preplanned areas for various compatible uses allowed by the Zoning Ordinance and for other uses not so provided. It is a discretionary review and approval procedure that results in an approved development if all standards of this Article are met and denial if they are not. The zoning district does not change if a PUD is approved, but like a special land use, an approved PUD has all the rights and privileges of an approved use by right as long as all conditions attached to the approval are complied with.
  
- C. It is intended that uses in a PUD shall afford each type of land use reasonable protection from encroachment or interference by other incompatible land uses, and that reasonable protection be afforded to uses adjacent to a PUD.

**SECTION 24.02 - OBJECTIVES**

- A. The following objectives shall be met by any application for any PUD in order to realize the inherent advantages of coordinated, flexible, comprehensive, long-range planning and development of such PUD:
  - 1. To provide more desirable living, shopping and working environments by preserving as much of the natural character of the property as possible, including, but not limited to, open space, stands of trees, brooks, ponds, river and lake shorelines, floodplains, hills and similar natural assets.
  - 2. To encourage the provision of open space and the development of recreational land, where included in the site plan, other support facilities in a generally central location within reasonable distance of all living units. Developments having water frontage should be so designed to preserve public vistas where possible.
  - 3. To encourage developers to use a more creative and imaginative approach in the development of areas.

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4. To encourage underground utilities which can be more efficiently designed when master planning a larger area.
5. To allow phased construction with the knowledge that subsequent phases will be approved as originally planned and subsequently approved by the County.
6. To promote flexibility in design and permit planned diversification in the location of structures.
7. To promote the efficient use of land to facilitate a more economic arrangement of buildings, circulation systems, land use, and utilities.
8. To combine and coordinate architectural styles, building forms, and building relationships within the PUD.
9. To ensure a quality of construction commensurate with other new developments within the County.
10. To ensure there is a recognizable and substantial benefit to the community achieved by the PUD.

**SECTION 24.03 - AREA REGULATIONS**

- A. Setbacks - Minimum yard restrictions of the zoning district in which the project is located shall be maintained around the perimeter of the project.
- B. Open Space - Required open space shall be dedicated to the public or set aside for common use of the owners and users within the PUD so that there are assurances that the required open spaces shall remain open. Required open space shall conform with the requirements of Section 24.08.
- C. Dwelling Units: Maximum Density and Minimum Open Space by District- The minimum lot size and density of dwelling units shall be as established on Table 15-1, Schedule of Regulations Section 15.01.A. PUDs shall have no less than the following percentages of open space by zoning district as measured according to Section 24.08:

- R = 50% <sup>1</sup>
- L-R = 50%
- R-R = 50%
- A-R = 50%
- F-R = 50%.

**SECTION 24.04 - ELIGIBILITY REQUIREMENTS**

- A. No PUD shall be approved unless the applicant through written submittal, and the Planning Commission through certification of written findings, demonstrates that the land use and development meet the following eligibility requirements and the standards set forth in Section 24.06:

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<sup>1</sup> Ordinance #113, Amendment #134 adopted on September 11, 2002

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1. Compliance with the dimensional, open space and density standards in Section 24.03 and Section 24.08 and the use standards of the district in which it is located, along with such other uses as may be approved through the PUD review and approval process.
2. The PUD shall result in a recognizable and substantial benefit to the ultimate users of the project and to the County. Such benefit must otherwise be unfeasible or unlikely to be achieved by development under a single zoning district taking into consideration the reasonably foreseeable detriments of the proposed development and use(s); including, without limitation:
  - a. the long-term protection and/or preservation of natural resources and natural features and/or historical and/or architectural features of a significant quantity and/or quality in need of protection or preservation on a local, state and/or national basis;
  - b. reducing to a significant extent the nonconformity of a nonconforming use or structure, i.e., modification of a nonconforming use or structure so that, to a significant extent, it is rendered more conforming, or less offensive, to the zoning district in which it is situated.
  - c. the provision of additional amenities which would not otherwise be provided in a conventional development, including but not limited to more usable open space.
3. All land for which application is made must be owned or under control of the applicant(s) and the parcel must be capable of being planned and developed as one integral land use unit. Noncontiguous parcels may be considered where other benefits to the public are sufficiently great to warrant such consideration in the opinion of the Planning Commission.
4. The PUD shall remain under the control or authority of a single individual, corporate or organizational owner who is authorized to administer the PUD. Elimination of a single authority, such as by sale of part of the PUD shall not occur without approval of a site plan amendment.

**SECTION 24.05 - APPLICATION REVIEW AND APPROVAL PROCEDURES**

- A. An application for a PUD shall be submitted and acted upon in accordance with the following procedures:
  1. Pre-application Conference - Persons considering submitting an application for a PUD shall first schedule a meeting with the Zoning Administrator and not more than two members of the Planning Commission, including the chairperson, or in his or her absence, the vice-chairperson, to go over the general concept, density and intensity of the proposed PUD. The potential applicant shall have a plot plan showing generally the desired areas for development, open space, access and any other facilities. The plot plan should be at scale but not detailed like a site plan. The potential applicant shall present the draft plot plan and be informed of the procedures for application, review and approval of a PUD and site plan therefore.
  2. Application - Applications for a PUD shall be submitted twenty-four (24) days prior to the next scheduled Planning Commission meeting through the Zoning Administrator who will review the application for completeness, then transmit to the Planning Commission. Each

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application shall be accompanied by the payment of a fee in accordance with Section 27.04.

3. Required Information - An application for a PUD shall be accompanied by the following documents and information:
  - a. A PUD application form supplied by the Zoning Administrator which has been completed in full by the applicant.
  - b. A site plan as specified in Article Twenty-Five.
  - c. A statement with regard to compliance with the objectives of a PUD stated in Section 24.02, the eligibility requirements of Section 24.04, the criteria required for approval in Section 24.06, and other criteria imposed by this Ordinance affecting the PUD under consideration.
  
4. Public Hearing - Upon receipt of a complete application for a PUD, the Planning Commission shall call a public hearing for the purpose of receiving comments relative to the PUD application. A notice shall be published in a newspaper which circulates in the County and sent by mail or personal delivery to the owner or owners of the property, to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question, and to the occupants of all structures within three hundred (300) feet. The notice shall be given not less than fifteen (15) nor more than twenty (20) days before the date the application will be considered. The notice shall:
  - a. Describe the nature of the PUD application.
  - b. Indicate the property which is the subject of the PUD application.
  - c. State when and where the PUD application will be considered.
  - d. Indicate when and where written comments will be received concerning the application.
  
5. Review and Approval - Within a reasonable time following the public hearing, provided all materials are complete, the Planning Commission shall review the application for a PUD, comments received at the public hearing, the site plan, and other materials submitted in relation to the application, and make a decision to either deny, approve, or approve with conditions, the PUD application in accordance with the purpose and objectives of this Article, the eligibility requirements of Section 24.04, the criteria for approval stated in Section 24.06, the open space requirements of Section 24.08, as well as such other standards contained in this Ordinance which relate to the PUD under consideration. The Planning Commission shall prepare a written report stating its findings and conclusions on the request for a PUD, and any conditions relating to an affirmative decision. Upon the approval, or approval with conditions, by the Planning Commission, the applicant may apply for Preliminary Plat approval, if applicable, from the Township Board in which the proposal is located.
  
6. Planned Unit Development Permit. Following final approval of a PUD site plan and final approval of the engineering plans by the County Engineer, or an engineer hired by the County to review the PUD, a permit may be obtained from the Zoning Administrator provided the applicant has obtained all other applicable County, State or Federal permits.
  
7. Continuing Adherence to Approved Site Plan: Any property owner who fails to develop and maintain an approved PUD according to the approved site plan shall be deemed in violation of the provisions of this Ordinance and shall be subject to the penalties for same.



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8. Recording of Action. The applicant shall record an affidavit which has received the approval of the County Attorney with the County Register of Deeds for the County in which the property is located, containing the full legal description of the project site, specifying the date of final County approval, and declaring that all improvements will be carried out in accordance with the approved PUD site plan unless an amendment is adopted by the County. In addition, a copy of all deed restrictions and easements filed with the Register of Deeds of the County in which the property is located shall be presented to the Zoning Administrator. See also Section 25.09.
9. Amendments. Amendments to an approved site plan for a PUD shall be processed according to the procedure in Section 25.10.
10. Scheduled Phasing. When proposed construction is to be phased, the project shall be designed in a manner that allows each phase to fully function on its own regarding services, utilities, circulation, facilities, and open space. Each phase shall contain the necessary components to insure protection of natural resources and the health, safety, and welfare of the users of the open space development and the residents of the surrounding area.
11. Timing of Phases: Each phase of the project shall be commenced within twelve (12) months of the schedule set forth on the approved site plan. If construction of any phase is not commenced within the approved time period, an extension may be granted, following review of a formal request for extension by the developer and approval of same by the Planning Commission. Such approval may be withheld only where harm to adjacent lands or uses would occur, there have been significant changed conditions in the area, or in the case of fraud or violation of the terms of the original approval.

### **SECTION 24.06 - BASIS OF DETERMINATION**

- A. The Planning Commission shall apply the following standards, impose any conditions or grant any waivers as provided below:
  1. General Standards - The Planning Commission shall review the particular circumstances of the PUD application under consideration in terms of the following standards and shall approve a PUD only upon finding of compliance with each of the following standards, as well as applicable standards established elsewhere in this Ordinance:
    - a. The PUD shall be consistent with the Kalkaska County Master Plan.
    - b. The PUD shall be designed, constructed, operated and maintained in a manner harmonious with the character of adjacent property and the surrounding area. Landscaping shall ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property and will create a pleasant pedestrian scale outdoor environment.
    - c. The PUD shall not change the essential character of the surrounding area.
    - d. The PUD shall not be hazardous to adjacent property, or involve uses, activities, materials or equipment which will be detrimental to the health, safety or welfare of persons or property through the excessive production of traffic, noise, smoke, fumes, ground vibration, water runoff, odors, light, glare or other nuisance.

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- e. The PUD shall not place demands on public services and facilities in excess of current capacity, unless planned improvements have already been scheduled for completion.
  - f. The PUD shall be designed to preserve public vistas and existing important natural, historical, and architectural features of significance within the development.
  - g. The PUD shall be designed so that its pedestrian, non-motorized and automobile circulation systems are safely and conveniently integrated with those of abutting property and any linear trail or park systems.
  - h. The PUD shall provide that vehicular and pedestrian traffic within the site shall be safe and convenient and that parking layout will not adversely affect the flow of traffic within the site or to and from the adjacent streets. Safe and adequate access for emergency vehicles and adequate space for turning around shall be provided.
  - i. The PUD shall not result in any greater stormwater runoff to adjacent property after development, than before. The open space shall be provided with ground cover suitable to control erosion and all vegetation shall be maintained continuously in a healthy living condition.
  - j. The design of the PUD shall exhibit a reasonable harmonious relationship between the location of buildings on the site relative to buildings on lands in the surrounding area; and there shall be a reasonable architectural and functional compatibility between all structures on the site and structures within the surrounding area. It is not intended that contrasts in architectural design and use or facade materials is to be discouraged but care shall be taken so that any such contrasts will not be so out of character with existing building designs and facade materials so as to create an adverse effect on the stability and value of the surrounding area.
  - k. The design of the PUD shall ensure that outdoor storage of garbage and refuse is contained, screened from view, and located so as not to be a nuisance to the subject property or neighboring properties.
  - l. The PUD shall be designed such that phases of development are in a logical sequence, so that any one phase will not depend upon a subsequent phase for adequate access, public utility services, drainage or erosion control.
  - m. The PUD shall meet the standards of other governmental agencies, where applicable.
2. Conditions - The Planning Commission may impose conditions with the approval of a PUD which are necessary to ensure compliance with the standards for approval stated in this Section and any other applicable standards contained in this Ordinance. Such conditions shall be considered an integral part of the PUD approval and shall be enforced by the Zoning Administrator.
3. Waiver of Planned Unit Development Standards. The Planning Commission, may waive any of the standards for a PUD contained in this Article or other applicable standards elsewhere in this Ordinance, where all of the following findings are documented along with the rationale for the decision:
- a. No good public purpose will be achieved by requiring conformance with the standards the applicant seeks to have waived.
  - b. The spirit and intent of the PUD provisions will still be achieved.
  - c. No nuisance will be created.

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**SECTION 24.07 - FEES**

The applicant shall submit a formal application to the Zoning Administrator, along with a fee as specified in Section 27.04.

**SECTION 24.08 - OPEN SPACE REQUIREMENTS**

- A. The following open space requirements apply in PUDs:
1. The total areas of dedicated open space open to property owners or lessees within the PUD shall equal not less than the percent of the parcel specified in Section 24.03 subsection C). Dedicated open space does not include parking lots, roads and public rights-of-way. Dedicated open space may include floodplain areas, but no more than thirty (30) percent of the required dedicated open space may be wetlands and no more than twenty (20) percent of the required dedicated open space may be submerged on a year round basis.
  2. All land within a development that is not devoted to a dwelling unit, individual yard in a lot, or the undivided portion of a condominium project, an accessory use, vehicle access, vehicle parking, a roadway, or an approved land improvement, shall be set aside as common land for recreation or conservation, or preserved in an undeveloped state.
  3. The dedicated open space shall be set aside by the developer through an irrevocable conveyance that is reviewed and approved by the County Attorney, such as: recorded deed restrictions, covenants that run with the land, transfer to a nonprofit land trust, a recorded conservation easement such as that provided in the State of Michigan Conservation and Historic Preservation Act, Public Act 197 or 1980, as amended (MSA. 399.251) or dedication to and acceptance of the open space by the County or other public entity. Such conveyance shall assure, unless the land is dedicated to the County and accepted by it, that the County will not be liable for any uses or activities occurring within the dedicated open space and that the open space will be protected from all forms of development, except as shown on an approved site plan, and shall never be changed to another use unless mutually agreed by the written consent of the Planning Commission and the property owner or Association. Such conveyance shall also:
    - a. Indicate the proposed allowable use(s) of the dedicated open space.
    - b. Require that the dedicated open space be maintained by parties who have an ownership interest in the open space in the manner specified in the PUD approval.
    - c. Provide standards for scheduled maintenance of the open space.
    - d. Provide for maintenance to be undertaken by the County in the event that the dedicated open space is inadequately maintained, or is determined by the County to be a public nuisance, with the assessment of costs upon the property owners.
    - e. Bind all successors and future owners in fee title to commitments made as a part of the proposal. This provision shall not prohibit a transfer of ownership or control, provided notice of such transfer is provided to the County and the land uses continue as approved in the PUD.
  4. Eighty (80) percent of the dedicated open space must be contiguous.
  5. All dedicated open space must be a minimum of twenty (20) feet wide.
  6. Dedicated open space must be easily accessible from all residences.

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7. The dedicated open space shall remain open space, subject only to uses approved by the Planning Commission on the approved site plan. Further subdivision of open space land or its use for other than recreation or conservation purposes, except for easements for utilities, shall be strictly prohibited.
8. Any structure(s) or building(s) accessory to a recreation or conservation use may be erected within the dedicated open space, if a part of the approved PUD. These accessory structure(s) or building(s) shall not exceed, in the aggregate, one (1) percent of the dedicated open space area unless the Planning Commission determines, that additional open space used for an accessory building or structure will significantly benefit the users of the project more than the loss of the open space will harm them or abutting property owners.
9. Sidewalks, bike paths and trails shall be provided in the dedicated open space area and shall be designed and constructed to be linked to sidewalks, bike paths and trails on abutting property or public rights-of-way.

**SECTION 24.09 - NONRESIDENTIAL USES OF A PUD**

- A. Limited nonresidential uses or structures may be established as part of a PUD provided that the following standards are complied with:
1. Not more than five (5) percent of the portion of the PUD used for residential purposes may be used for nonresidential development.
  2. The Planning Commission must make written findings, that such nonresidential uses will not significantly increase traffic in the area, will not reduce the value of adjacent homes, structures and uses, will not create unnecessary noise, dust, odors, lights, sound or other nuisances to adjacent properties, and shall materially improve the quality of the PUD.
  3. The nonresidential use of the PUD must be located with direct access to a year round public maintained road.

**SECTION 24.10 - APPEAL TO CIRCUIT COURT**

An appeal on a decision by the Planning Commission to approve, deny or approve with conditions a PUD may be taken to Circuit Court, and may not be appealed to the Board of Appeals.

**SECTION 24.11 - RESERVED FOR FUTURE USE**

**SECTION 24.12 - HARDSHIP PLANNED UNIT DEVELOPMENT**

- A. Intent and Purpose: It is the intent of this Section to provide a site specific administrative remedy to allow reasonable use of property in those limited instances in which a property owner demonstrates to the County Board of Commissioners that (1) the applicant's property cannot be used for the purposes permitted in the zoning district, (2) the plight is due to unique circumstances peculiar to the property and not to the general neighborhood conditions, (3) the

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proposed development and use would not alter the essential character of the area, and (4) the applicant's problem has not been self-created.

If and when a property owner meets such four-part threshold burden of proof, it is not intended that any use may then be approved. Rather, this Section is intended to authorize administrative relief to the minimum extent necessary to allow reasonable use of property on the particular site, taking into consideration the objective of achieving compatibility and high quality development.

In order to satisfy the finality requirement dictated by the Michigan Supreme Court in Paragon Properties Company v City of Novi, a property owner shall not be required to seek variance relief at the Zoning Board of Appeals if relief is sought and denied under this Section. An application under this Section also represents a waiver of the right to request a use variance from the Zoning Board of Appeals.

- B. Application Requirements: In addition to the information required for other variance requests, an application for a Hardship PUD shall include a plan drawn to scale detailing the specific use and improvements proposed by the applicant, and a summary of the facts which support each of the following conclusions:
1. Applicant's property cannot be used for the purposes permitted in the zoning district.
  2. Applicant's plight is due to unique circumstances peculiar to his property and not to general neighborhood conditions.
  3. Applicant's suggested use would not alter the essential character of the area.
  4. Applicant's problem has not been self-created.

At the end of each statement (B.1, B.2, B.3, and B.4) above <sup>2</sup>, identify all persons who will appear at the hearing with respect to each of the facts, and, separately, identify all persons who will appear at the hearing relative to the respective conclusion (and if any person is to be offered as an expert witness, include with the application a resume which shows the education and experience of such person within the particular area of expertise).

- C. Pre-Hearing Conference
1. Prior to the scheduling of a hearing, the applicant shall contact the Zoning Administrator for the purpose of scheduling a pre-hearing conference.
  2. The purposes of the pre-hearing conference shall be to:
    - a. Review the procedure for the hearing and identify all persons who will appear (directly or through affidavit) and the evidence to be offered on behalf of the applicant.
    - b. Attempt to secure a statement of agreed upon facts to be used to narrow the matters of dispute and shorten the hearing.
    - c. Explore a means of providing relief to the applicant by way of non-use variance from the Zoning Board of Appeals.
    - d. Discuss the need, desirability, and the terms of providing, a verbatim record of the hearing.
  3. The Zoning Administrator shall determine who should be present at the pre-hearing conference based upon the application submitted, and taking into consideration the discussion with the applicant or the applicant's representative.

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<sup>2</sup> Ordinance #134, Amendment #155 adopted on August 12, 2008

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4. The pre-hearing conference shall be scheduled and conducted on an expeditious basis so as to avoid unreasonable delay to the applicant. Sufficient time shall be taken, however, to achieve the purposes of the pre-hearing conference, stated above.

### D. Hearing Procedure

1. The applicant shall have the burden of proof. In order to be entitled to relief, the applicant must demonstrate each of the four factors set forth in Section 24.12.B. 1-4<sup>3</sup>.
2. Manner of Presentation
  - a. Community representatives shall present an overview of the zoning regulations involved. This may include an indication of the objectives sought to be achieved in the zoning district, and any planning, engineering, financial, environmental or other considerations which are generally relevant within the zoning district and/or in the general area of the property at issue.
  - b. The applicant may present witnesses, including the applicant, or may submit affidavits, for the purpose of attempting to prove facts or conclusions. The applicant shall be provided with the opportunity to present all testimony and evidence proposed to be presented at the pre-hearing conference, either through witnesses or affidavits; however, the chairperson of the County Board of Commissioners may restrict testimony and evidence which would result in unreasonable duplication. In addition, by motion made on its own or at the request of a person at the hearing, the County Board of Commissioners may require the presence of any witness who has offered either testimony by affidavit on a material question of fact or testimony of an expert nature, with the view of permitting members of the County Board of Commissioners to ask questions of such witnesses.
  - c. At the conclusion of the applicant's presentation, interested persons attending the hearing shall be provided with the opportunity to present testimony and evidence in the same manner and subject to requiring the presence and questioning of witnesses, as provided above for the applicant.
  - d. When interested persons have completed their presentations, at the same meeting and/or at an adjourned meeting date, testimony and evidence may be presented on behalf of the community in the same manner, and subject to requiring the presence and questioning of witnesses, as provided above for the applicant. The purpose of such presentation shall be to ensure that a full picture, including all relevant information, is before the County Board of Commissioners for consideration as it relates to the specific application presented.
  - e. If testimony or evidence has been offered by or on behalf of interested persons and/or the community, the applicant shall have the opportunity to make a responsive presentation, restricted to answering the points raised by interested persons and community representatives. The manner of presenting witnesses, and requirement of their presence and questioning, shall be the same as provided above for the applicant's principal presentation.
  - f. At the hearing, the County Board of Commissioners may determine to establish other rules of procedure, such as meeting hours on any given day, procedure for presentations by interested persons and/or on behalf of the community, or other rules found to be necessary or appropriate by the County Board of Commissioners. When questions of procedure arise during the hearing, the chairperson of the County Board

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<sup>3</sup> Ordinance #134, Amendment #155 adopted on August 12, 2008

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of Commissioners may solicit the recommendation of the representatives of both the applicant and the community.

- g. If a hearing is not completed at a given meeting within the time period allowed by the County Board of Commissioners, the County Board of Commissioners shall adjourn the hearing to a date certain for continuation.

E. Decision of the County Board of Commissioners

1. The County Board of Commissioners may deem it appropriate in any given case to provide an opportunity for anyone presenting testimony or evidence to submit proposed findings of fact and conclusions.
2. At the conclusion of the hearing, the County Board of Commissioners may make its decision at that meeting, or it may adjourn the hearing to a new date for the purpose of reviewing the testimony and evidence, and reviewing proposed findings and conclusions submitted by hearing participants, in preparation for making its decision.
3. If the County Board of Commissioners determines to grant a Hardship PUD, it shall be the minimum relief required to allow reasonable use of the property, while maintaining the essential character of the area. The motion may include conditions that are authorized by law.
4. If the County Board of Commissioners adopts a motion to grant a Hardship PUD, such motion may be made as a tentative grant of relief, subject to review by the planning commission, planning director/consultant, engineer or other person or official with expertise, with a view of obtaining recommendations on any conditions that may be relevant and authorized by law, and for the further purpose of ensuring that the grant of relief would not violate applicable law. If a motion authorizing such a tentative grant of relief is made, the County Board of Commissioners, in the same motion, should request the completion of all reviews by other boards or persons by a specific date, so that relief may be expeditiously finalized.

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**ARTICLE TWENTY-FIVE**

**SITE PLAN REVIEW**

**SECTION 25.01 - PURPOSE**

The intent of this Section is to provide for consultation and cooperation between the applicant and the County Planning Commission in order that the applicant may accomplish his objectives in the utilization of his land within the regulations of this Zoning Ordinance and with minimum adverse affect on the use of adjacent roads and highways, and on existing and future uses and the environment in the immediate area and vicinity. It is further the intent of this Section that where a site plan is required, the size, shape, placement and design of buildings, parking lots, landscaping, fencing and related changes to a lot or parcel are all made consistent with a site plan which is submitted and reviewed to establish conformance or nonconformance with the requirements of this Ordinance and any other applicable local, county, state or federal regulations. To these ends, specific data submittal requirements, review procedures and standards to guide review and approval of site plans are set forth.

**SECTION 25.02 - USES REQUIRING SITE PLAN APPROVAL**

- A. The Zoning Administrator shall not issue a Zoning Permit, nor shall the Building Official issue a building permit for any principal use listed below, nor for any accessory use on a lot or parcel for which site plan approval was previously granted or is required, until a site plan covering the entire lot or parcel has been reviewed and approved:
1. The Planning Commission shall review and approve, deny, or approve with conditions all site plans involving the following, except those provided in Section 25.02.A.2 and 25.02.B below:
    - a. Any new principal use or any expanded principal use requiring more than ten (10) parking spaces in any district;
    - b. All uses requiring a Special Use Permit as specified in each zoning district, except Section 23.10.A<sup>1</sup> and Section 23.10.Z<sup>2</sup>.
    - c. All new or substantially redeveloped uses within the Commercial (C-1) District, the General-Industrial (G-I) District, and the Light-Industrial (L-I) District, and for erection of new principal buildings on all public lands.
    - d. All Planned Unit Developments.
  2. The Zoning Administrator, or the Planning Commission when requested by the Zoning Administrator, shall review and approve, deny, or approve with conditions site plans for expansion of all uses listed in Section 25.02.A.1(c) that are under 20% of the existing structure size, and all expansions requiring less than ten (10) new parking spaces.

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<sup>1</sup> Ordinance #134, Amendment #155 adopted on August 12, 2008

<sup>2</sup> Ordinance #143, Amendment #164 adopted on June 29, 2012



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- B. The Zoning Administrator, or Planning Commission when requested by the Zoning Administrator, may waive Site Plan Review and action thereon where:
1. a change of use requires no new buildings or structures, no expansion in area or height of existing structures or buildings and no new parking;
  2. an expansion of an existing use involves only the erection of an accessory structure of a size and location that meets all applicable nondiscretionary standards of this Ordinance or minor building alterations in the discretion of either the Zoning Administrator or Planning Commission;
  3. all such waivers are recorded by the Zoning Administrator in a log, along with the rationale for the waiver.

**SECTION 25.03 - APPLICATION PROCEDURES**

- A. All land for which site plan approval is sought must be owned or under the control of the applicants who must have a majority ownership interest if there is more than one owner. The Zoning Administrator may research the parcel ownership and if unsatisfied that the applicant(s) have the majority ownership interest in the property, may require proof thereof. No review of a site plan application may proceed if the Zoning Administrator is unsatisfied that an application has been filed by a person(s) with a bona fide majority ownership interest in the parcel.
- B. An application for preliminary or final Site Plan Review or for a major amendment to a previously approved site plan, along with, the required fee, and ten (10)<sup>3</sup> copies of the preliminary or final site plan to be reviewed shall be submitted to the Zoning Administrator at least fourteen (14)<sup>4</sup> days prior to the date of the Planning Commission meeting at which the review is to be conducted.
- C. An application for Site Plan Review by the Zoning Administrator for projects covered by Section 25.02.A.2, along with the required fee and five (5) copies of the site plan to be reviewed shall be submitted to the Zoning Administrator. No application shall be processed until it contains all the information required by this Ordinance and all required fees are paid. An application which is incomplete shall be returned to the applicant.
- D. All information depicted on a preliminary or final site plan shall be prepared by, or under the direct supervision of a professional engineer, architect, land surveyor, or landscape architect licensed in Michigan or an AICP or PCP certified professional community planner as indicated by the signature and seal of the professional. This requirement may be waived by the Zoning Administrator for site plans involving only accessory structures or minor building alterations as documented by the Zoning Administrator in the official log of waivers.
- E. The Zoning Administrator shall record the date of the receipt of all materials. When all required materials have been received and are determined by the Zoning Administrator to be complete, the Zoning Administrator shall conduct a review of the site plan, attempt to resolve areas of noncompliance and concern with the applicant, and then for projects covered by

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<sup>3</sup> Ordinance #143, Amendment #164 adopted on June 29, 2012

<sup>4</sup> Ordinance #143, Amendment #164 adopted on June 29, 2012

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Section 25.02.A.1, forward the application, the preliminary or final site plan, and the review thereof to the Planning Commission prior to the meeting at which it will be considered.

- F. The Zoning Administrator shall review and approve or approve with conditions, all other site plans within thirty (30) days, unless the Zoning Administrator requests Planning Commission input prior to approval. The Zoning Administrator shall document, prior to approval of any site plan within his or her authority to approve, that conformance with the site plan submittal requirements applicable to final site plans in Section 25.06 and the standards in Section 25.05 have been met. The authority granted to the Planning Commission in Section 25.07 also rests with the Zoning Administrator on those site plans (s)he has the authority to approve.

**SECTION 25.04 - PRELIMINARY SITE PLAN REVIEW AND  
SUBMITTAL REQUIREMENTS**

- A. Preliminary plans may be submitted for review to the Planning Commission prior to final site plan submittal. The purpose of such procedure is to allow discussion between the applicant and the Planning Commission to better inform the applicant of the degree to which the proposed preliminary site plan conforms with Ordinance requirements prior to incurring extensive engineering and other costs which might be necessary to receive final site plan approval. The Planning Commission shall review a preliminary site plan and make recommendations to the applicant at a regular Planning Commission meeting based on the purposes, objectives and requirements of this Ordinance and, specifically, the standards in Section 25.05 when applicable. In addition to the property owners and applicant's full name, address, telephone, fax and E-mail numbers and signature(s), as well as those of the preparer of the site plan, the following data is required to be depicted on every preliminary site plan, except if waived by the Zoning Administrator:
1. Legal description of the property.
  2. Small scale sketch of properties, streets and use of land within one half (1/2) mile of the area.
  3. A generalized map showing any existing or proposed arrangement of:
    - a. Streets.
    - b. Lots.
    - c. Access points and parking areas.
    - d. Other transportation arrangement.
    - e. Buffer strips, landscaping, screening and fenced areas.
    - f. Natural characteristics, including, but not limited to, open space, stands of trees, brooks, ponds, floodplains, wetlands, hills, and similar natural assets.
    - g. Signs - location and lighting.
    - h. Buildings.
    - i. Easements.
    - j. Type and location of sewage and waste disposal facilities and water supply facilities existent or proposed for installation.
  4. Sketch building elevations.
  5. A narrative describing:
    - a. The overall objectives of the proposed development.
    - b. Number of acres allocated to each proposed use and gross area in building, structures, parking, public and/ or private streets and drives, recreational and open space.

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- c. Dwelling unit densities by area, number and type. Total number, type and square footage of structures by structure that are not dwelling units; employees by shift and related information as pertinent or otherwise required by this Ordinance.
  - d. Proposed method of providing sewer or septic and water service, as well as other public and private utilities.
  - e. Proposed method of providing storm drainage.
  - f. Proposed method of re-vegetating open land areas, both pre-existing and newly created, to a stable condition.
  - g. Applications made and approvals received, including all conditions, from other County, State and Federal authorities, as well as any that have not yet been granted or have been denied.
  - h. Project completion and phasing schedule. The concept for all phases after the first shall be submitted along with the site plan for the first (or the current) phase.
  - i. A description of any existing deed restrictions of record.
- B. In addition to the above said applicant shall submit a fee in accordance with Section 27.04 to cover the normal and specially incurred expenses of the Planning Commission. For site plans reviewed by the Planning Commission, one-half of said fee shall be paid upon submission of the preliminary site plan and the balance upon submission of the final site plan. Fees for all other Site Plan Reviews shall be paid upon submission of the site plan.
- C. The Planning Commission may waive the requirements of Section 25.04 Preliminary Site Plan Review.<sup>5</sup>

### **SECTION 25.05 - STANDARDS FOR REVIEW OF PRELIMINARY AND FINAL SITE PLANS**

- A. Prior to approval of any preliminary or final site plan by the Planning Commission, or by the Zoning Administrator, conformance with the following standards shall be ascertained:
1. Ingress and egress to the property and proposed structures shall provide motor vehicle and pedestrian safety and convenience, efficient traffic flow and control, and easy access in cases of fire, catastrophe or emergency. Site plans shall fully conform with the driveway and traffic safety standards of the Michigan Department of Transportation and the Kalkaska County Road Commission. Sidewalks, bicycle paths and/or a trail system linking the property to abutting property, trails, or public rights-of-way shall be provided where such other facilities exist or are planned.
  2. Off-street parking and loading areas where required, shall be satisfactory in size, shape and design and not present significant noise, glare, odor or other nuisance effects on adjoining properties and properties in the proposed development.
  3. Public sewer or septic system, water supply and storm drainage shall be sited in locations, which provide suitable availability and compatibility with adjacent uses and structures. Site plans shall fully conform with the requirements of the Michigan Department of Public Health and the County Health Department. See Article 17.
  4. The type, dimensions and character of open spaces, landscaping, screening and buffering shall enhance the design, character, use and value of the property and abutting lands and

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<sup>5</sup> Ordinance #138, Amendment #159 adopted on June 9, 2009

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- waters. Any exterior lighting shall be designed to prevent unnecessary illumination of the night sky and shall be shielded from adjacent properties. See Article 18.
5. Signs, if any, and their proposed size, shape, height and lighting relative to glare, traffic safety, and economic effect, shall be aesthetically pleasing, compatible and in harmony with signs, structures and uses of adjoining properties. See Article 19.
  6. The number, size and height of dwellings, buildings and structures, as well as their locations with reference to required yards shall be compatible with existing or planned development in the area and shall be designed consistent with all applicable fire and safety codes.
  7. Proposed uses and structures shall be generally compatible with adjacent properties.
  8. The site plan shall be consistent with the general purposes and spirit of this Ordinance and the Master Plan of the County.
  9. The applicant may be required by the Planning Commission to place property corner stakes and building corner stakes as a condition to the review of a final site plan.
  10. Garbage storage and disposal and recycling bins shall be designed to ensure no vermin or rodent infestation and easy access to facilities which are screened from view from the road or abutting properties when not in use. See Article 18.
  11. The applicant shall demonstrate that reasonable precautions will be made to prevent hazardous substances from entering the soil or water including:
    - a. Sites at which hazardous substances are stored, used or generated shall be designed to prevent spills and discharges to the air, surface of the ground, groundwater, lakes, streams, rivers, or wetlands.
    - b. Secondary containment for above ground areas where hazardous substances are stored or used shall be provided. Secondary containment shall be sufficient to store the substances for the maximum anticipated period of time necessary for the recovery of any released substances.
    - c. General purpose floor drains shall only be allowed if they are approved by the responsible agency for connection to a public sewer system, an on-site closed holding tank (not a septic system), or regulated through a State of Michigan groundwater discharge permit.
    - d. State and federal requirements for storage, spill prevention, record-keeping, emergency response, transport and disposal of hazardous substances shall be met. No discharges to groundwater, including direct and indirect discharges, shall be allowed without required permits and approvals.
    - e. Underground storage tank installation, operation, maintenance, closure, and removal shall be in accordance with the requirements of the State Police Fire Marshal Division and the Michigan Dept. of Environmental Quality.
    - f. Bulk storage facilities for pesticides and fertilizers shall be in compliance with requirements of the Michigan Dept. of Agriculture.
  12. Earth moving activities necessary to reshape land consistent with the site plan shall be in compliance with requirements of the Natural Resources and Environmental Protection Act, PA 451<sup>6</sup> of 1994, and the County Soil Erosion and Control requirements. They shall also minimize: soil erosion and sedimentation, alteration of protected wetlands and floodplains and negative impacts on related natural features, as applicable.

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<sup>6</sup> Ordinance #144, Amendment #165 adopted on October 10, 2012

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- B. The site plan shall fully conform with this Ordinance, and all applicable County, State and Federal statutes, rules and regulations.

**SECTION 25.06 - FINAL SITE PLAN SUBMITTAL REQUIREMENTS**

- A. In addition to the property owners and applicant's full name, address, telephone, fax and email numbers, and signature(s) as well as those of the preparer of the site plan, the following data, and such items as may be requested by the Planning Commission from its review of the optional preliminary site plan is required to be depicted on every final site plan submitted for review and approval, except if waived by the Zoning Administrator:
1. Legal description of the property and a survey including plat or condominium subdivision name, lot numbers, property lines including angles, dimensions, and a reference to a section corner, quarter corner, or point on a recorded plat. Include a copy of any existing deed restrictions or previous zoning approval which limits use of the property, as well as any proposed deed restrictions, or in the case of a condominium development, the proposed master deed.
  2. Small scale sketch of properties, streets and use of land within one half (1/2) mile of the area including driveway locations of uses across the street.
  3. A map at a scale not to exceed one (1) inch equals two hundred (200) feet (1" = 200') with a north arrow. The following items shall be shown on the map:
    - a. Existing zoning classification of the site and surrounding properties and any variances to be requested.
    - b. Name, address and seal of the preparer and date site plan was prepared or last updated.
    - c. The topography of the site at a minimum of two (2) foot intervals and its relationship to adjoining land.
    - d. Existing man-made features and existing natural features, including all trees and woods on site and all drains, streams, lakes, ponds, floodplains, and similar features on the site with an indication as to which will be retained and which will be removed or altered by earth changes.
    - e. Dimensions of yards, setbacks, locations, heights and size, use and shape of all buildings and structures. Lot area, lot coverage, floor area, floor elevation, and building height by side of building shall all be indicated.
    - f. Location and width of alleys, sidewalks, easements and street rights-of-way, indicating proposed access routes, acceleration, deceleration, special right or left turn lanes, parallel access drives, internal circulation, and relationship to existing rights-of-way. The inside radii of all curves including driveway curb returns shall be indicated. All proposed traffic control measures (including signs) and the name of proposed streets or drives shall also be indicated.
    - g. Proposed grading, drainage systems, on-site retention and detention basins, and the direction of drainage flow.
    - h. Location and type of drainage, sanitary sewers, storm sewers, water, electric and gas lines and any other utilities as well as any easements that exist or are proposed for the installation, repair and maintenance of utilities. Any septic systems, drain fields, dry wells, catch basins, water wells (active or abandoned), and underground storage tanks (active or abandoned) shall also be indicated, as well as the point of discharge for all drains and pipes.
    - i. Location and type of open space and recreational areas, fences, landscaping, buffer strips, and screening on a landscape plan which includes the following:

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- 1) Location, spacing, size, and root type [bare root (BIR) or balled and burlaped (BB)] and descriptions for each plant type proposed for use within the required landscape area.
  - 2) Minimum scale: 1" = 200'.
  - 3) Typical straight cross-section including slope, height, and width of berms and type of ground cover, or height and type of construction of wall or fence, including footings.
  - 4) Significant construction details to resolve specific site conditions, such as tree wells to preserve existing trees or culverts to maintain natural drainage patterns.
  - 5) Planting and staking details in either text or drawing form to ensure proper installation and establishment of proposed plant materials.
  - 6) Identification of existing trees and vegetative cover to be preserved.
  - 7) Identification of grass and other ground cover and method of planting.
  - 8) Identification of landscape maintenance program including statement that all diseased, damaged, or dead materials shall be replaced in accordance with standards of this Ordinance.
- j. Location and type of signs and on-site lighting. See Article 19.
  - k. Proposed parking areas and drives including maneuvering lanes, loading areas and surface materials. Parking areas shall be designed showing individual spaces and shall conform with the provisions of Article Seventeen.
  - l. Existing and proposed trash receptacles and dumpsters and the location and specifications of any proposed above or below ground storage facilities for any chemicals, salts, flammable materials, or hazardous materials, as well as any containment structures or clear zones required by government authorities.
  - m. Dimensions and number of proposed lots or condominium units.
  - n. Any other information necessary to establish compliance with County Ordinances.
4. Building elevations.
  5. A narrative describing the items indicated in Section 25.04(5) as pertinent to final Site Plan Review. In addition, a statement and other evidence or proof by the applicant of present and future compliance with the criteria required for approval in Section 25.05, and any other pertinent standards of this Ordinance.
- B. The applicant may be required by the Planning Commission to place property stakes and building corner stakes.

### **SECTION 25.07 - PLANNING COMMISSION PUBLIC HEARING, SITE PLAN REVIEW AND APPROVAL PROCEDURES**

- A. Site plans which are a part of a special use or Planned Unit Development request shall have a public hearing preceded by notice as specified in those sections. No separate or additional public hearing is necessary. Nor shall review of any other site plan required by this Ordinance require a public hearing, but the Planning Commission may conduct one if it desires to.
- B. After conducting a public hearing, the Planning Commission shall either approve, deny, or approve with conditions the site plan based on the standards listed in Section 25.05 and any other pertinent requirements of this Ordinance. Any conditions required by the Planning Commission shall be shown on the site plan, as well as stated in writing and delivered to the applicant. The Planning Commission shall document its conclusions, the rationale for the

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conclusions, and if an application is denied, but approval appears feasible, what must be done to obtain approval.

- C. Further, the Planning Commission is empowered to require a performance bond, certified check, irrevocable letter of credit, and/or cash bond in the amount equal to the estimated cost of improvements associated with the project per the requirements of Section 21.29.
- D. Each development for which site plan approval is required shall be under construction within one (1) year after the date of final approval by the Planning Commission. If said applicant does not fulfill this provision, the Commission may grant a sixty (60) day extension, provided the applicant has an opportunity, preceded by at least ten days notice, to present reasonable evidence, which is discussed at a public meeting of the Planning Commission, to the effect that said development has encountered unforeseen difficulties but is then ready to proceed. Should neither of the aforementioned provisions be fulfilled or a sixty (60) day extension has expired without construction underway, the site plan shall be null and void. It may be reconsidered only upon reapplication and payment of all fees.
- E. Upon approval of said site plan, the Zoning Administrator shall sign and date four (4) copies thereof. One (1) signed copy shall be made part of the Planning Commission's files, one (1) shall be forwarded to the Building Official for issuance of a building permit. The third copy shall be returned to the applicant and the fourth to the Township in which the project is located. If any variances from the Zoning Ordinance have been obtained from the Zoning Board of Appeals relative to the property for which site plan approval was granted, the minutes concerning the variances, duly signed and dated, shall also be filed with the Planning Commission records as a part of the approved site plan and a copy delivered to the applicant.

**SECTION 25.08 - CONDITIONAL APPROVALS**

- A. As provided in the Michigan Planning Enabling Act, PA 33 of 2008, amended,<sup>7</sup> site plans for uses requiring a special use permit, Planned Unit Developments or other discretionary approvals, including those of the Zoning Board of Appeals, may be approved with reasonable conditions.
- B. The conditions may include conditions necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner.
- C. A site plan shall be approved if it contains the information required and is in compliance with this Zoning Ordinance and with the conditions imposed pursuant to this Ordinance, other applicable Ordinances, and State and Federal statutes.
- D. Decisions rejecting, approving, or conditionally approving a site plan or other discretionary approval shall be based upon requirements and standards contained in this Zoning Ordinance, other applicable Ordinances, and State and Federal statutes.

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<sup>7</sup> Ordinance #139, Amendment #160 adopted on January 27, 2010

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- E. Once the site plan is approved and properly signed, any necessary Special Use Permit, Planned Unit Development permit, Zoning Permit, or building permit may be issued.

**SECTION 25.09 - RECORDING CONDITIONS WITH REGISTER OF DEEDS**

- A. At the direction of the body or official making the final decision to approve or approve with conditions a Planned Unit Development, uses subject to a special use permit, variance or other discretionary approval authorized by this Ordinance, or as otherwise may be specified by this Ordinance, or at the discretion of the Zoning Administrator, the approval or approval with conditions may be recorded with the County Register of Deeds (unless this Ordinance requires for the specific activity that the conditions shall be recorded). The following requirements shall be met with each recording along with any other pertinent requirements in this Ordinance:
1. The applicant shall record an affidavit with the County Register of Deeds containing the full legal description of the project site, specifying the date of final County approval, and declaring that all improvements will be carried out in accordance with the approved site plan or variance unless an amendment thereto is adopted by the County. In addition, all deed restrictions and easements associated with the property shall be duly filed with the Register of Deeds of the County in which the property is located and copies of all recorded documents shall be presented to the Zoning Administrator.
  2. Record of Agreement: A copy of any agreement between joint users of parking areas shall be filed with the application for a building permit and recorded with the Register of Deeds of Kalkaska County. The agreement shall include a guarantee for continued use of the parking facility by each party. A copy of all recorded documents shall be presented to the Zoning Administrator.
  3. All documents to be recorded with the County Register of Deeds shall be first reviewed and approved as to form and content by the County Attorney.

**SECTION 25.10 - SITE PLAN AMENDMENT**

No changes shall be made to an approved Site Plan prior to or during construction except upon application to the Zoning Administrator according to the following procedures:

- A. Minor changes to an approved Site Plan involving changes of a few feet in the location of buildings and structures, utilities, walkways, traffic-way, parking areas, and similar minor changes may be approved by the Zoning Administrator. The Zoning Administrator shall keep an accurate record of all such changes made and send a copy of the record of each change to the Planning Commission within seven (7) days.
- B. Major changes or amendments to an approved Site Plan involving change in the number and location of accesses to public streets or roads, a reduction in the number of parking spaces, a major relocation of a building, and increase in the gross floor area or heights of buildings, a reduction in the open space, and similar major changes, shall require the approval of the



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Planning Commission, in the same manner as the original application was submitted, reviewed, and approved and subject to a finding of all of the following:

1. Such changes will not adversely affect the initial basis for granting approval;
2. Such changes will not adversely affect the overall project in light of the intent and purpose of such development as set forth in the approved application; and
3. Such changes shall not result in any significant reduction of open space area as required herein.

**SECTION 25.11 - CONFORMITY TO APPROVED SITE PLANS**

Property which is the subject of site plan approval must be developed in strict compliance with the approved site plan and any amendments thereto which have received the approval of the permit issuing authority. If construction and development does not conform with such approved plans, the owner shall be cited with a violation of the Ordinance and notified that following a hearing, the permit may be revoked. Upon revocation of such approval, all construction activities shall immediately cease upon the site, other than for the purpose of correcting the violation.

**SECTION 25.12 - APPEALS OF SITE PLAN DECISIONS**

Within fifteen (15) days following the date of decision, an appeal of a site plan decision made by the Zoning Administrator may be taken to the Board of Appeals in the same manner as other administrative decisions. The concurring vote of a majority of the members of the Board of Appeals shall be necessary to reverse any decision by the Zoning Administrator, or to decide in favor of the applicant. The appeal may be taken by any person aggrieved or by any officer, department, board, or bureau of the County, or State. The Board of Appeals shall state the grounds of each determination. An appeal of a site plan decision by the Planning Commission may be taken to Circuit Court but may not be taken first to the Board of Appeals.

**SECTION 25.13 - AS BUILT SITE PLANS**

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

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**ARTICLE TWENTY-SIX**

**BIOFUEL PRODUCTION FACILITIES**

**SECTION 26.01 – PURPOSE**

A. Biofuel production facility as permitted use of property; requirements; special land use approval; application; hearing; conditions; authority of local unit of government; definitions.

1. Biofuel production facilities are allowed in Resort-Residential (R-R), Forest-Recreational (F-R), and Agricultural-Residential (A-R) zoning districts if in compliance with Article Twenty-Six.

**SECTION 26.02 – APPLICATION PROCEDURES**

An application for permission to establish a special use shall be submitted and acted upon in accordance with the following procedures:

A. Applicant

Any person owning or having an interest in the subject property may file an application for one or more Special Use Permits provided for in this Ordinance in the zoning districts in which the land is situated.

B. Application

Applications for Special Use Permits shall be submitted through the Zoning Administrator to the County Planning Commission. Each application shall be accompanied by the payment of a fee in accordance with the schedule of fees adopted by the County Board of Commissioners (BOC) to cover the costs of processing the application. No part of any fee shall be refundable.

**Section 26.03 – DETERMINATION OF USE**

A. Primary Uses

A biofuel production facility with an annual production capacity of not more than one hundred thousand (100,000) gallons of biofuel is a permitted use of property and is not subject to special land use approval if all of the following requirements are met:

1. The biofuel production facility is located on a farm.
2. The biofuel production facility is located not less than one hundred (100) feet from the boundary of any contiguous property under different ownership than the

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property on which the biofuel production facility is located and meets all applicable setback requirements of the Zoning Ordinance.

3. On an annual basis, not less than seventy-five (75) percent of the feedstock for the biofuel production facility is produced on the farm where the biofuel production facility is located, and not less than seventy-five (75) percent of the biofuel or another product or by-product produced by the biofuel production facility is used on that farm.

**B. Uses Subject to Special Use as provided by Article Twenty-Three**

1. A biofuel production facility with an annual production of not more than one hundred thousand (100,000) gallons of biofuel that meets the requirements of Section 26.03.A.1 and 2, but not Section 26.03.A.3.
2. A biofuel production facility with an annual production capacity of more than one hundred thousand (100,000) gallons but not more than five hundred thousand (500,000) gallons of biofuel that meets the requirements of Section 26.03.A.1 and 2.

**SECTION 26.04 - REQUIREMENTS**

**A. An application for approval of a biofuel production facility must meet the following criteria:**

1. The requirements of Article Twenty-Three.
2. A site plan as required per Article Twenty-Five of the Kalkaska County Zoning Ordinance (KCZO), including a map of the property and existing and proposed buildings and facilities.
3. A description of the process to be used to produce biofuel.
4. The number of gallons of biofuel anticipated to be produced annually.
5. An emergency access and fire protection plan that has been reviewed and approved by the appropriate responding police and fire departments.
6. For an ethanol production facility that will produce more than ten thousand (10,000) proof gallons annually, completed United States Department of Treasury, alcohol, and tobacco tax and trade bureau, forms 5000.29 (environmental information) and 5000.30 (supplemental information on water quality considerations under 33 USC 1341(a)), or successor forms, required to implement regulations under the National Environmental Policy Act of 1969, 42 USC 4321-4347, and the Federal Water Pollution Control Act, 33 USC 1251 to 1387.
7. Information that demonstrates that the biofuel production facility will comply with the requirements of Section 26.03.B and 26.05.A.
8. Any additional information requested by the body or official responsible for granting special land use approval and relevant to compliance with a Zoning Ordinance provision described in Article Twenty-Three.
9. Must be in compliance with the general standards of the specific Zoning District.
10. Any other information necessary to establish compliance with this Ordinance.

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B. Incomplete Application

An application which is incomplete or otherwise not in compliance with this Ordinance shall be returned to applicant. No application shall be processed until properly prepared and submitted and all required fees paid in full.

C. Copy of Application to Township

The Zoning Administrator shall forward a copy of the application for the special use request to the Township Board within seven (7) days of receiving the request. The Township may review the application and make recommendations within twenty-one (21) days after receipt thereof, to the County Planning Commission, for consideration thereby. All comments or recommendations shall be advisory and shall be submitted in writing to the County Planning Commission.

D. Hearing

Upon receipt of a complete application for a Special Use Permit, the Planning Commission shall call a public hearing within sixty (60) days for the purpose of receiving comments relative to the Special Use Permit application. A notice shall be published in a newspaper which circulates in the County and sent by mail or personal delivery to the owner or owners of the property, to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question, and to the occupants of all structures within three hundred (300) feet. The notice shall be given not less than fifteen (15) days before the date of the hearing. The notice shall:

1. Describe the nature of the Special Use Permit application.
2. Indicate the property which is the subject of the Special Use Permit application.
3. State when and where the Special Use Permit application will be considered.
4. Indicate when and where written comments will be received concerning the application.

E. Prompt Decision

Within a reasonable time following the conclusion of the public hearing on the application, the County Planning Commission shall review the Special Use Permit application, the testimony and evidence received at the public hearing, and any other materials submitted in relation to the application, and shall make a decision either approving, denying or approving with conditions the Special Use Permit application using the criteria set forth in Section 23.03 of this Ordinance, and such other standards contained in this Ordinance relating to the special use under consideration. The County Planning Commission may request a report on any Special Use Permit application from the Zoning Administrator and/or any other County or State agency, as appropriate. Such a report shall assess the conformance of a special use request with the requirements of this Ordinance and the development objectives of the County, and any other applicable County or State regulations concerned with the special use request.

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F. Issuance of a Special Use Permit

Upon approval by the County Planning Commission, the Zoning Administrator shall issue a Special Use Permit to the applicant. It shall be the responsibility of the Zoning Administrator to insure compliance with the terms, conditions and restrictions of any Special Use Permit. The terms of a Special Use Permit shall be recorded with the Register of Deeds and shall be signed by the original permittee in any district. Any conditions shall be binding on subsequent owners.

G. Appeal to the Zoning Board of Appeals

1. Within fifteen (15) days following the date of decision on any Special Use Permit, an applicant or any aggrieved party, including any governmental body or agency, may appeal the decision of the County Planning Commission to the Board of Appeals. Upon the filing of an appeal, the application, all relevant documents and testimony, and the findings and decision of the County Planning Commission shall be transmitted to the Board of Appeals.

H. Decisions

All decisions of the Kalkaska County Planning Commission and Board of Appeals relating to special use applications, including any findings supporting any decision, shall be recorded in written form and retained as permanent records on file with the Zoning Administrator and a copy in the Office of the County Clerk.

I. Reapplication

No application for a Special Use Permit for the same or a very similar use which has been denied wholly or in part by the Planning Commission shall be resubmitted until the expiration of one (1) year or more from the date of such denial, except on the grounds of newly-discovered evidence or proof of changed conditions. A reapplication shall require a new fee and the process will have to begin all over again.

**SECTION 26.05 – BASIS OF DETERMINATIONS**

Prior to approval of a special use application, the County Planning Commission shall insure that the standards specified in this section as well as applicable standards established elsewhere in this Ordinance, shall be satisfied by the completion and operation of the special use under consideration.

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A. General Standards

The County Planning Commission shall review the particular circumstances of the special use request under consideration in terms of the following standards, and shall approve a special use only upon a finding of compliance with each of the following standards, as well as applicable standards established elsewhere in this ordinance.

1. Special land use approval of a biofuel production facility described in Section 26.03.B shall be made expressly conditional on the facility's meeting all of the following requirements before the facility begins operation:
  - a. Buildings, facilities, and equipment used in the production or storage of biofuel comply with local, state, and federal laws.
  - b. The owner or operator of the biofuel production facility provides the local unit of government with proof that all necessary approvals have been obtained from the department of environmental quality and other state and federal agencies that are involved in permitting any of the following aspects of biofuel production.
    - 1) Air pollution emissions.
    - 2) Transportation of biofuel or additional products resulting from biofuel production.
    - 3) Use or reuse of additional products resulting from biofuel production.
    - 4) Storage of raw materials, fuel, or additional products used in, or resulting from, biofuel production.
  - c. The biofuel production facility includes sufficient storage for both of the following.
    - 1) Raw materials and fuel
    - 2) Additional products resulting from biofuel production or the capacity to dispose of additional products through land application, livestock consumption, sale, or other legal use.

B. Conditions:

1. The County Planning Commission may impose conditions with the approval of a Special Use Permit which are necessary to insure compliance with the standards for approval stated in this section and any other applicable standards contained in this Ordinance. Such conditions shall be considered an integral part of the Special Use Permit and shall be enforced by the Zoning Administrator.
2. In authorizing a Special Use Permit, the County Planning Commission may require that a cash deposit, certified check, irrevocable bank letter of credit, surety bond, or other financial guarantee acceptable to the County, be furnished by the developer to insure compliance with such special use requirements. In fixing the amount of such financial guarantee, the County Planning Commission shall take into account the size and scope of the proposed use, current prevailing cost of rehabilitating the premises upon default of the operator of the use, estimated expenses to compel the operator to comply by Court Decree, and such other factors and conditions as might be relevant in

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determining the sum reasonable in the light of all facts and circumstances surrounding each application. See Section 21.29, Performance Guarantees.

3. The terms of a Special Use Permit shall be recorded with the Register of Deeds and shall be signed by the Applicant.

**SECTION 26.06 – EFFECTIVE DATE**

- A. The Special Use Permit shall become effective when the application and site plan have been approved by the County Planning Commission. The Planning Commission may record notice of the permit and all conditions with the Register of Deeds so that all subsequent owners will have legal notice thereof.
  1. Building Permit Contingent on Special Use Permit  
A building permit shall not be issued until approval of such Special Use Permit is given by the County Planning Commission.
  2. No Building without Building Permit  
Until a building permit has been granted pursuant to the Special Use Permit, there shall be no construction or excavation on said land, nor shall use of land be made toward the intended purposes of such Special Use Permit.

**SECTION 26.07 – PERMIT VALIDITY**

- A. Special Use Permit Valid with Change in Ownership  
A Special Use Permit shall be valid regardless of change of ownership, provided that all terms and conditions of the permit are met by any subsequent owner.
- B. Permit Review if Construction not Begun  
In instances where development authorized by a Special Use Permit has not commenced within one (1) year from the date of issuance or the last date of review authorized by this subsection, the County Planning Commission shall review the permit in relation to the applicable standards and requirements of this ordinance. The permit holder shall be notified of the date, time and place of the meeting at which the permit will be reviewed. The permit may remain valid for an additional year, if, upon a finding by the Planning Commission that:
  - a. The permit holder has not taken action to utilize the authorization inherent in the Special Use Permit;
  - b. It is satisfied that the owner or developer is maintaining a good faith intention to proceed with construction;
  - c. There have been no changes in conditions on the property or the surrounding area;
  - d. The provisions of this Ordinance applicable to the Special Use Permit under review have not changed in a way to make the permit no longer in conformance with the requirements of this Ordinance.

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If the Planning Commission fails to find all four of the above factors, the Special Use Permit shall become null and void and no Building Permit shall be issued or reissued in reliance upon it.

**SECTION 26.08 – REQUIREMENTS FOR COMPLIANCE – PENALTIES**

- A. The regulations contained in this Article shall be applied in addition to any other applicable standards or regulations contained elsewhere in this Ordinance (such as for site plans in Section 25.05) unless specifically noted.
- B. It shall be the duty and obligation of the owner(s) and occupant(s) or operator(s) under a Special Use Permit that the continued use of such land shall at all times be in compliance with the use requirements of this Ordinance. Failure thereof shall be a violation of this Ordinance and subject to the penalties and remedies provided in Section 28.02 and the continuance thereof is declared to be a nuisance per se.
- C. The Planning Commission shall have the authority to revoke any Special Use Permit following a hearing, after it has been demonstrated that the holder of the permit has failed to comply with one or more of the applicable conditions specified in the permit. The reasons for any revocation shall be documented in writing and shall accompany the action to terminate. After revocation notice has been given, the use for which the permit was granted must cease within sixty (60) days. Failure to terminate the use for which the permit was revoked within sixty (60) days is declared to be a nuisance per se and a violation of this Ordinance. See Article Twenty-Eight.

**SECTION 26.09 – ONCE GRANTED A SPECIAL USE PERMIT, THE USE IS A PERMITTED USE**

- A. Any use for which a Special Use Permit may be granted shall be deemed a conforming use permitted in the district in which such use is located provided: 1) such permit was issued in conformity with the provisions of this Ordinance; and 2) such permit shall be deemed to affect only the lot or portion thereof and uses thereupon for which the Special Use Permit shall have been explicitly granted.
- B. Uses of land and/or development projects granted special use status by the County prior to the adoption of this amendment to the Zoning Ordinance may continue to have the status of permitted uses, provided the rules, regulations, requirements, and conditions of the permit issued for the special use continue to be met. Any changes to a previously approved special use shall be processed according to the procedures and standards of this Ordinance for special uses, if the use is listed as a special use in this Ordinance.



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**SECTION 26.10 – DEFINITIONS**

**BIOFUEL:** Any renewable fuel product, whether solid, liquid, or gas, that is derived from recently living organisms or their metabolic by-products and meets applicable quality standards, including, but not limited to, ethanol and biodiesel. Biofuel does not include methane or any other fuel product from an anaerobic digester.

**ETHANOL:** A substance that meets the American Standards for Testing and Materials (ASTM) international standard in effect on the effective date of this section as the D-4806 specification for denatured fuel grade ethanol for blending with gasoline.

**FARM:** The term as defined in Section 2 of the Michigan Right to Farm Act, 1981 PA 93, MCL286.472. “Farm” means the land, plants, animals, buildings, structures, including ponds used for agricultural or aquacultural activities, machinery, equipment, and other appurtenances used in the commercial production of farm products.

**PROOF GALLON:** That term as defined in 27 Code of Federal Regulations (CFR) 19.907.

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**ARTICLE TWENTY-SEVEN**

**ADMINISTRATION**

**SECTION 27.01 - ZONING ADMINISTRATION**

The provisions of this Ordinance shall be administered by a Zoning Administrator who shall be appointed by the County Board of Commissioners for such term and subject to such conditions as may be so stated. He or she shall hold office at the pleasure of the Board, and receive such compensation as shall be determined by the Board. The Board may also appoint a Deputy Zoning Administrator under such term, and such compensation as the Board may deem desirable, to work under and assist the Zoning Administrator in the discharge of the duties of the office.

**SECTION 27.02 - DUTIES AND POWERS OF THE ZONING ADMINISTRATOR**

The Zoning Administrator shall enforce this Ordinance, and in furtherance thereto:

- A. All applications for Zoning Permits, Temporary Zoning Permits (see Section 21.17), Certificates of Zoning Compliance, Special Use Permits, Planned Unit Development permits, variances, appeals, requests for Ordinance interpretation and requests for changes to a nonconforming use shall be submitted to the Zoning Administrator who shall issue such permits when all applicable provisions of this Ordinance have been met and approval has been granted by the proper body or official.
- B. The Zoning Administrator shall not approve any plans or issue any Zoning Permits for any excavation or construction until he or she has reviewed such plans in detail and found them to conform with this Ordinance. The Zoning Administrator shall be empowered to make inspections of buildings or premises in order to carry out the enforcement of this Ordinance. The Zoning Administrator shall seek an administrative search warrant through the County Attorney any time a property owner refuses access to a property in order to make an inspection to determine compliance with this Ordinance.
- C. Maintain permanent and correct records of this Ordinance including but not limited to maps, amendments, Special Use Permits, variances and appeals. These shall be filed in the office of the Zoning Administrator and shall be open for public review.
- D. Provide and maintain a public information office relative to all matters arising out of the administration of the Ordinance.
- E. Investigate all applications for variances and Special Use Permits and report his or her findings to the jurisdictional agency.
- F. Initiate appropriate action to prevent, restrain, correct or abate any illegal act or violation of this Ordinance.

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- G. The Zoning Administrator shall maintain a log of all Zoning Permits requested and granted under this Ordinance and all written and signed<sup>1</sup> complaints or identified violations cited and the action taken on each. The Zoning Administrator shall report to the County Planning Commission at intervals not greater than monthly, summarizing for the period since the last previous report, all Zoning Permits issued and all complaints of violation, violation citations, and any action taken on each complaint and violation notice.
- H. Under no circumstances is the Zoning Administrator permitted to make changes in this Ordinance, nor to vary the terms of this Ordinance while carrying out the duties prescribed herein. Wherever the Zoning Administrator is specifically authorized to waive a provision in this Ordinance or to make a discretionary decision, he/she shall document the waiver or the discretionary decision and the reason.
- I. The Zoning Administrator shall contact the Department of Environmental Quality on questions related to proposed development on or adjacent to state or federally owned land, along the Boardman River, or in wetlands or known floodplains. Any questions on the relationship of state permit requirements or procedures relative to that authorized by this Ordinance shall be raised. Copies of permit applications, requests for variances, appeals or changes to regulations shall be forwarded to the appropriate individuals along with a request for a reply in a timely manner.
- J. The Zoning Administrator shall maintain a log of all waivers requested and granted under this Ordinance (see standards in Section 27.05). The log shall include the waiver requested, the applicable section of the Ordinance under which authority for the waiver is found, the decision, and the rationale for the decision. A list of waivers granted shall be transmitted once each month to the County Planning Commission and Zoning Board of Appeals for as long as requested by either the Planning Commission or Zoning Board of Appeals.
- K. The Zoning Administrator shall prepare, maintain and update as necessary a procedures manual for the conduct of all responsibilities delegated by this Ordinance and related ordinances of the County.

**SECTION 27.03 - BUILDING PERMITS, ZONING PERMITS, PLOT PLANS,  
TEMPORARY ZONING PERMITS, AND CERTIFICATES OF  
ZONING COMPLIANCE**

- A. Excavation for a building or structure shall not begin; the erection, addition to, alteration of, or moving of any building or structure shall not be undertaken, or any land shall not be used, or an existing use of land shall not be changed to a use of a different type or class, until a Zoning Permit has been secured from the Zoning Administrator. No building permit shall be issued by the County Building Official nor shall a Zoning Permit be issued until the Zoning Administrator determines the proposed use of land and/or building complies with all the requirements of this Ordinance, including where a Special Use Permit is necessary which first must be approved in compliance with the requirements of Article Twenty-Three. The Zoning Administrator shall issue a Zoning Permit, on application therefore, when it is determined the use of land complies with all the provisions of this Ordinance.

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<sup>1</sup> Ordinance #149, Amendment #170 adopted on July 13, 2016

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- B. Plot Plans: The Zoning Administrator shall require that all applications for uses or structures requiring a Zoning Permit, except those for which Site Plan Review is required, shall be accompanied by plans and specifications, including a plot plan, in triplicate, drawn to scale, showing the following information, unless waived by the Zoning Administrator:
1. The actual shape, location, and dimensions of the lot. If a question arises on these, then a property survey may be required.
  2. The shape, size, and location of all buildings or other structures to be erected, altered, or moved, and of any building or other structures already on the lot.
  3. The existing and intended use of the lot and all such structures upon it, including, in residential areas, the number of dwelling units the building is intended to accommodate.
  4. Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this Ordinance are being observed. The Zoning Administrator shall refuse to accept any plot plan that is unreadable, poorly drawn, not to scale, or does not include the information specified above.
  5. In addition, a copy of applications for the following approvals shall accompany an application for a Zoning Permit:
    - a. Sanitary Sewer or Septic Approval: In the case of a permit for buildings proposed for human occupancy or required by law to have plumbing fixtures, and when public sanitary sewage service are available, a written notice of acceptance or hook-up fee receipt shall be required, or when sanitary sewer is not available, a report from the County Health Department certifying in writing the approval of a private sanitary sewage disposal system.
    - b. Water Supply Approval: A written notice of acceptance or hook-up fee receipt shall be required except when no public water is available, in which case, a report from the County Health Department, certifying approval of private water supply systems shall be provided.
- C. Zoning Permits
1. No land clearing, filling or excavation shall be initiated, no building shall be erected, altered, moved or structural alterations initiated until a Zoning Permit has been issued except as otherwise permitted in this Ordinance.
  2. Any permit granted under this Section shall become null and void after twelve (12) months from the date of granting such permit unless the development proposed or activity authorized shall have passed its first building inspection. Before voidance is actually declared, the Zoning Administrator shall notify the applicant of the pendency of such voiding action by sending a notice to the applicant at the address indicated on the permit application at least ten (10) days before such voidance is effective. The permit may be renewed by the Planning Commission for not more than two (2) additional years without reapplication and without payment of the original fee, subject to the provisions of all ordinances in effect at the time of renewal. If sufficient progress is not made following an extension of a permit, the Planning Commission may refuse another extension.
  3. The Zoning Administrator shall have the power to revoke or cancel any Zoning Permit in case of failure or neglect to comply with any provisions of this Ordinance, or in the case of any false statement or misrepresentation made in the application. The owner or his agent shall be notified of such revocation in writing. Upon such revocation, all further

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construction activities and usage shall cease upon the site, other than for the purpose of correcting the violation. Cancellation of a permit issued for a special land use, Planned Unit Development or variance shall not occur before a hearing by the body which granted the permit. The Zoning Administrator may issue a stop work order to halt all construction activities and usage pending a decision on revocation of said permit.

4. Whenever the buildings, structures, and uses as set forth in any application are in conformity with the provisions of this Ordinance, or a variance granted by the Zoning Board of Appeals, the Zoning Administrator shall issue a Zoning Permit. In any case where a permit is denied, the reasons shall be stated in writing to the applicant. No Zoning Permit shall be issued which relies upon a variance before eight (8) days have expired following the decision of the Zoning Board of Appeals.
  5. It shall not be necessary for an owner of a legal nonconforming structure or use, existing on the effective date of this Ordinance to obtain a Zoning Permit in order to maintain its legal, nonconforming status. However, no nonconforming building, structure, or use shall be renewed, changed, or extended pursuant to Article Twenty until a Zoning Permit has been issued by the Zoning Administrator. In such cases the Permit shall state specifically how the nonconforming building, structure, or use differs from the provisions of this Ordinance.
  6. The Zoning Administrator may withhold any Zoning Permit pending verification that an applicant has received required county, state or federal permits including but not limited to sanitary sewer and water tap-in permits, septic and water well permits, soil erosion and sedimentation control permits, wetlands permits, floodplain, culvert, driveway or building permits. Likewise, wherever this Ordinance authorizes permit approval by the Planning Commission or County Board of Commissioners, the Planning Commission or County Board may condition final approval of the requested development activity upon the receipt of any of the above mentioned county, state or federal approvals and/or direct the Zoning Administrator not to issue a Zoning Permit until said permits from other agencies have been obtained.
  7. A performance guarantee may be required as a condition to the issuance of any Zoning Permit in order to insure conformance with the requirements of this Ordinance. See Section 21.29.
  8. No building permit shall be issued for a new building or structure, one moved, altered, or repaired, or for the expansion of an existing building or structure, before a determination of zoning compliance has been made by the Zoning Administrator.
- D. Temporary Zoning Permits (see Section 21.17 and 19.06 for temporary signs)
1. A Temporary Zoning Permit may be approved, modified, conditioned, or denied by the Zoning Administrator. The Zoning Administrator may refer the application to the Planning Commission.
  2. A written Temporary Zoning Permit will be issued for all temporary uses (see Section 21.17) and shall contain the following information:
    - a. The applicant's name.
    - b. The location and effective dates of the temporary use.

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- c. Conditions specified by which the permit was issued, such as:
    - 1) use and placement of signs.
    - 2) provision for security and safety measures.
    - 3) control of nuisance factors.
    - 4) submission of performance guarantee, if required.
  - d. Signature of the Zoning Administrator on the permit.
3. The following standards shall be met before approval is granted:
- a. The nature and intensity of the temporary use and the size and placement of any temporary structure shall be planned so that the temporary use or structure will be compatible with existing development.
  - b. The use shall not be typically located within a permanent building or structure.
  - c. The parcel shall be of sufficient size to adequately accommodate the temporary use or structure.
  - d. The location of the temporary use or structure shall be such that adverse effects on surrounding properties will be minimal, particularly regarding the traffic generated by the temporary use or structure.
  - e. Off-street parking areas are of adequate size for the particular temporary use or structure and properly located and the entrance and exit drives are laid out so as to prevent traffic hazards and nuisances.
  - f. Signs shall conform to the provisions of this Ordinance (see Article Nineteen).
  - g. Any lighting shall be directed and controlled so as to not create a nuisance to neighboring property owners.
  - h. The Zoning Administrator may impose conditions with the issuance of the permit which are designed to insure compliance with the requirements of this Ordinance. The Zoning Administrator may revoke a permit at any time for nonconformance with the requirements of this section and a permit issued thereunder.
  - i. Permits which are renewable shall have an application filed for renewal at least fifteen (15) days prior to the expiration date of the current permit, except that applications for renewal or extension of a permit for less than fifteen (15) days may be applied for no later than three (3) days prior to the expiration date of the current permit.
4. Upon expiration or revocation of a Temporary Zoning Permit for a temporary use, the temporary use shall cease and all temporary structures, dwellings or buildings shall be removed from the parcel of land. A Temporary Zoning Permit may be revoked or modified by the Zoning Administrator if any one of the following findings can be made:
- a. That circumstances have changed;
  - b. That the Temporary Zoning Permit was obtained by misrepresentation or fraud;
  - c. That one (1) or more of the conditions of the Temporary Zoning Permit have not been met;
  - d. That the use is in violation of any statute, Ordinance, law, or regulation.

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5. An appeal of a decision by the Zoning Administrator relative to denial of a Temporary Zoning Permit for a temporary use or renewal thereof may be taken to the Zoning Board of Appeals pursuant to Article Twenty-Nine of this Ordinance.
6. The Zoning Administrator may require a performance guarantee pursuant to the standards of Section 21.29.

### **E. Certificates of Zoning Compliance**

No land shall be occupied or used and no building shall be used or changed in use until a Certificate of Zoning Compliance shall have been issued by the Zoning Administrator stating that the building and its intended use complies with the provisions of this Ordinance.

1. **Certificates for Existing Buildings:** Certificates of Zoning Compliance may be issued upon request for existing buildings, structures, or parts thereof, or existing uses of land if, after inspection, such uses of land are in conformity with the provisions of this Ordinance. Where the certificate is issued for a building, or use not in conformity with this Ordinance, the certificate shall specify the degree of nonconformity including but not limited to use type, use intensity, structures, and dimensions.
2. **Certificates for New or Changed Uses:** All uses permitted in this Ordinance by Zoning Permit, Special Use Permit, Site Plan Approval, or Planning Unit Development Permit, shall not be occupied or used until a Certificate of Zoning Compliance is issued by the Zoning Administrator.
  - a. Application for Certificates of Zoning Compliance shall be in writing to the Zoning Administrator on a form furnished for that purpose, and such certificates shall be issued within five (5) days after receipt of such application if it is found that the building or structure, or part thereof, or the use of land is in accordance with the provisions of this Ordinance.
  - b. If such certificate is refused for cause, the applicant shall be mailed a notice of such refusal and cause thereof, within the aforesaid five (5) day period.

### **SECTION 27.04 - FEE SCHEDULE AND ESCROW ACCOUNT FOR ZONING FEES**

- A. To assist in defraying the costs of investigating, reviewing and administering zoning applications, appeals, rezoning requests from individual property owners, and other types of decisions which result in costs to the County, the County Board of Commissioners may from time to time adopt by resolution a fee schedule establishing basic zoning fees related to the following:
  1. Zoning Permits and Certificates of Zoning Compliance.
  2. Special Use Permits.
  3. Subdivision and/or land division review by the Planning Commission under Section 15.02.
  4. Appeals to or request for interpretations by the Zoning Board of Appeals. Appeals and requests for interpretations initiated by the County Board of Commissioners, the County

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Planning Commission, the Zoning Administrator or an official Township Body shall not be subject to a zoning fee.

5. Classification of unlisted property uses.
6. Requests for Variances from the Zoning Board of Appeals.
7. Requests for rezoning of property by individual property owners. Rezoning of property initiated by the County Board of Commissioners, the County Planning Commission or an official Township Body shall not be subject to a zoning fee.
8. Site Plan Reviews.
9. Requests for a Planned Unit Development (PUD) or a hardship PUD.
10. 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 are non-refundable, even when an application or appeal is withdrawn by the applicant.

- B. If the Planning Commission or Zoning Board of Appeals determines that the basic zoning fees will not cover the actual costs of the application review or appeal, or if the Planning Commission or Zoning Board of Appeals determines that review of the application and/or participation in the review process or appeal by qualified professional planners, engineers, attorneys or other professionals is necessary, then the applicant shall deposit with the County Treasurer such additional zoning fees in an amount determined by the Planning Commission or the Zoning Board of Appeals equal to the estimated additional costs. The Planning Commission and/or Zoning Board of Appeals may establish procedures for setting the fees for special professional reviews and delegate this responsibility to the Zoning Administrator. 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 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 County in excess of the amount held in escrow shall be billed to the Applicant and shall be paid prior to the issuance of any permit or the release of a final decision on an appeal.

**SECTION 27.05 - ADMINISTRATIVE WAIVER**

- A. Authority and Limit of Waiver: The Zoning Administrator is hereby authorized to grant administrative waivers to the provisions of this Ordinance in an amount not to exceed a ten percent (10%) variation from the site development standards, parking and loading requirements, sign requirements, lot width-to-depth ratios and the specific dimensional, areal,



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and similar provisions and requirements contained in Articles Three through Seventeen of this Ordinance unless a larger amount is specifically permitted elsewhere. This authority does not extend to waiver or consideration of different land uses than those expressly permitted within a zoning district.

- B. Criteria: Upon receipt of a request for an administrative waiver, the Zoning Administrator shall prepare a report of the situation and all factual data concerning the site in terms of: (1) what the situation would be if developed pursuant to the standards stated in this Ordinance; (2) what the situation would be if the administrative waiver were granted; (3) what impacts, if any, on the public and neighboring property owners would result if the administrative waiver were granted; and (4) the conclusion on the waiver request and the rationale for that conclusion. No administrative waiver shall be granted if doing so would create a nuisance or result in significantly more noise, odor, dust, bright or flashing lights, or similar impact on the public or abutting property. Decisions rendered by the Zoning Administrator shall be in the form of a letter which states specifically a determination on each of the items listed above. An appeal on any administrative waiver may be made by any affected person to the Zoning Board of Appeals within eight (8) days following the decision. No decision by a Zoning Administrator on an administrative waiver shall be effective until after this eight (8) day period has passed. All abutting property owners shall receive notice of any administrative waiver request and when a decision is expected to be made, prior to a determination by the Zoning Administrator. Abutting property owners may file a written statement on the administrative waiver request with the Zoning Administrator, but the decision of the Zoning Administrator shall be based on the standards contained in this section, or other section of this Ordinance if specific to a waiver.
- C. Log of Waivers: All waivers shall be recorded in a log pursuant to the requirements of Section 27.02.J).
- D. Appeals: The decision of the Zoning Administrator on a waiver may be appealed to the Board of Appeals pursuant to Section 29.03.A of this Ordinance.
- E. Copy of Waiver Decision: A copy of each waiver decision shall be promptly provided to each member of the Planning Commission and the Zoning Board of Appeals, unless the respective bodies ask to no longer receive a copy.

**SECTION 27.06 - APPEALS TO THE ZONING BOARD OF APPEALS**

Any decision of the Zoning Administrator may be appealed to the Zoning Board of Appeals (see Section 29.03.A). All written records of the Zoning Administrator related to an appeal shall be provided to the Zoning Board of Appeals. The Board shall review the decision in light of the applicable procedures and standards in the Ordinance and overturn the decision of the Zoning Administrator only where the facts do not support the decision made.

**SECTION 27.07 - PUBLIC NOTICES**

All public notices required to be mailed under this Ordinance shall go to the name and address of property owners on record with the Kalkaska County Equalization Department, unless another name and address has been filed with the Zoning Administrator for a particular application.

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**ARTICLE TWENTY-EIGHT**

**VIOLATIONS AND ENFORCEMENT**

**SECTION 28.01 - NUISANCE PER SE**

Any land, dwelling, 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 28.02 - VIOLATIONS**

Any person, partnership, limited liability company, corporation or association who creates or maintains a nuisance per se as defined in Section 28.01 above or who violates or fails to comply with any provision of this Ordinance or any permit issued pursuant to this Ordinance shall be responsible for a municipal civil infraction. The County Zoning Administrator and Sheriff's Department are hereby designated the authorized county officials to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court.

**SECTION 28.03 - EACH DAY A SEPARATE OFFENSE; RIGHTS AND REMEDIES**

Every day that such violation continues shall constitute a separate and distinct offense under the provisions of this Ordinance. The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law. Nothing in this section shall exempt the offender from compliance with the provisions of this Ordinance.

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**ARTICLE TWENTY-NINE**

**ZONING BOARD OF APPEALS**

**SECTION 29.01 - CREATION AND MEMBERSHIP**

There is hereby created a County Zoning Board of Appeals, consisting of five (5) members, who shall be appointed by the County Board of Commissioners for staggered terms, as provided by Section 601 of the Michigan Zoning Enabling Act, PA 110 of 2006, as amended.<sup>1</sup> All members shall be chosen from electors residing in the unincorporated area of Kalkaska County; provided that no elected officer of the County, nor any employees of the Board of Commissioners shall serve simultaneously as a member or as an employee of the Board of Appeals except that one (1) member shall be a member of the County Planning Commission. The compensation of the Zoning Board of Appeals shall be fixed by the County Board of Commissioners.

**SECTION 29.02 - MEETINGS**

- A. Meetings of the Board of Appeals shall be held at the call of the Chairperson, and at such other times as the Board may specify in its rules of procedure. A majority of the total membership present shall comprise a quorum. The Board shall maintain a record of its proceedings, which records shall be filed in the office of the Zoning Administrator, as well as in the office of the County Clerk, and shall be a public record.
- B. All members of the Board of Appeals shall vote on every matter (no abstentions) unless a member of the Board has a conflict of interest. A member of the Board shall request to be disqualified from a vote in which the member has a conflict of interest. The member shall state the nature of the conflict of interest and the Board shall vote whether to excuse the member from participation because of a conflict of interest. Failure to raise an issue of conflict of interest prior to discussion and vote on a matter before the Board, shall constitute misfeasance in office for which the member may be removed, following a hearing.
- C. Conflict of interest may include, but is not limited to considering property a Board member owns or has a legal or financial interest in or adjacent property; considering a request by a party a Board member has close ties with, such as a relative, friend, boss, co-worker or neighbor. The fundamental issue is whether the member of the Board believes he or she can objectively consider the request before the Board.

**SECTION 29.03 - DUTIES AND POWERS**

- A. Powers: Majority Control; Right to Appeal

The Board of Appeals shall act upon all questions as they may arise in the administration of the Zoning Ordinance, including the interpretation of the zoning map. The Board of Appeals may

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<sup>1</sup> Ordinance #144, Amendment #165 adopted on October 10, 2012

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establish rules and regulations to govern its procedure. It shall hear and decide appeals from and review any order, requirements, decision or determination made by an administrative official charged with enforcement of this Ordinance. It shall also hear and decide all matters referred to it or upon which it is required to pass under this Ordinance. The concurring vote of a majority of all members of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant any matter upon which they are required to pass under this Ordinance or to effect any variation in this Ordinance. Such appeal may be taken by any person aggrieved or by any officer, department, board or bureau of the township, county or state. The grounds of every such determination shall be stated.

**B. Time to Appeal and Matter of Taking Appeal; Transmission of Record**

Such appeal shall be taken within such time as shall be prescribed by the Board of Appeals by general rule, by the filing with the Zoning Administrator and with the Board of Appeals of a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board of Appeals all the papers constituting the record upon which the action appealed from was taken.

**C. Stay Pending Appeal**

An appeal stays all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board of Appeals after the notice of appeal shall have been filed with him or her that by reason of facts stated in the certificate, a stay would in his or her opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by the circuit court, on application, on notice to the Zoning Administrator and on due cause shown.

**D. Hearing and Determination of Appeals; Determination not Final**

1. When an application for hearing or appeal has been filed with the required data, in proper form, and the fee paid, the secretary of the Board shall immediately place the said application or appeal upon the calendar for hearing and cause to be served notices stating the time, date, place, and purpose of the hearing. Such notice shall be published in a newspaper which circulates in the county and sent by mail or personal delivery to the owners of the property, to all persons to whom real property within 300 feet of the premises in question is assessed and to the occupants of all structures within the said 300 feet. The names of owners shall be determined from the last assessment roll. If a tenant's name is not known, the term "occupant" may be used. The notices shall be given not less than fifteen (15) days prior to the hearing.<sup>2</sup> The secretary of the Board shall also cause a copy of the notice to be provided to the Planning Commission. For appeals of a Zoning Administrator decision, notification requirements shall comply with those specified in Section 604 of the Michigan Zoning Enabling Act.<sup>3</sup>
2. Any interested party may appear and be heard at such hearing in person or by agent or attorney. Upon the date for hearing any application or appeal, the Board may adjourn the hearing in order to obtain additional information, or to cause service of such further notice as it deems proper. In the case of an adjourned hearing, persons previously notified and persons already heard at the hearing need not be notified of the resumption of the hearing,

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<sup>2</sup> Ordinance #138, Amendment #159 adopted on June 9, 2009

<sup>3</sup> Ordinance #117, Amendment #138 adopted on August 15, 2006

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if the motion to adjourn contains the time, date and place for the resumption of the hearing.

3. The Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination and may issue or direct the issuance of a permit.<sup>4</sup> Where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of such Ordinance, the Board of Appeals shall have power in passing upon appeals to vary or modify any of its rules, regulations or provisions so that the spirit of the Ordinance shall be observed, public safety secured and substantial justice done. The decision of the Board of Appeals may be appealed in circuit court on questions of law and fact by any person having an interest affected by this Ordinance.

E. Variance Standards

Prior to authorizing any variance from Ordinance requirements (including but not limited to lot area and width regulations, building height and bulk regulations, yard width and depth regulations, off-street parking and loading space requirements, and sign regulations) the Zoning Board of Appeals shall ensure that all the standards listed below are met and that the record of proceedings of the Zoning Board of Appeals contains evidence supporting each standard. The Zoning Board of Appeals shall find:

1. That the variance<sup>5</sup> :
  - a) will be in harmony with the general purpose and intent of this Ordinance;
  - b) will not cause a substantial adverse effect upon surrounding property or property values and the use and enjoyment of property in the neighborhood or district.
  - c) If a lesser variance would give substantial relief and be more consistent with justice to others, it shall be so decided.
2. That strict compliance with area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome.
3. That unnecessary hardships or practical difficulties exist which prevent carrying out the strict letter of this Ordinance. These unnecessary hardships or practical difficulties shall not be deemed economic, but shall be evaluated in terms of the characteristics of a particular parcel of land.
4. That practical difficulties exist because of unique circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property that do not generally apply to other property or uses in the same zoning district, and shall not be recurrent in nature.
5. That the unnecessary hardship, or practical difficulties which exist because of unique circumstances or physical conditions, do not result from actions of the applicant.
6. That the variance will relate only to property under control of the applicant.

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<sup>4</sup> Ordinance #134, Amendment #155 adopted on August 12, 2008

<sup>5</sup> Ordinance #134, Amendment #155 adopted on August 12, 2008

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7. That the variance requested is the minimum amount necessary to overcome the inequality inherent in the particular property or mitigate the hardship.
8. That the variance shall not permit the establishment<sup>6</sup> of any use which is not permitted by right within that zoning district, or any use for which a Special Use Permit or a Temporary Zoning Permit is required except where failing to do so would result in a constitutional taking for which compensation would otherwise have to be paid because the application of existing regulations do not permit a reasonable use of land under existing common law or statutory standards.

F. Conditions of Approval

1. In authorizing a variance, the Board may impose specific conditions regarding the location, character, fencing, buffering or landscaping, or such other design changes as are reasonably necessary for the furtherance of the intent and spirit of this Ordinance and to ensure the protection of the public interest and abutting properties (see for example the landscaping standards in Article Eighteen, and those in Section 25.08 on Conditions). Such conditions shall be based on standards in this Ordinance designed to minimize or mitigate the impacts of one land use on another, or to protect the public health, safety or general welfare. To ensure compliance with such conditions, the Board may require a cash deposit, certified check, irrevocable bank letter of credit, or surety bond per the requirements of Section 21.29.

G. Expiration of Authorization:

1. If the variance is granted or if the issuance of the Zoning Permit is finally approved, or other action by the appellant or applicant is authorized, the necessary permit(s) shall be secured and authorized action begun within twelve (12) months after the date when the variance is granted or the issuance of the permit is approved by the Board.
2. Should the appellant or applicant fail to obtain the necessary permit or permits within the twelve (12) month period, or having obtained the same, fail to commence work thereunder within the same twelve (12) month period, it shall be conclusively presumed that the appellant or applicant has waived, withdrawn, and abandoned his appeal or his application, and all permissions, variances, and permits granted to him shall be deemed automatically rescinded by said Board.
3. Before permission is actually rescinded, the Zoning Administrator shall notify the property owner of the pendency of such voiding action by sending a notice to the owner at the address indicated on the permit or variance at least ten (10) days before such voidance is effective. The permit may be renewed for not more than two (2) additional months but without payment of the original fee, subject to the provisions of all Ordinances in effect at the time of renewal.

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<sup>6</sup> Ordinance #149, Amendment #170 adopted on July 13, 2016

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**SECTION 29.04 - PROCEDURES**

A. Adoption of Procedures

The Board of Appeals shall fix rules and regulations to govern its procedures in accordance with the provisions of Section 601 of the Michigan Zoning Enabling Act, Public Act 110 of 2006 as amended.<sup>7</sup>

B. Written Requests

All appeals and requests for variances, or ordinance interpretations over which the Board has jurisdiction shall be filed in writing accompanied by such fee as provided in Section 27.04..

C. Decision Time

All appeals shall be made within thirty (30) days from the date of any decision constituting the basis for appeal. Upon hearing of such appeals, the Board may affirm, change or modify the ruling, decision, or determination, or in lieu thereof make such other or additional determination as it shall deem proper under the circumstances. The Board shall return its decision to the appellant in writing within fourteen (14) calendar days<sup>8</sup> after a request or appeal has been heard unless in the opinion of the Board, an extension of time is necessary to review or gather additional information pertinent to making a decision. The Planning Commission shall be provided with a copy of every decision of the Zoning Board of Appeals at the same time the appellant is notified of the decision.

D. Reapplication

No application for variances, ordinance interpretation or appeals which has been denied shall be resubmitted within one (1) year from the last date of denial, except on grounds of newly discovered evidence or proof of changed conditions found to be valid by the Board or the Zoning Administrator.<sup>9</sup>

E. Rehearing

No request for rehearing or reconsideration of an application denied by the Zoning Board of Appeals shall be granted except upon the grounds of newly discovered evidence or a falsehood previously relied upon which is found upon review by the Board or the inspection by the Zoning Administrator to be valid. A rehearing or reconsideration shall be processed in the same manner as the original application, including a new fee unless it is initiated by the Zoning Board of Appeals or County Board of Commissioners. A request for rehearing shall be made within eight (8) days of the decision of the Zoning Board of Appeals. No Zoning Permit shall be issued which relies upon a variance before eight (8) days have expired following the decision of the Zoning Board of Appeals.

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<sup>7</sup> Ordinance #134, Amendment #155 adopted on August 12, 2008

<sup>8</sup> Ordinance #134, Amendment #155 adopted on August 12, 2008

<sup>9</sup> Ordinance #134, Amendment #155 adopted on August 12, 2008



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**SECTION 29.05 - APPEALS REGARDING SEXUALLY ORIENTED BUSINESSES**

All appeals to the Zoning Board of Appeals which relate to sexually oriented businesses will be processed pursuant to Article Twenty-Nine to the extent the provisions of this Article do not conflict with that portion of Article Twenty-Three, Section 23.02 J. (2). If any provision of Article Twenty-Nine does conflict with Section 23.02 J., the latter shall control.

**SECTION 29.06 - REVIEW BY CIRCUIT COURT**

- A. The decision of the Zoning Board of Appeals shall be final. However, any party aggrieved by the decision may appeal to the Circuit Court for the County of Kalkaska provided that the appeal is filed within whichever of the following deadlines comes first:
- (a) thirty (30) days after the Zoning Board of Appeals issues its decision in writing signed by the chairperson; or
  - (b) twenty-one (21) days after the Zoning Board of Appeals approves the minutes of its decision.<sup>10</sup>
- B. 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. If the Court finds the record of the Zoning Board of Appeals inadequate to make the review required, or that additional evidence exists which is material and with good reason was not presented to the Board of Appeals, the Court shall order further proceedings before the Board of Appeals on conditions which the Court considers proper. The Board of Appeals may modify its findings and decision as a result of the new proceedings, or may affirm its original decision. Any supplementary record and decision shall be filed with the Court.
- D. As a result of the review required by this section, the Court may affirm, reverse, or modify the decision of the Zoning Board of Appeals.

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<sup>10</sup> Ordinance 3144, Amendment #165 adopted on October 10, 2012

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**ARTICLE THIRTY**

**AMENDMENTS**

**SECTION 30.01 - INITIATION OF AMENDMENTS**

- A. The regulations and provisions stated in the text of this Ordinance and the boundaries of Zoning Districts shown on the Zoning Districts Map of Kalkaska County may be amended pursuant to the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended <sup>1</sup>.
- B. Amendments may be initiated by the Board of Commissioners, the County Planning Commission, a Township Planning or Zoning Commission or Board of Trustees whose Township is under the jurisdiction of this Ordinance, a representative of another governmental entity, or by petition of one (1) or more persons having an interest in the property to be affected by the proposed amendment.
- C. The applicant shall submit a formal petition to amend the zoning ordinance on a form established for that purpose to the Zoning Administrator along with the necessary fee. The Zoning Administrator shall review the application form to ensure it is complete. Any application not properly filed or incomplete shall be returned to the applicant. Complete applications shall be transmitted to the Planning Commission. The application shall include the applicant's name and address, the applicant's interest in the property, and if the applicant is not the owner, the name and address of the owner. If a rezoning is proposed, the application shall include a legal description of the property proposed for rezoning; a scale map of the property clearly showing the location of the property; and the desired change and reasons for such change. The reasons shall address all the factors in Section 30.03.
- D. The Planning Commission may authorize the preparation of a proposed amendment to be considered if the written request does not come in the form of an application, or if the Planning Commission independently desires to propose ordinance text to be amended or parcels to be rezoned. The Planning Commission may prepare an alternative to any application which has been submitted, if in the opinion of the Planning Commission it is in the public interest to do so. If an alternative is proposed, both the original application and the alternative shall be considered at the same public hearing.

**SECTION 30.02 - PUBLIC HEARING**

The County Planning Commission shall conduct at least one (1) public hearing on each petition for amendment.

- A. Notice of the time and place of which shall be given by one publication in a newspaper of general circulation in the County not less than fifteen (15) days before the date of such hearing.<sup>2</sup>

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<sup>1</sup> Ordinance #134, Amendment #155 adopted on August 12, 2008

<sup>2</sup> Ordinance #138, Amendment #159 adopted on June 9, 2009

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- B. Not less than fifteen (15) days notice of the time and place of such hearing shall be given by mail to all public utility companies and to railroads within the district affected.<sup>3</sup>
- C. Each notice shall include:
  - 1. The date, time and place of the hearing;
  - 2. Action proposed;
  - 3. Area affected (if rezoning); and
  - 4. Place and time where the Ordinance can be examined and further information on a proposed amendment obtained.
- D. For rezoning(s)<sup>4</sup> of parcels, a notice shall be sent by mail or personal delivery to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question. Such notices shall include the places and times at which the tentative text or map change(s) may be examined. A record of all notices prepared and sent, and to whom they are sent shall be maintained with the file of the application. The notices shall include the places and times at which the tentative text and/or any rezoning maps may be examined.

**SECTION 30.03 - FINDING OF FACTS REQUIRED**

- A. In reviewing any petition for a zoning amendment, the County Planning Commission shall identify and evaluate factors relevant to the petition and shall report its findings in full, along with its resulting recommendations (including any recommended modifications to the petition) for the proper disposition of the petition to the Kalkaska County Board of Commissioners. The factors to be expressly considered by the County Planning Commission shall include, but shall not be limited to the following:
  - 1. What, if any, identifiable conditions related to the petition have changed which justify the amendment?
  - 2. What, if any, error in judgment, procedure, or administration was made in the original ordinance which justifies the amendment?
  - 3. What are the precedents and the possible effects of such precedent which might result from the approval or denial of the amendment?
  - 4. What is the impact of the amendment on the ability of the County and other governmental agencies to provide adequate public services and facilities, and/or programs that might reasonably be required in the future if the petition is approved?
  - 5. On a rezoning, does the petitioned amendment adversely affect the environmental conditions or value of the surrounding property?
  - 6. Are there any significant negative environmental impacts which would reasonably occur if the petitioned zoning change and resulting allowed structures were built; such as:
    - a. surface water drainage problems;
    - b. waste water disposal problems;
    - c. adverse effect on surface or subsurface water quality; and
    - d. the loss of valuable natural resources such as forest, wetlands, historic sites, wildlife, mineral deposits or valuable agricultural land.
  - 7. Does the proposed district change comply with the adopted Kalkaska County Master Plan? If not, and if the proposed zoning change is reasonable, in light of all other relevant

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<sup>3</sup> Ordinance #138, Amendment #159 adopted on June 9, 2009

<sup>4</sup> Ordinance #144, Amendment #165 adopted on October 10, 2012

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factors, then the Plan should be amended before the requested zoning amendment is approved.

8. If a specific property is involved, can the property in question be put to a reasonable economically feasible use in the zoning district in which it is presently located.
  9. Is another procedure, such as a variance, special use or Planned Unit Development procedure a more appropriate alternative than a rezoning?
- B. In determining the degree to which a rezoning request conforms with the factors listed above, the County Planning Commission may solicit information and testimony from officials in other public offices including, but not limited to, the following agencies:
1. County Health Department
  2. County Road Commission
  3. County Drain Commissioner
  4. Any school district affected
  5. Any County agency
  6. Any State or Federal agency or office with an interest in the proposed change
  7. Any professional or firm hired by the County to provide a review or comments on the proposed amendment.
  8. Any local government affected.

**SECTION 30.04 - CONSIDERATION BY THE BOARD OF COMMISSIONERS**

After receiving the recommendations of the County Planning Commission, the Board of Commissioners, at any regular meeting or at any special meeting called for that purpose, shall consider said findings of fact and recommendations and vote upon the adoption of the petitioned amendment. The Board of Commissioners shall make no change in the proposed amendment without first referring the petition back to the County Planning Commission, which shall have thirty (30) days from and after such referral in which to make a further recommendation to the Board of Commissioners, after which the Board of Commissioners shall take such action as it determines. In the event that a petition is referred back to the County Planning Commission, the Board of Commissioners shall make mention of the specific provisions or problems on which they desire further study. Action on an amendment shall be by ordinance, requiring a roll call vote.

**SECTION 30.05 - RESERVED FOR FUTURE USE <sup>5</sup>**

**SECTION 30.06 - EFFECTIVE DATE OF AMENDMENT**

Unless a registered elector residing in the zoning jurisdiction of Kalkaska County files with the clerk of the Kalkaska County Board of Commissioners a notice of intent to file a petition as allowed under Section 402 of the Michigan Zoning Enabling Act, an amendment shall take effect upon the expiration of seven (7) days after publication of a notice of adoption as provided in Section 30.07, or at such later date as may be specified by the County Board of Commissioners.<sup>6</sup>

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<sup>5</sup> Ordinance #130, Amendment #151 adopted October 9, 2007

<sup>6</sup> Ordinance #134, Amendment #155 adopted on August 12, 2008

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**SECTION 30.07 - PUBLICATION OF NOTICE OF ORDINANCE AMENDMENTS**

- A. Following adoption of amendments to this Ordinance by the County Board of Commissioners, one (1) notice of adoption shall be published in a newspaper of general circulation in the County within fifteen (15) days after adoption<sup>7</sup> and shall include the following information:
1. Either a summary of the regulatory effect of the amendment including the geographic area affected, or the text of the amendment.
  2. The effective date of the amended Ordinance.
  3. The place and time where a copy of the amended Ordinance may be purchased or inspected.

**SECTION 30.08 - OPTIONS UPON DENIAL OF AMENDMENT REQUEST**

A property owner whose amendment or rezoning request is denied by the County Board of Commissioners<sup>8</sup> may file an appeal with Circuit Court. If the property owner alleges that the denial of the amendment has the result of leaving the property owner with no reasonable or economically viable use of the property, then the property owner shall exhaust their administrative remedies before seeking judicial review in Circuit Court. This may include requesting a Hardship PUD pursuant to the requirements of Article Twenty-Four, Section 24.12.

**SECTION 30.09 - RESUBMITTAL**

No application for a rezoning which has been denied by the County Board of Commissioners 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 County Board of Commissioners to be valid.

**SECTION 30.10 - RECONSIDERATION**

No request for rehearing or reconsideration of an application denied by the County Board of Commissioners shall be granted except upon the grounds of newly discovered evidence or a falsehood previously relied upon which is found upon review by the County Board to be valid. A rehearing or reconsideration shall be processed in the same manner as the original application, including a new fee unless it is initiated by the County Planning Commission or County Board of Commissioners. A request for rehearing shall be made within eight (8) days of the decision of the County Board of Commissioners. No Zoning Permit shall be issued which relies upon a rezoning before eight (8) days have expired following the decision of the County Board of Commissioners.

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<sup>7</sup> Ordinance #134, Amendment #155 adopted on August 12, 2008

<sup>8</sup> Ordinance #138, Amendment #159 adopted on June 9, 2009

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**SECTION 30.11 - COMPREHENSIVE REVIEW OF ZONING ORDINANCE**

The Planning Commission should in the year 2004 and at intervals of not more than five (5) years thereafter, examine all the provisions of this Ordinance and the location of zoning district boundary lines and shall submit a report to the County Board of Commissioners recommending changes and amendments, if any, which are deemed to be desirable in the interest of public health, safety and general welfare.

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**ARTICLE THIRTY-ONE**

**PLANNING COMMISSION<sup>1</sup>**

**SECTION 31.01 - COUNTY PLANNING COMMISSION**

The Kalkaska County Planning Commission was created by Resolution Number 79-3 (1979) as specified in Section 2, Act 282, Public Acts of Michigan, 1945, as amended. The County Board of Commissioners confirms the establishment of the Planning Commission under the Michigan Planning Enabling Act, 2008 Public Act 33, MCL 125.3801, *et seq.* The County also confirms and establishes that the Planning Commission shall perform the duties and have the authority of a planning commission/zoning board as provided in 2008 Public Act 33 and the Michigan Zoning Enabling Act, 2006 Public Act 110, MCL 125.3101, *et seq.*, together with such other powers and duties provided for in this Article, including the authority to act on all matters requiring approval or recommendation of the Planning Commission.

**SECTION 31.02 - MEMBERSHIP: APPOINTMENT AND TERM**

- a. The Planning Commission shall consist of seven (7) members.
- b. The Chairman, with the approval of a majority of the members of the County Board elected and serving, shall appoint all members of the Planning Commission, including the ex officio members.
- c. All members of the Planning Commission shall be qualified electors of the County.
- d. Member(s) of the County Board shall be appointed to the Planning commission as an ex officio member. An ex officio member has full voting rights. No other elected officer or employee of the County is eligible to be a member of the Planning Commission.
- e. Planning Commission members shall be residents of the County who are representative of major interests as they exist in the County such as, but not limited to, agriculture, natural resources, recreation, education, public health, government, commerce, transportation, and industry. Member(s) of the County Board shall be appointed to the Planning Commission. The membership shall also be representative of the entire geography of the County to the extent possible.
- f. The Planning Commission members, other than ex officio members, shall serve for terms of three years each, and shall hold office until the member's successor is appointed. An ex officio member's term on the Planning Commission shall expire with that member's term on the County Board.
- g. Vacancies shall be filled for the unexpired term in the same manner as the original appointment.

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<sup>1</sup> Ordinance #141, Amendment #162 adopted on June 8, 2011

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**SECTION 31.03 - REMOVAL**

The County Board may remove a member of the Planning Commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing.

**SECTION 31.04 - BYLAWS, RECORD OF PROCEEDINGS, AND ANNUAL REPORT**

- a. The Planning Commission shall adopt bylaws for the transaction of business.
- b. The Planning Commission shall keep a public record of its resolutions, transactions, findings and determinations. The writings prepared, owned, used, or possessed by the Planning Commission shall be made available to the public in compliance with the Freedom of Information Act, MCL 15.231, *et seq.*
- c. The Planning Commission shall make an annual written summary/report to the County Board concerning its operations and the status of planning activities, including recommendations regarding actions by the County Board related to planning and development.

**SECTION 31.05 - COMPENSATION**

The Planning Commission members may be compensated for their services as provided by County Board resolution. The Planning Commission may adopt bylaws relative to compensation and expenses of its members for travel when engaged in the performance of activities authorized by the County Board, including, but not limited to, attendance at conferences, workshops, educational and training programs and meetings.

**SECTION 31.06 - BUDGET**

After preparing the annual summary/report, the Zoning Administrator may prepare a detailed budget and submit it to the County Board for approval or disapproval. The County Board annually may appropriate funds for carrying out the purposes and functions permitted under the Michigan Planning Enabling Act, MCL 125.3801, *et seq.*, and this Article and may match County funds with federal, state, county or other local government or private grants, contributions, or endowments.

**SECTION 31.07 - OFFICERS AND COMMITTEES**

- a. The Planning Commission shall elect a chairperson and a secretary from its members, and may create and fill other offices as it considers advisable. An ex officio member of the Planning Commission is not eligible to serve as chairperson. The term of each office shall be one year, with opportunity for re-election as specified in the Planning Commission bylaws.
- b. The Planning Commission may also appoint advisory committees whose members are not members of the Planning Commission.

**SECTION 31.08 - MEETINGS**

- a. The Planning Commission shall hold at least four (4) regular meetings each year, and shall by resolution determine the time and place of the meetings.



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- b. Unless otherwise provided in the Planning Commission's bylaws, a special meeting of the Planning Commission may be called by the chairperson or by two other members, upon written request to the secretary. Unless the bylaws otherwise provide, the secretary shall send written notice of a special meeting to planning commission members at least 48 hours before the meeting.
- c. The business that the Planning Commission may perform shall be conducted at a public meeting held in compliance with the Open Meetings Act, MCL 15.261, *et seq.*

**SECTION 31.09 - CONFLICT OF INTEREST**

Before casting a vote on a matter on which a Planning Commission member may reasonably be considered to have a conflict of interest, the member shall disclose the potential conflict of interest to the Planning Commission. Failure of a member to disclose a potential conflict of interest as required by this division constitutes malfeasance in the office. For the purposes of this section, the Planning Commission shall define conflict of interest in its bylaws.

**SECTION 31.10 - RESPONSIBILITY FOR PREPARATION AND ADOPTION OF MASTER PLAN; PLAN CONTENT**

- a. Under the authority of the Michigan Planning Enabling Act, MCL 125.3801, *et seq.*, the Planning Commission shall make and adopt a land use plan ("Master Plan") as a guide for the development of unincorporated portions of the County and may amend the plan as provided in such Act. The Master Plan shall address land use and infrastructure issues and shall include maps, plats, charts and descriptive, explanatory and other related matter and shall show the Planning Commission's recommendations for the physical development of the unincorporated area of the County.
- b. The Master Plan shall include those of the following subjects which reasonably can be considered as pertinent to the future development of the County:
  - 1. A Master Plan and program, in part consisting of a classification and allocation of land for agriculture, residences, commerce, industry, recreation, ways and grounds, public buildings, schools, soil conservation, forest, wildlife refuges, open space, and other uses and purposes.
  - 2. The general location, character and extent of streets, roads, highways, railroads, bicycle paths, pedestrian walkways, bridges, waterways and waterfront developments; flood prevention works, drainage, sanitary sewers and water supply systems; works for preventing pollution and works for maintaining water levels; and public utilities and structures.
  - 3. Recommendations for implementing any of its proposals.
- c. The Planning Commission shall have the final authority to approve a master plan, or any amendment to the master plan, unless the County Board passes a resolution asserting the right to approve or reject the master plan.

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- d. The Planning Commission shall promote public understanding of an interest in the Master Plan and shall publish and distribute copies of the plan and of any report, and may employ such other means of publicity and education as it determines necessary.

**SECTION 31.11 - APPROVAL OF PUBLIC IMPROVEMENTS**

- a. After the Planning Commission has adopted the Master Plan of the County, no street, square, park or other public way, ground or open space, or public building or structure, shall be constructed or authorized in the County or in the planning section and district until the location, character and extent thereof shall have been submitted to and approved by the Planning Commission.
- b. The Planning Commission shall communicate its reasons for approval or disapproval to the County Board, which shall have the power to overrule the Planning Commission by a recorded vote of not less than a majority of its entire membership.
- c. If the public way, ground, space, building structure, or utility is one which the authorization or financing of the project rests with another governmental body, then the submission to the Planning Commission shall be by the board, commission or body having jurisdiction, and the Planning Commission's disapproval may be overruled by resolution of the board, commission or body by a vote of not less than a majority of its membership.
- d. The failure of the Planning Commission to act within thirty-five (35) days after the official submission to the Planning Commission shall be deemed approval.

**SECTION 31.12 - PLANNING CONSULTANT**

The County Board, upon the recommendation of the Planning Commission, may employ a planning director, or other planning personnel, and/or may contract for the part-time or full-time services of planning and engineering consultants. The County Board may pay or authorize the payment of such expenses from the funds budgeted and provided for planning purposes.

**SECTION 31.13 - APPROVAL OF PLATS**

The County Board shall refer plats or other matters relating to land development to the Planning Commission before final action thereon by the County Board and may request the Planning Commission to recommend regulations governing the subdivision of land. The recommendations may provide for the procedures of submittal, including recommendations for submitting a preliminary subdivision design, the standards of design, and the physical improvements that may be required.

**SECTION 31.14 - SPECIAL USE PERMITS**

The Planning Commission shall have the authority to issue special use permits for the uses for which this Ordinance requires the obtaining of such permits.

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**SECTION 31.15 - OTHER AUTHORITY, DUTIES, AND RESPONSIBILITIES**

The Planning Commission shall have additional authority, duties, and responsibilities as provided elsewhere in this and other ordinances of the County. The Planning Commission shall undertake other studies and make recommendations on other subjects as the County Board may from time to time request.

Section 3        Current Membership and Master Plan Continued. As of the effective date of this Ordinance, the members of the Planning Commission shall continue to serve for the remainder of their existing terms, including the ex officio member(s) who shall serve until the expiration of the member's term on the County Board, so long as they continue to meet the eligibility requirements set forth in the Michigan Planning Enabling Act and the amended Article Thirty-One of the Zoning Ordinance. Unless otherwise rescinded by the County, any master plan adopted or amended under the former County Planning Act, 1945 Public Act 282, need not be re-adopted under the Michigan Planning Act, MCL 125.3801, *et seq.*, and shall continue in force until superseded or amended under provisions of such Act.

Section 4        Repealer. Any existing ordinance or resolution in conflict with this Ordinance is hereby repealed to the extent of any such conflict. This repealer would apply to any and all existing ordinances or resolutions, including but not limited to, Resolution Number 79-3; Resolution Number 78-5; Resolution Adopted on April 27, 1976; Resolution Number 3-73; and a Resolution Adopted on June 19, 1967.

Section 5        Effective Date.

This Ordinance is ordered to take effect on June 22, 2011, said date being after publication in the Leader & Kalkaskian, a newspaper having general circulation in the County, pursuant to the provisions of Act 359 of the Public Acts of 1947, as amended.

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Michael Cox, County Board of Commissioners Chairman

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Deborah Hill, County Clerk

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**ARTICLE THIRTY-TWO**

**DEFINITIONS**

**SECTION 32.01 - RULES APPLYING TO THE TEXT**

- A. For the purpose of this Ordinance, certain rules of construction apply to the text as follows:
1. Words used in the present tense include the future tense; and the singular includes the plural, unless the context clearly indicates the contrary. The particular shall control the general.
  2. The word "person" includes a partnership, trust, corporation or firm as well as an individual.
  3. The word "building" includes the word "structure" and any part thereof.
  4. The word "lot" includes the word "plot," "tract," or "parcel."
  5. The term "shall" is always mandatory and not discretionary; the word "may" is permissive.
  6. The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied."
  7. In the case of any difference of meaning or implication between the text of this Ordinance and any caption or illustration, the text shall control.
  8. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or," or "either...or," the conjunction shall be interpreted as follows:
    - a. "And" indicates that all the connected items, conditions, provisions or events shall apply.
    - b. "Or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.
    - c. "Either...or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.
  9. Terms not herein defined shall have the meaning customarily assigned to them. A dictionary may be consulted.
  10. The words "this Ordinance" means the text of this Ordinance as well as all maps, tables, graphics, schedules as included or attached and as enacted or subsequently amended.
  11. In computing a period of days, the first day is excluded and the last day is included. If the last day of any period is a Saturday, Sunday, or legal holiday, the period is extended to include the next day which is not a Saturday, Sunday, or legal holiday. Legal holidays include New Years Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, and Christmas.

**SECTION 32.02 - DEFINITIONS**

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

**ACCESSORY BUILDING OR STRUCTURE:** A subordinate building or structure on the same lot with a principal or main building, or the part of the main building occupied by or devoted exclusively to an accessory use.

**ACCESSORY USE:** A use customarily incidental and subordinate to the principal use or building located on the same lot as the principal use or building. When "accessory" is used in this Ordinance, it shall have the same meaning as accessory use. An accessory use includes, but is not limited to the following:

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1. Domestic or agricultural storage in a garage, barn, shed, tool room, or similar accessory building or other structure.
2. Storage of merchandise normally carried in stock in connection with a business or industrial use, unless such storage is excluded in the applicable district regulations.
3. Storage of goods used in, or produced by, industrial uses or related activities, unless such storage is excluded in the applicable district regulations.
4. Accessory off-street parking spaces, open or enclosed, subject to the accessory off-street parking regulations for the district in which the zoning lot is located.
5. Uses clearly incidental to a main use such as, but not limited to, offices of an industrial or commercial complex located on the site of the commercial or industrial complex.
6. Accessory off-street loading, subject to the off-street loading regulations for the district in which the zoning lot is located.
7. Accessory signs, subject to the sign regulations for the district in which the zoning lot is located.
8. Residential accommodations for servants in single-family dwellings.
9. Swimming pools for the use of the occupants of a residence or their guests.
10. Except as otherwise provided by this Ordinance, an accessory building or accessory structure shall not be used for human habitation or as a dwelling. This includes a garage, shed, pole barn, roofed over basement or any other accessory structure except a cottage or second dwelling that is specifically constructed for human habitation. (See also "primary or principal use").

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

**ADULT BOOKSTORE OR ADULT VIDEO STORE:** A commercial establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

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 20% or more of sales volume or occupies 20% 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;

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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 FOSTER CARE FACILITY:** Adult foster care facilities provide shelter and care for individuals with special needs in single family dwellings for more than six (6) persons but less than twelve (12) persons, or in larger facilities when more persons are assisted. These are all state-regulated facilities. See regulations in Section 23.10.B. Common names and thresholds for various adult foster care facilities follow:

Group Home: A facility which provides adult foster care for more than six (6), but not more than twenty (20) adults.

Group Day Care Home: A private home in which more than six (6), but not more than twelve (12), children are given care and supervision for periods of less than twenty-four (24) hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. It includes a home that gives care to an unrelated child for more than four (4) weeks during a calendar year.

Congregate Facility: A facility which provides adult foster care for more than twenty (20) adults.

**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 photographic reproductions or visual media that are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

**ADULT THEATER:** A theater, concert hall, auditorium or similar commercial establishment that regularly features a person or persons who appear in a state of nudity or live performances that are characterized by exposure of specified anatomical areas or by specified sexual activities.

**AGGRIEVED PERSON/PARTY:** A person who is in a position to suffer some special damage, such as the threat of unique harm to a neighboring property.<sup>1</sup>

**ALTERNATIVE TOWER STRUCTURE:** Any structure which, if intended to be used to locate an antenna or tower, may accommodate the presence of said antenna or tower, including, but not limited to man-made trees, clock towers, bell steeples, water towers, light poles and silos.

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<sup>1</sup> Ordinance #117, Amendment #138 adopted on August 15, 2006

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**ALTERATIONS:** Any modification, additions, or change in construction or type of occupancy, any change or rearrangement in the structural parts of the building; and enlargement of a building, whether by extending a side or by increasing in height; or the moving from one location to another. Once done, the building or structure may be referred to herein as “altered” or “reconstructed”.

**ANTENNA:** Any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

**APARTMENT:** A room or combination of rooms in a multiple family dwelling, including bath and kitchen facilities, arranged and designed for use as a dwelling by a single family.

**BASEMENT:** That portion of a building which is partly or wholly below finished grade, but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement shall not be counted as a story (see Figure 32-1). A cellar is a basement.

**BED AND BREAKFAST INN:** A single family, owner-occupied dwelling unit in which transient guests are provided a sleeping room and board for compensation as an accessory use of the one-family dwelling. A continental or American breakfast, lunch and/or dinner may be served to overnight guests only. A bed and breakfast inn has ten (10) or less sleeping rooms available for transient occupancy, including sleeping rooms occupied by the innkeeper and his/her family.

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

**BERM:** A mound of earth graded, shaped and improved with landscaping in such a fashion as to be used for visual and/or audible screening purposes to provide a transition between uses of differing intensity. A mound established to meet requirements of the County Health Department as part of the discharge area for a septic system is not a berm.

**BILLBOARD:** A sign structure advertising a service, commodity or establishment, which is not sold, produced, manufactured, or furnished at the property on which said sign is located, also known as “off-premise sign” or “outdoor advertising structure”. Said signs are subject to the requirements of PA 106 of 1972, as amended, as well as the requirements of this Ordinance.

**BOARD OF APPEALS OR ZONING BOARD OF APPEALS:** Kalkaska County Zoning Board of Appeals.

**BOARD OF COMMISSIONERS:** Kalkaska County Board of Commissioners.

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**BUFFER STRIP:** A strip of land reserved for plant material, berms, walls, or fencing to serve as a visual and/or sound barrier between properties, often between abutting properties and properties in different zoning districts. Landscaping, berms, fencing or open space can also be used to buffer noise, light and related impacts from abutting properties even if not in a separately established buffer strip and may be so required by this Ordinance.

**BUILDING:** Any structure, either temporary or permanent, having a roof and used or built for the shelter or enclosure of persons, animals, or property of any kind or for the conduct of business.<sup>2</sup>

**BUILDING OFFICIAL:** The appointed officer of the County Board of Commissioners to implement the building code in Kalkaska County.

**BUILDING LINE (or REQUIRED SETBACK LINE):** A line defining the minimum front, side and rear yard setback requirements outside of which no building or structure may be located.

**BUILDING, PRINCIPAL:** A building in which is conducted the main or principal use of the lot on which it is located unless specifically permitted by this Ordinance.

**CAMPGROUND:** Means any parcel or tract of land under the control of any person wherein sites are offered for 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 including recreational trailers, travel trailers or tents.

**CAMPSITE:** An area designated for the exclusive, temporary use of a single recreational unit.

**CARPORIT:** A partially open structure, intended to shelter one or more vehicles. Such structures shall comply with all yard requirements applicable to garages.

**CEMETERY:** Property, including crematories, mausoleums, and/or columbariums, used or intended to be used solely for the perpetual interment of deceased human beings or customary household pets.

**CHANGE OF USE:** A use of a building, structure or parcel of land, or portion thereof which is different from the previous use in the way it is classified in this Ordinance or in the Building Code, as amended.

**CHANGEABLE MESSAGE BOARD:** A sign which identifies a business, institution or organization on the premises of which it is located and which contains the name of the business, institution or organization, the names of individuals connected with it, and a portion of the sign which periodically changes including general announcements of events or activities occurring at the institution or similar messages such as products on sale, the price of a product or a special service opportunity. Time and temperature electronic signs are permitted, but not other electronic sign messages.

**CHILD CARE ORGANIZATION:** Any governmental or non-governmental organization having as its principal function the receiving of minor children for care, maintenance, training and supervision, notwithstanding whether educational instruction may be given, and organizations commonly described as child caring institutions, child placing agencies, children's camps, child care centers, day care centers, nursery schools, parent cooperative preschools, foster homes, group homes or day care homes.

**CHURCH:** See PLACE OF WORSHIP.

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<sup>2</sup> Ordinance #149, Amendment #170 adopted on July 13, 2016



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**CLUB:** An organization of persons or a group of persons associated for a common purpose or the special purpose of promoting or engaging in sports, hunting, recreational and social activities, arts, sciences, literature, politics or the like, but not operated for profit and open only to members and not to the general public.

**CO-LOCATION:** The location of more than one antenna on a tower or alternative tower structure when said antenna is not owned by the same entity.

**COMMUNICATION TOWER OR TELECOMMUNICATION TOWER:** . All structures and accessory facilities, including alternative tower structures, relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals/ including, but not limited to radio towers, television towers, telephone devices and exchanges, microwave relay facilities, telephone transmission equipment buildings, private and commercial mobile radio service facilities, personal communication services towers (PCS) and cellular telephone towers. Not included in this definition are citizen band radio facilities; short wave receiving facilities; radio and television broadcast reception facilities; satellite dishes; federally licensed amateur (HAM) radio facilities; and governmental facilities which are subject to State or Federal law or regulations which preempt municipal regulatory authority.

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

**CONDOMINIUM MASTER DEED:** See MASTER DEED.

**CONDOMINIUM SUBDIVISION:** A division of land on the basis of condominium ownership, pursuant to the Condominium Act and which is not subject to the provisions of the Land Division Act of 1967, Public Act 288 of 1967, as amended.

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

**CONDOMINIUM UNIT:** Means that portion of a condominium project or condominium subdivision which is designed and intended for separate ownership and use, as described in the master deed, regardless of whether it is intended for residential, office, industrial, business, recreational, use as a time-share unit, or any other type of use. The owner of a condominium unit also owns a share of the common elements. The term "condominium unit" shall be equivalent to the term "lot", for purposes of determining compliance of the site condominium subdivision with the provisions of this Ordinance pertaining to minimum lot size, minimum lot width, and maximum lot coverage.

**CONFLICT OF INTEREST:** Participation by a member of the Zoning Board of Appeals, Planning Commission, or County Board of Commissioners in a public hearing, lobbying, or voting on a matter in which the property in question is owned, leased, rented or is proposed to be developed by the member; is owned or is to be developed by a relative, boss or close friend of the member; or involves a party with whom the member shares a financial interest, such as a partner, borrower, lender, renter or investor; or is property which abuts or is near property owned by the member and the member does not feel he/she can objectively evaluate the request and vote in an unbiased manner. This definition applies to any matter being decided under the Zoning Ordinance.

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**COUNTY HEALTH DEPARTMENT:** The District Health Department established pursuant to the State Public Health Code, P.A. 368 of 1978, as amended, that provides service to Kalkaska County.

**DECK:** An unroofed structure used for outdoor living purposes which may or may not be attached to a building and which protrudes more than four (4) inches above the finished grade. See Section 21.10.G.

**DEED RESTRICTION:** A restriction on the use of a lot or parcel of land that is set forth in the deed and recorded with the County Register of Deeds. It is binding on subsequent owners and is sometimes also known as a restrictive covenant. Unless the County has an ownership interest in the property, a deed restriction is enforced by the parties to the agreement, not by the County.

**DENSITY:** The number of dwellings or dwelling units per net acre of land. Density is established by the minimum lot size standards in each district as listed on Table 15-1. A minimum lot size of one acre equals a density of one dwelling unit per acre. A minimum lot size of 10 acres equals a density of one dwelling unit per 10 acres. A minimum lot size of 12,000 square feet equals a density of one dwelling unit per 0.275 acres or 3.63 dwellings per acre. The number of dwelling units situated on or to be developed on a net acre (or smaller unit) of land, shall be calculated by taking the total gross acreage of the parcel and subtracting the area in rights-of-way for streets and roads. (See Figure 32-6 and definitions of Lot Area, Gross and Lot Area, Net). If a parcel description includes no area in a right-of-way, or access easement, or none will be included on a lot proposed for creation, then a net acre equals a gross acre.

**DETACHED ACCESSORY DWELLING UNITS:** see definition of dwelling.<sup>3</sup>

**DEVELOPMENT:** A parcel of land with one or more structures and a legal use.

**DISTRICT OR ZONE:** An area of land for which there are uniform regulations adopted as part of this Ordinance governing the use of buildings and premises, density of development, yard requirements, and height bulk and area limitations.

**DRIVE-IN:** A business establishment so developed that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle rather than within a building or structure.

**DRIVEWAY:** A means of access for vehicles from a street or approved alley across a lot or parcel to a parking or loading area, garage, dwelling or other structure or area on the same lot, that is located and constructed in accordance with the requirements of this Ordinance and any other requirements of the County, the County Road Commission or State of Michigan (depending on which entity exercises authority over the street from which driveway access is derived).

**DUPLEX:** A dwelling consisting of two separate single family units. A house with a smaller single apartment shall not be considered a duplex.<sup>4</sup>

**DWELLING:** A single unit building or portion thereof providing complete independent living facilities for one (1) family for residential purposes, including permanent provisions for living, sleeping, eating, cooking and sanitation.

**DWELLING, ONE-FAMILY:** A dwelling designed for occupancy by one (1) family.

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<sup>3</sup> Ordinance #139, Amendment #160 adopted on January 27, 2010

<sup>4</sup> Ordinance #117, Amendment #138 adopted on August 15, 2006

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**DWELLING, MULTIPLE-FAMILY:** A building, or a portion thereof, designed exclusively for occupancy by three (3) or more families living independently of each other.

**EFFICIENCY UNIT:** A dwelling consisting of one (1) room and having such facilities as kitchen, closets, bathrooms, and hallways in or immediately adjoining such room.

**EQUINE BOARDING STABLE:** A facility for the storage and care of horses and other members of the equine animal family. When operated for a profit, the following definitions apply:

1. **BOARDING STABLE** - Rental space and daily care for a fee.
2. **TRAINING FACILITY** - A facility for training of horses, provision of riding lessons, clinics and otherwise general education involving horses,
3. **BREEDING FACILITY** - A facility used for breeding and raising horses for profit.
4. **RIDING ACADEMIES** - Boarding, lodging and tourist homes,
5. **TIME RENTAL RIDING FACILITY** - Ranch/farm type operation where customers come and rent equine for riding.

**ERECTED:** Includes built, constructed, reconstructed, located, moved upon, excavated or any physical operation on the premises intended or required for a building or structure. Fill, drainage and general property improvements shall not be considered as erection unless done in conjunction with placement of a structure.

**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 departments, commissions or boards, of underground, surface, or overhead gas, electrical, steam, fuel, sewer, storm sewer or water transmission, collection or distribution systems; telephone, communication, supply or disposal systems; including such poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals and hydrants in connection therewith which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general health, safety, convenience or welfare of the public, but not including water towers, or office buildings, substations, or structures which are enclosures or structures for service equipment, or maintenance depots, or grounds for the storage of vehicles or equipment. Communication towers and telecommunication towers or facilities, alternative tower structures and oil or gas pipelines or post-wellhead processing or transfer facilities are not included within the definition of essential services.

**EXCAVATION:** Any breaking of ground, except common household gardening and ground care.

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

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

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**FAMILY:** An individual, or two (2) or more persons related by blood, marriage or adoption, together with not more than three (3) persons not so related, occupying a dwelling unit and living as a single nonprofit housekeeping unit with single culinary facilities, as distinguished from a group occupying a boarding house, lodging house, hotel, club, fraternity, or similar dwelling for group use.

**FARM:** A parcel of land containing at least five (5) acres which is principally used for gain in the raising of agricultural products, livestock, poultry, or dairy products and includes necessary farm structures and the storage of equipment used on the farm.

**FENCE:** A structure artificially constructed as a barrier and made of wood, metal, stone, brick, or various manufactured materials which is usually erected for the enclosure of yard areas or the perimeter of property.

**FLOOD PLAIN:** That area subject to inundation by a river and/or stream and its tributaries based on a reasonable flood expectancy as determined by flood history. Unless otherwise documented by detailed hydrological studies, the flood plain shall be identified by a competent engineering study.

**FLOOR AREA, USABLE** (For the purposes 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. Such floor area which is used, or intended to be used, principally for the storage or processing of merchandise, hallways, stairways, elevator shafts, restrooms, janitorial services, or for utilities or sanitary facilities shall be excluded from this computation of "Usable Floor Area." Measurement of usable floor area shall be the sum of the horizontal areas of the several floors of the building, measured from the interior faces of the exterior walls.

**FOOTPRINT:** The area of land occupied by the foundation of a building and does not include appurtenances like porches unless they are on a permanent foundation.

**FRONTAGE:** The total continuous length of the front lot line. See also Lot, Front Lot Line.

**GASOLINE SERVICE STATION:** Any land, building, or structure used for retail sale of motor vehicle fuels, oils, or accessories, or installing or repairing minor parts and accessories, but not including repairing or replacing motors, or fenders or painting motor vehicles.

**GRADE, AVERAGE:** The arithmetic average of the lowest and highest grade elevations in an area within five (5) feet of the foundation line of a building or structure. See Figure 32-3.

**GRADE, FINISHED:** The lowest point of elevation between the exterior wall of the structure and a line five (5) feet from the exterior wall of the structure.

**GRADE, NATURAL:** The elevation of the ground surface before man-made alterations associated with a proposed project.

**HAZARDOUS SUBSTANCE:** means one of the following:

1. A chemical or other material which is or may become injurious to the public health, safety, or welfare or to the environment.
2. "Hazardous substance" as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, Public Law 96-510, 94 Stat. 2767.
3. "Hazardous waste" as defined in the Natural Resources and Environmental Protection Act of 1994, as amended, MCL 324.11103.

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4. "Petroleum" as defined in the Natural Resources and Environmental Protection Act of 1994, as amended, MCL 324.21303(g)<sup>5</sup>(ii).

**HEIGHT (BUILDING):** In the case of a principal building, the vertical distance measured from the average finished grade in the front yard to the highest point of the roof surface for flat roofs and A-frames, to the deck line of mansard roofs, and to the average height between eaves and ridge for gable, hip and gambrel roofs (see Figure 32-2). The measurement of the height of all buildings or structures shall be determined as the greatest vertical distance from the average finished grade of any side to the highest point of the roof surface.<sup>6</sup> See also Section 21.11 and definition of average grade above.

**HIGH WATER MARK:** The natural or clear line impressed on the shore or bank representing the ordinary height of the water. It may be determined by bank shelving, changes in the character of the soil, destruction or absence of terrestrial vegetation, the presence of litter or debris, or a combination of the above (see also WATER'S EDGE).<sup>7</sup>

**HOME OCCUPATION:** An occupation performed within a dwelling unit by the owner/occupier of the property or a renter/occupier that is clearly incidental to residential use, including but not limited to dressmaking, beauty shop, real estate sales, day care, bookkeeping and accounting services. Such use shall not occupy more than twenty-five (25) percent of the floor area of the dwelling unit exclusive of attic or basement. See Section 21.09.

**HOME PROFESSIONAL OFFICE:** The office of a professional person such as a doctor, lawyer, osteopath, dentist, chiropractor, or engineer and similar learned professions, when engaged in only by a resident within his or her dwelling. If the activity meets the definition of a home occupation, it shall be regulated as such (see Section 21.09). If it takes place in an accessory building or structure, and/or with the assistance of not more than two (2) outside or non-resident employees it shall be considered a residence-based occupation and regulated as such (see Section 23.10.HHH). Such use shall show no external evidence of such use or any change in the appearance of the building, or of the premises, from residential use, provided that one illuminated but non-flashing or glaring sign not exceeding eight (8) square feet in area may be erected flat on the front wall of the dwelling for identification. See Article 19.

**HOTEL:** A building or part of a building, with a common entrance or entrances, in which rooms are rented primarily for transient occupancy, and in which one or more of the following services are offered: maid service, furnishing of linen, telephone, secretarial or desk service, and bellboy service. A hotel may include a restaurant or cocktail lounge, public banquet halls, ballrooms or meeting rooms.

**IMPROVEMENTS:** Those features and actions associated with a project which are considered necessary by the body or official granting zoning approval, to protect natural resources, or the health, safety, and welfare of the residents of the County and future users or inhabitants of the proposed project area, including, but not limited to roadways, lighting, utilities, sidewalks, screening, drainage, parking areas, and landscaping.

**JUNKYARD:** The use of premises for storage of old and dilapidated automobiles, trucks, tractors, and other such vehicles and parts thereof, mobile homes, wagons and other kinds of vehicles and parts thereof, scrap building materials, scrap contractor's equipment, tanks, cases, barrels, boxes, piping, bottles, old iron, machinery, rags, paper and other kind of scrap or waste material.

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<sup>5</sup> Ordinance #144, Amendment #165 adopted on October 10, 2012

<sup>6</sup> Ordinance #139, Amendment #160 adopted on January 27, 2010

<sup>7</sup> Ordinance #115, Amendment #136 adopted on June 10, 2003

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**KENNELS:**

1. A commercial kennel is defined as a building(s) or structure(s) where dogs and/or cats are confined and kept for selling, boarding, breeding or training purposes intended for profit. A Special Use Permit is needed to establish a commercial kennel in a Resort-Residential (R-R), Agricultural-Residential (A-R) with less than ten (10) acres of land<sup>8</sup>, Forest-Recreational (F-R), Commercial (C-1), Light-Industrial (L-I) Districts.
2. A private or hobby kennel is defined as a place or location where five (5) or more dogs and/or cats are kept for recreational purposes by the owners or occupants of a lot. No Special Use Permit is needed to establish a private kennel in any district in which a residence is permitted and the private kennel is an accessory use of the residence. All animals must be maintained in accordance with the Kalkaska County Animal Control Ordinance.

**KEYHOLE OR FUNNEL DEVELOPMENT:** A development serving more than one (1) dwelling unit, which provides access to a waterbody, often from a comparatively narrow portion of the land comprising the development. It is often shaped like a keyhole or funnel. Most commonly, such developments have a comparatively large backlot which funnels people onto a lake through a contiguous, narrow lakefront lot. It can result in proportionally more surface water users than are contributed by other riparians and has been documented to contribute to overuse of surface waters.

**LAND DIVISION:** Creation of a lot or parcel.

**LINE, STREET:** The dividing line between a street or road right-of-way and a lot.

**LOADING SPACE:** An off-street space on the same lot with a building, or group of buildings, for the temporary parking of a commercial vehicle while loading and unloading merchandise or materials.

**LOT/PARCEL:** Land described in a recorded plat or by metes and bounds description, including a condominium unit in a condominium subdivision, occupied or to be occupied by a building, structure, land use or group of buildings having sufficient size to comply with the frontage, area, width-to-depth ratio, setbacks, yards, coverage and buildable area requirements of this Ordinance, and having its principal frontage upon a public street or on an approved private road (see Figure 32-4) as may be provided by appropriate ordinance. Such lot may consist of: a) a single lot of record; b) a portion of a lot of record; c) a combination of contiguous lots of record or portions of contiguous lots of record; or d) a parcel of land described by metes and bounds, provided that in no case shall a division or combination of any residential lot or parcel be created which does not meet the requirements of this Ordinance. See Section 20.09.

**LOT AREA, GROSS:** The area contained within the lot lines or property boundary including street right-of-way. See Figure 32-6.

**LOT AREA, NET:** The total area of a horizontal plane within the lot lines of a lot, exclusive of any public street right-of-way abutting any side of the lot. See Figure 32-6.

**LOT, CORNER:** A lot where the interior angle of two adjacent sides at the intersection of two streets is less than one hundred and thirty-five (135) degrees. A lot abutting upon a curved street or streets shall be considered a corner lot for the purposes of this Ordinance if the arc is of less radius than one hundred and fifty (150) feet and the tangents to the curve, at the two points where the lot lines meet the curve or the

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<sup>8</sup> Ordinance #143, Amendment #164 adopted on June 29, 2012

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straight street line extended, form an interior angle of less than one hundred and thirty-five (135) degrees. See Figure 32-4.

**LOT COVERAGE:** The amount of a lot, stated in terms of percentage, that is covered by all buildings, and/or structures located thereon. This shall be deemed to include all buildings, roofed porches, arbors, breezeways, patio roofs, whether open box types and/or lathe roofs, or fully roofed, but shall not be deemed to include fences, walls, or hedges used as fences, unroofed decks (four inches or less above the finished grade) or patios or swimming pools. Lot coverage shall be measured from the drip line of the roof or from the wall or foundation if there is no projecting portion of the roof.

**LOT OF RECORD:** A lot which is part of a subdivision and is shown on a plat or map thereof which has been recorded in the Office of the Register of Deeds for Kalkaska County prior to the effective date of this Ordinance; or a parcel of land described by metes and bounds which is the subject of a deed or land contract recorded in said office prior to said date. Any one lot of record created after the effective date of this Ordinance without frontage on any public road or right-of-way shall not be occupied without access to a public road or right-of-way and must have access provided by an easement or other right-of-way no less than 20 feet wide.

**LOT, DEPTH OF:** The horizontal distance between the front and rear lot lines, measured along the median between the side lot lines. See Figure 32-5.

**LOT, FLAG:** A lot whose access to the public street is by a narrow, private right-of-way that is either a part of the lot or an easement across another property. See Figures 32-4 and 32-7.

**LOT FRONTAGE:** The length of the front lot line. See Figure 32-5.

**LOT, INTERIOR:** Any lot other than a corner lot which, with the exception of a "through lot", has only one lot line fronting on a street. See Figure 32-4.

**LOT LINE:**

**FRONT:** In the case of an interior lot, that line separating said lot from the street, a private road, or other access easement. In the case of a through lot, that line separating said lot from either street private road, or other access easement. In the case of a waterfront lot, the line which fronts on a navigable waterway shall be a front lot line. See Figure 32-7.

**REAR:** The line opposite the front lot line. In the case of a through lot or a lot having frontage on more than one street, the line which is opposite the street address selected by the owner. In the case of a triangular or otherwise irregularly shaped lot or parcel, an imaginary line at least ten (10) feet in length entirely within the lot or parcel, parallel to and at a maximum distance from the front lot line. See Figure 32-7.

**SIDE:** Any lot line other than the front lot line or rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line. See Figure 32-7.

**LOT, THROUGH:** Any interior lot having frontage on two more or less parallel streets as distinguished from a corner lot (see Figure 32-4). In the case of a row of through lots, all yards of said lots adjacent to streets shall be considered frontage, and front yard setbacks shall be provided as required.

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**LOT WIDTH:** The horizontal straight line distance between the side lot lines, measured between the two points where the line establishing the setback for the front yard (also known as the front building line) intersects the side lot lines. See Figure 32-5.

**MAJOR THOROUGHFARE:** A public street, the principal use or function of which is to provide an arterial route for through traffic, with its secondary function the provision of access to abutting property and which is a County Primary, State Trunkline, Interstate Highway, or is classified as a “principal arterial” or “major collector” on the Street and Highway Classification Map. See Figure 32-8.

**MASTER DEED:** The document recorded as part of a condominium subdivision to which are attached as exhibits and incorporated by reference the approved bylaws for the condominium subdivision and the condominium subdivision plan.

**MASTER PLAN:** The plan adopted by the Planning Commission pursuant to Section 31 of the Michigan Planning Enabling Act, PA 33 of 2008, as amended<sup>9</sup>, including text, maps and graphic proposals indicating the general location for streets, parks, schools, public buildings, and all physical development of the County, the relationship of land uses to one another, and includes any unit or part of such plan, and any amendment to such plan or parts thereof.

**MINOR THOROUGHFARE:** A public street identified as a secondary street or road on Figure 32-8.

**MOBILE HOME:** A structure, with a title issued by the State of Michigan, that is approved by the U.S. Department of Housing and Urban Development, and transportable in one (1) or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained in the structure. “Mobile home” does not include a recreational unit, recreational trailer, or travel trailer.

**MOBILE HOME PARK:** A parcel or tract of land under the control of a person upon which three (3) or more mobile homes are located on a continual non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment or facility used or intended for use incident to the occupancy of a mobile home and which is not intended for use as a temporary recreational trailer or travel trailer park.

**MODULAR HOUSING UNIT:** A dwelling unit constructed solely within a factory, as a single unit, or in various sized modules or components, which are then transported by truck or other means to a site where they are assembled on a permanent foundation to form a single-family dwelling unit, and meeting all codes and regulations applicable to conventional single-family home construction.

**MOTEL:** A building or group of buildings, whether detached or in connecting units, used or designed as individual sleeping units for transient automobile travelers and providing accessory off-street parking facilities. The term “motel” shall include buildings designed as “auto courts,” “tourist courts,” “motor courts,” “motel hotels,” and similar identification of integrated units of individual rooms under common ownership. A motel shall not be considered or construed to be a multiple family dwelling.

**NONCONFORMING LOT OF RECORD:** A lot lawfully existing at the effective date of this Ordinance, or amendment thereto, and which fails to meet the area and/or dimensional requirements of the district in which it is located.

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<sup>9</sup> Ordinance #139, Amendment #160 adopted on January 27, 2010



## Kalkaska County Zoning Ordinance

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**NONCONFORMING USE:** A building, structure or use of land lawfully existing at the effective date of this Ordinance, or amendments thereto, and which does not conform to the regulations of the district or zone in which it is located.

**NUDE MODEL STUDIO:** Any place where a person who displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration, but does not include an educational institution funded, chartered, or recognized by the State of Michigan.

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

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 the Public Acts of 1978, being section 722.673 of the Michigan Compiled Laws.

**NUISANCE:** 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, or the generation of an excessive or concentrated movement of people or things such as, but not limited to noise, dust, smoke, odor, glare, fumes, flashes, vibration, shock waves, heat, electronic or atomic radiation, objectionable effluent, noise of congregation of people (particularly at night), passenger traffic, and invasion of non-abutting street frontage by traffic.

**OFF-STREET PARKING LOT:** A facility providing vehicular parking spaces, along with adequate drives and aisles for maneuvering, so as to provide access for entrance and exit for the parking of more than three (3) vehicles.

**OPEN SPACE, COMMON:** Open space which is held for the collective use and enjoyment of the owners, tenants, or occupants of a single development, or by others if so authorized by this Ordinance or other municipal action.

**OPEN SPACE, DEDICATED:** Common open space dedicated as a permanent recorded easement, or other means of permanent dedication that runs with the deed.

**OVERSIZED ACCESSORY BUILDINGS:** A subordinate building or structure greater than 1,200 square feet on the same lot with a principal or main building, or the part of the main building occupied by or devoted exclusively to an accessory use.<sup>10</sup>

**OWNER:** The owner of the premises or lesser estate in the premises, a mortgagee or vendee in possession, an assignee of rents, receiver, executor, trustee, lessee, or any other person, sole proprietorship, partnership, association, or corporation directly or indirectly in control of a building, structure, or real property, or his or her duly authorized agent.

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<sup>10</sup> Ordinance #117, Amendment #138 adopted on August 15, 2006

**Kalkaska County Zoning Ordinance**  
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**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 SPACES:** An area of definite length and width used for the parking of a motor vehicle. Said area shall be exclusive of drives, aisles or entrances giving access thereto, and shall be fully accessible for the parking of permitted vehicles.

**PERSON:** An individual, sole proprietorship, partnership, corporation, limited liability company, trust, association, or other legal entity.

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

**PLANNED UNIT DEVELOPMENT:** A tract of land or lot, developed under single ownership or management as a separate neighborhood or community unit. The development shall be based on an approved site plan which allows flexibility of design not available under normal zoning district requirements. The plan may contain a mixture of housing types, common open space and other land uses as provided in this Ordinance.

**PLANNING COMMISSION:** The Kalkaska County Planning Commission.

**PLAT:** A map of a subdivision of land recorded with the County Register of Deeds pursuant to Public Act 288 of 1967, or a prior statute.

**PLOT PLAN:** A drawing showing the proposed placement of a new building, dwelling, structure, or use or an addition to a building, structure, or use on a parcel of land. See Section 27.03.B.

**PORCH:** A roofed open area, which may be screened, usually attached to or part of and with direct access to or from a building. A porch becomes a room when the enclosed space is heated or air conditioned.

**PRIMARY OR PRINCIPAL STRUCTURE OR PRINCIPAL BUILDING:** A building in which is conducted the main or principal use of the lot on which it is located.

**PRIMARY OR PRINCIPAL USE:** The main use to which the lot or premises are devoted. For example, the main use is residential where a single family home is the principal structure on the lot or parcel and commercial where a retail store is the principal structure on the lot or parcel. The use of a primary or principal structure or principal building establishes the primary or principal use of a lot, not the use of an accessory structure.

**PRIVATE ROAD:** A private way or means of approach to provide access to two (2) or more abutting lots, and which is constructed and maintained by the owner or owners and is not dedicated for general public use.

**PROPERTY LINE:** The boundary between one owner and another owner's property.

**PUBLIC PLACE:** Any real property or an appurtenance to the real property which is owned by this state, any municipality of this state, a public agency, or by a college or university in this state. This may include a structure, enclosure, facility, or complex, including a court, mall, park, or other area, feature, or

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element. A public place shall also mean a business or an educational, refreshment, entertainment, recreation, health, or transportation facility, or institution of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages, or accommodations are extended, offered, sold, or otherwise made available to the public.

**PUBLIC UTILITY:** Any person, firm, corporation, municipal department or board fully authorized to furnish to the public, electricity, gas, steam, telephone, telegraph, transportation, water, sewage disposal or light.

**RECREATIONAL ACCESSORY SPACES:** Any space within an accessory building or structure that is designed for human habitation for daytime and/or nighttime uses. This space, building or structure shall not be designed for or capable of being used for an accessory apartment or dwelling.<sup>11</sup>

### **RECREATIONAL UNIT:**

1. A vehicle or vehicular type structure primarily designed as temporary living quarters for recreational camping or travel use, which has its own motorpower or is mounted on or drawn by another vehicle which is self propelled.
2. A collapsible shelter of canvas or other fabric stretched and sustained by poles and used for camping out of doors. Recreational units include but are not limited to: travel trailers, camping trailers, motor homes, truck campers, slide- in campers, chassis mounted campers, fifth wheels, tents, and tent campers measuring eight (8) feet or less in width and designed to be operated on the highways without special permits.

**RECYCLING CENTER AND TRANSFER FACILITY:** An intermediate destination for solid waste which is temporarily stored while waiting permanent disposal at another location. Also known as a transfer station, recycling station, recycling center, collection center or impoundment yard. Transfer facilities may include separation of different types of solid waste, including but not limited to newspaper, cardboard boxes, plastics and glass, junk motor vehicles or machinery, as well as aggregation of smaller shipments with larger ones. Transfer facilities may also include compaction to reduce the bulk of the waste. Transfer facilities can service garbage trucks, tow trucks, residential and small business recyclers, and receive paper, glass or plastic recyclables, impounded vehicles (whether titled or not), motor vehicle parts, farm equipment, old appliances and similar metals. Waste, scrap materials or vehicles may be bundled, compacted and sold or merely transferred from a transfer facility. A junk yard could be approved as a transfer facility if it meets the requirements of Section 23.10.JJ, but without a Special Use Permit for a transfer facility, a junk yard is not a transfer facility.

**REPAIR:** The reconstruction or renewal of any part of an existing building for the purpose of maintenance.

**RESIDENCE-BASED OCCUPATION:** A residence-based occupation is either:

1. A home occupation performed in an accessory building (instead of principally within a residence) within two hundred (200) feet of a dwelling unit on the same lot involving the manufacture of, provision of or sale of goods and services in a manner which does not significantly or negatively change the residential character of the lot or parcel as observable from the public road right-of-way or adjacent parcels (including but not limited to artist, wood carver, furniture maker or refinisher, clock repairer, Amway distributor, boarding

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<sup>11</sup> Ordinance #119, Amendment #140 adopted on October 10, 2006

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horses, and performing body, painting, and/or mechanical work on motorized vehicles/small engines<sup>12</sup>); or

2. A home occupation which involves the performance of a service away from the site but may involve the storage of goods or equipment within accessory structures on the parcel (including but not limited to a well driller, welder, house painter, steam cleaner, maid service, caterer, or low-impact recycler<sup>13</sup>).

**RIGHT-OF-WAY:** A road, street, highway or other thoroughfare or easement permanently established for passage of persons or vehicles or the location of utilities.

**ROADSIDE STAND:** A “roadside stand” is a structure for the display of agricultural products, with no space for customers within the structure itself.

**SATELLITE ANTENNA:** A dish-shaped receiving device greater than three (3) feet in diameter, together with other incidental equipment related to such purpose.

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

**SCREEN:** A structure providing enclosure, such as a fence, and a visual barrier between the area enclosed and the adjacent property. A screen may also be non-structural, consisting of shrubs or other growing materials.

**SEASONAL MOBILE HOME PARK:** A parcel or tract of land under the control of a person upon which three (3) or more mobile homes are located on a continual or temporary basis but occupied on a temporary basis only, and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home. Seasonal mobile home park does not include a campground licensed pursuant to sections 12501 to 12516 of the Public Health Code, Act No. 368 of the Public Acts of 1978, being Sections 333.12501 to 333.12516 of the Michigan Compiled Laws.

**SETBACK:** The required minimum horizontal distance from which any part of a building may be placed or erected from a lot line and which must be maintained as yard. Waterfront setback is the minimum required distance from the water’s edge to a principal building. See definition of water’s edge.

**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.

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<sup>12</sup> Ordinance #149, Amendment #170 adopted on July 13, 2016

<sup>13</sup> Ordinance #149, Amendment #170 adopted on July 13, 2016

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**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.

**SIGN:** Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or marks, or combination thereof, by which anything is made known, such as the designation of an individual, a firm, an association, a profession, a business, a commodity or product, which are visible from any street or road and used as an outdoor display.

**SIGN AREA:** The total square footage of a sign face exposed to public view.

**SIGN, FREESTANDING OR DETACHED:** A sign advertising the name of the establishment and/or goods and services available on the lot which is not attached to a principal or an accessory structure.

**SIGN, PORTABLE:** Any sign designed to be moved easily and not permanently affixed to the ground or to a structure or building, including but not limited to "A-frame", "T-frame", or inverted "T-shaped" structures, including those signs mounted on wheeled trailers.

**SPECIAL USE PERMIT:** A Special Use Permit is required for all special uses of land and structures so specified in the district requirements of this Ordinance.

**SPECIAL USES:** Special uses are those uses of land which are not essentially incompatible with the uses permitted in a zoning district, but possess characteristics or locational qualities which require individual review and restriction in order to avoid incompatibility with the character of the surrounding area, public services and facilities, and adjacent uses of land. Special uses are specifically designated in the district requirements. A "special use" is equivalent to a "special land use" as permitted in Section (504) of the Michigan Zoning Enabling Act, PA 33 of 2008, as amended.<sup>14</sup>

**SPECIFIED ANATOMICAL AREAS:** Specified Anatomical Areas are defined as:

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

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

1. the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;

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<sup>14</sup> Ordinance #139, Amendment #160 adopted on January 27, 2010

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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.

### **SPORTSMANS CLUB:**

**PRIVATE** – A club for people who are interested in or take part in sporting activities such as hunting and fishing, is operated by an individual, organization or groups and is open only to bona fide members and their guests.

**PUBLIC** – A place where people who are interested in or take part in sporting activities such as but not limited to snowmobiling, hunting, fishing, archery, skeet shooting, etc., and is operated for profit.

**STOP WORK ORDER:** An administrative order which is either posted on the property or mailed or personally delivered to the property owner which directs a person not to continue, or not to allow the continuation of an activity which is in violation of this Ordinance.

**STORY:** That part of a building, except a mezzanine included between the surface of one floor and the surface of the next floor, or if there is no floor above, then the ceiling next above. A basement shall not be counted as a story. See Figure 32-1.

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

**STREET OR ROAD:** A public dedicated right-of-way, other than an alley, or an approved private road or easement which affords the principal means of access to abutting property.

**STRUCTURE:** Anything constructed, assembled or erected, the use of which requires location on the ground or attachment to something having location on or in the ground and built up or composed of parts joined together in some definite manner; this includes but is not limited to any construction such as dwellings, garages, principal and accessory buildings, mobile homes, signs and sign boards, towers, poles, antennas, satellite dishes, independently supported decks, landfill, sea walls, weirs, jetties, stand pipes or other like objects, but not including fences or anything lawfully in a public right-of-way including but not limited to utility poles, sewage pumping stations, utility manholes, fire hydrants, electric transformers, telephone boxes, and related public facilities and utilities defined as essential services.

**SUBDIVISION:** The division of a lot, tract, or parcel of land into more lots for the purpose of sale or development, and subject to the requirements of Public Act 288 of 1967, as amended, this Ordinance and any applicable Ordinance adopted by the County of Kalkaska or a Township subject to County Zoning within Kalkaska County.

**SWAMP:** A type of wetland characterized by open water on the surface. See definition of "wetland".

**TELECOMMUNICATION TOWER:** See definition of COMMUNICATION TOWER.

**TEMPORARY USE OR BUILDING:** A use, building, or structure permitted by procedures established in this Ordinance to exist during a specified period of time.

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**TRAILERS, RECREATIONAL AND TRAVEL:** Recreational and travel trailers are vehicular-type structures 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. They are distinguished from tents which are collapsible shelters of canvas or other fabric stretched and sustained by poles and used for camping outdoors. Specifically; a) a travel trailer is a vehicular portable structure mounted on wheels, of such size or weight as not to require special highway movement permits when drawn by a stock passenger automobile, primarily designed and constructed to provide temporary living quarters for recreational, camping or travel use; b) a camping trailer is a vehicular portable structure mounted on wheels and constructed with collapsible partial side walls of fabric, plastic or other pliable material which fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping or travel use.

**UNDERGROUND STORAGE TANK:** A tank or combination of tanks, including underground pipes connected to the tank or tanks, which is, was, or may have been used to contain hazardous substances, and the volume of which, including the volume of the underground pipes connected to the tank or tanks, is ten percent (10%) or more beneath the surface of the ground.

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

**VARIANCE:** A variance is a modification of the literal provisions of the Zoning Ordinance granted by the Board of Appeals when standards established in Article Twenty-Nine have been met. These standards seek to ensure no variance is granted unless: such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the Ordinance would result in practical difficulties in complying with dimensional requirements of the Ordinance.

**VICIOUS ANIMAL:** Any animal that attacks, bites, or injures human beings or domesticated animals without adequate provocation, or which because of temperament, conditioning, or training, has a known propensity to attack, bite, or injure human beings or domesticated animals. See Section 21.27.

**WATER'S EDGE:** For purposes of this Ordinance, the water's edge is the ordinary high water-mark of the water body which is that 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 surface of the soil and the vegetation. On an inland lake which has a level established by law, it means the high established level. When water returns to its natural level as the result of the permanent removal or abandonment of a dam, it means the natural ordinary high watermark.

**WATERFRONT LOT:** A lot with at least one side abutting a pond, lake, reservoir, swamp, stream, river or other natural water course and on which any principal structure is usually placed in such a manner as to orient towards the water. Separate lot width and setback provisions are provided in this Ordinance in addition to other lot regulations for waterfront lots.

**WETLAND:** Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support even if only for a part of the growing season, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. The presence of hydrophytic vegetation, hydric soils and wetland hydrology are the three most important factors used to identify a wetland.

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**WILD ANIMAL:** Any living member of the animal kingdom, including those born or raised in captivity, except the following: human beings, domestic dogs (excluding hybrids with wolves, coyotes, or jackals), domestic cats (excluding hybrids with ocelots or margays), rodents, ferrets, any hybrid animal that is part wild, and captive-bred species of common cage birds. See Section 21.27.

**WIRELESS COMMUNICATION EQUIPMENT:** The set of equipment and network components used in the provision of wireless communications services, including, but not limited to, antennas, transmitters, receivers, base stations, equipment shelters, cabinets, emergency generators, power supply cables, and coaxial and fiber optic cables, but excluding wireless communications support structures.<sup>15</sup>

**WIRELESS COMMUNICATIONS SUPPORT STRUCTURE:** A structure that is designed to support, or is capable of supporting, wireless communications equipment, including a monopole, self-supporting lattice tower, guyed tower, water tower, utility pole, or building.<sup>16</sup>

**YARD:** Space open to the sky between a building and the lot lines of the premises on which located, unoccupied and unobstructed by any encroachment or structure except as otherwise provided by this Ordinance.

**YARD, FRONT:** A yard extending across the full width of the lot from the front line of the principal building to the front lot line, waterfront, or highway right-of-way line, as the case may be.

**YARD, REAR:** A yard extending across the full width of the lot from the rear line of the principal building to the rear lot line.

**YARD, SIDE:** A yard extending from the side lot line to the nearest side line of the building.

**ZONING ADMINISTRATOR:** Appointed officer of the County Board of Commissioners to effect proper administration of this Ordinance.

**ZONING PERMIT:** A document signed by the Zoning Administrator according to procedures established in this Ordinance, as a condition precedent to the commencement of a use, or the erection, construction, reconstruction, restoration, alteration, conversion, or installation of a structure or building, that indicates that a site plan, plot plan, and/or other zoning application or request for special zoning approval or variance for a use, structure or building has been reviewed and determined to comply with the requirements of this Ordinance or has been granted a variance there from.

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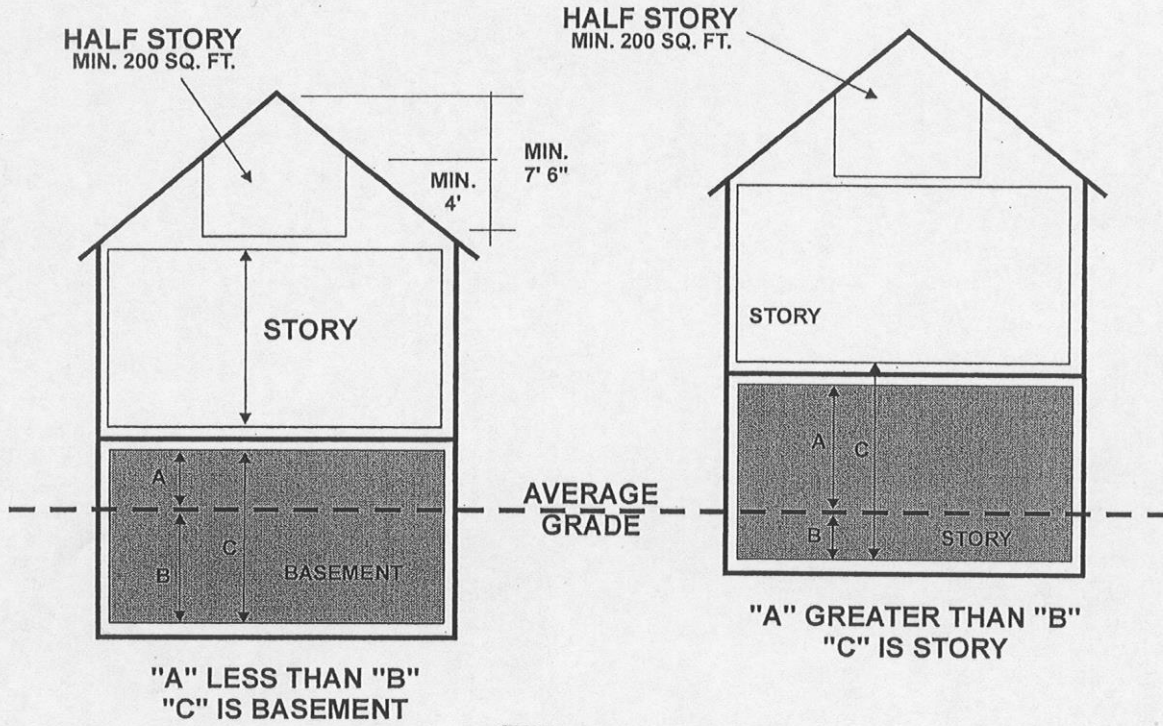
<sup>15</sup> Ordinance #149, Amendment #170 adopted on July 13, 2016

<sup>16</sup> Ordinance #149, Amendment #170 adopted on July 13, 2016



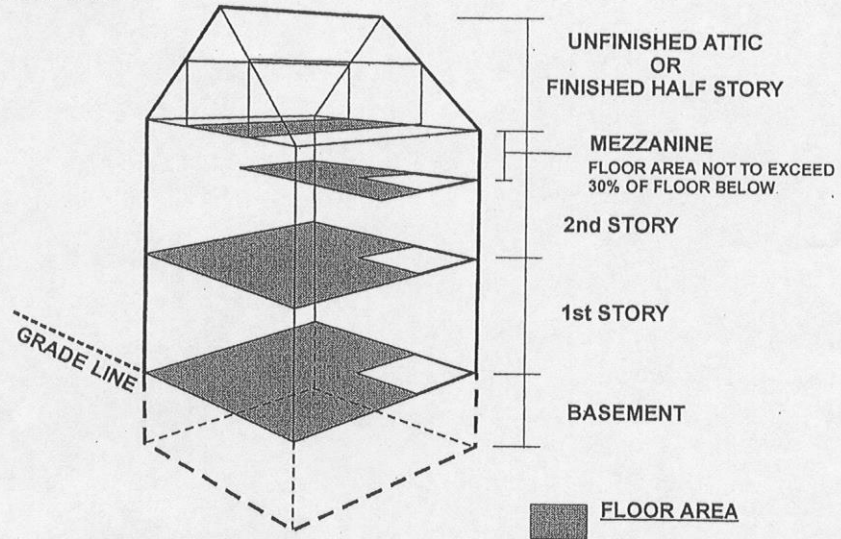
**Kalkaska County Zoning Ordinance**  
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**FIGURE 32-1  
 BASEMENT AND STORY**



**"A" LESS THAN "B"  
 "C" IS BASEMENT**

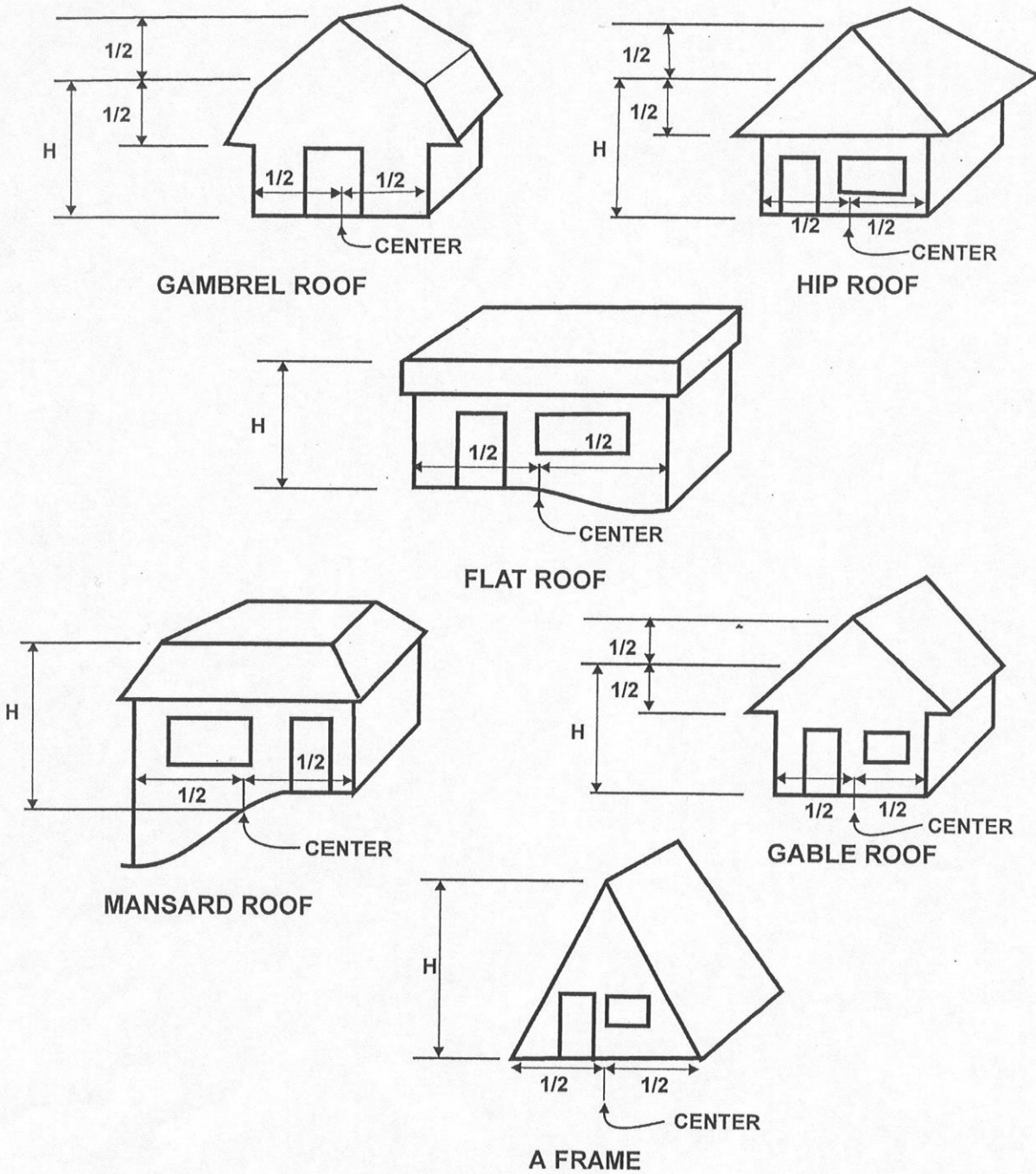
**"A" GREATER THAN "B"  
 "C" IS STORY**



**BASIC STRUCTURAL TERMS**

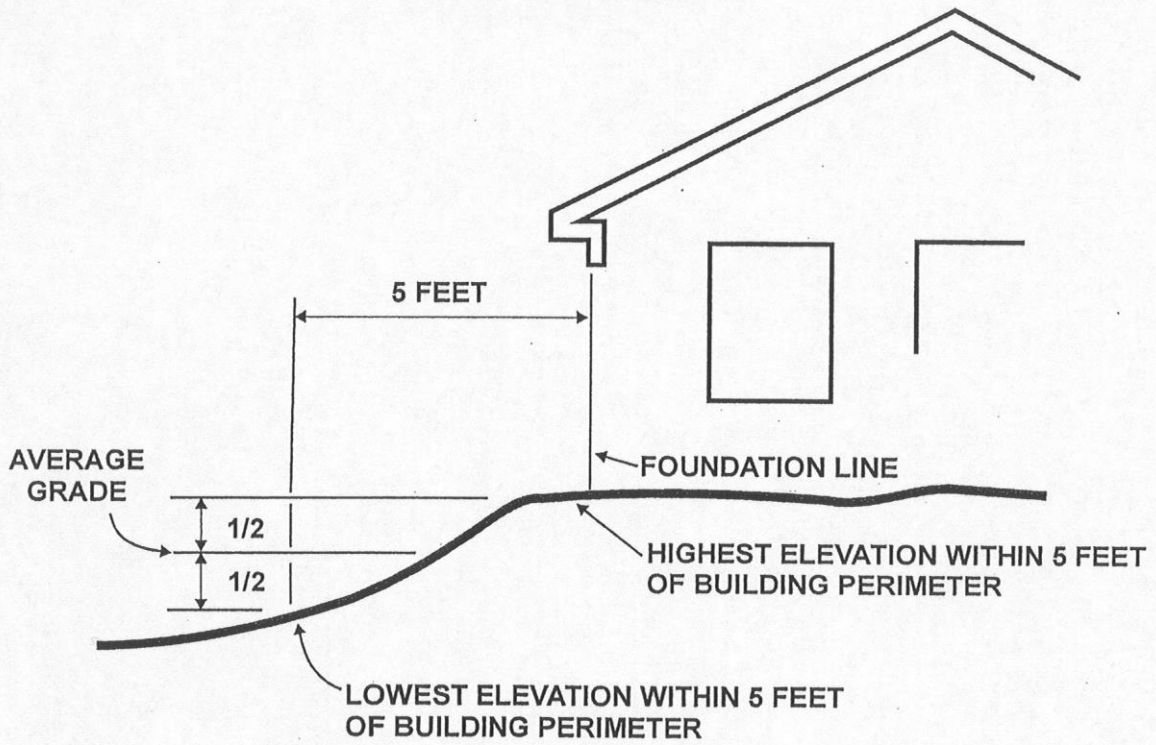
**Kalkaska County Zoning Ordinance**  
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**FIGURE 32-2**  
**BUILDING HEIGHTS**



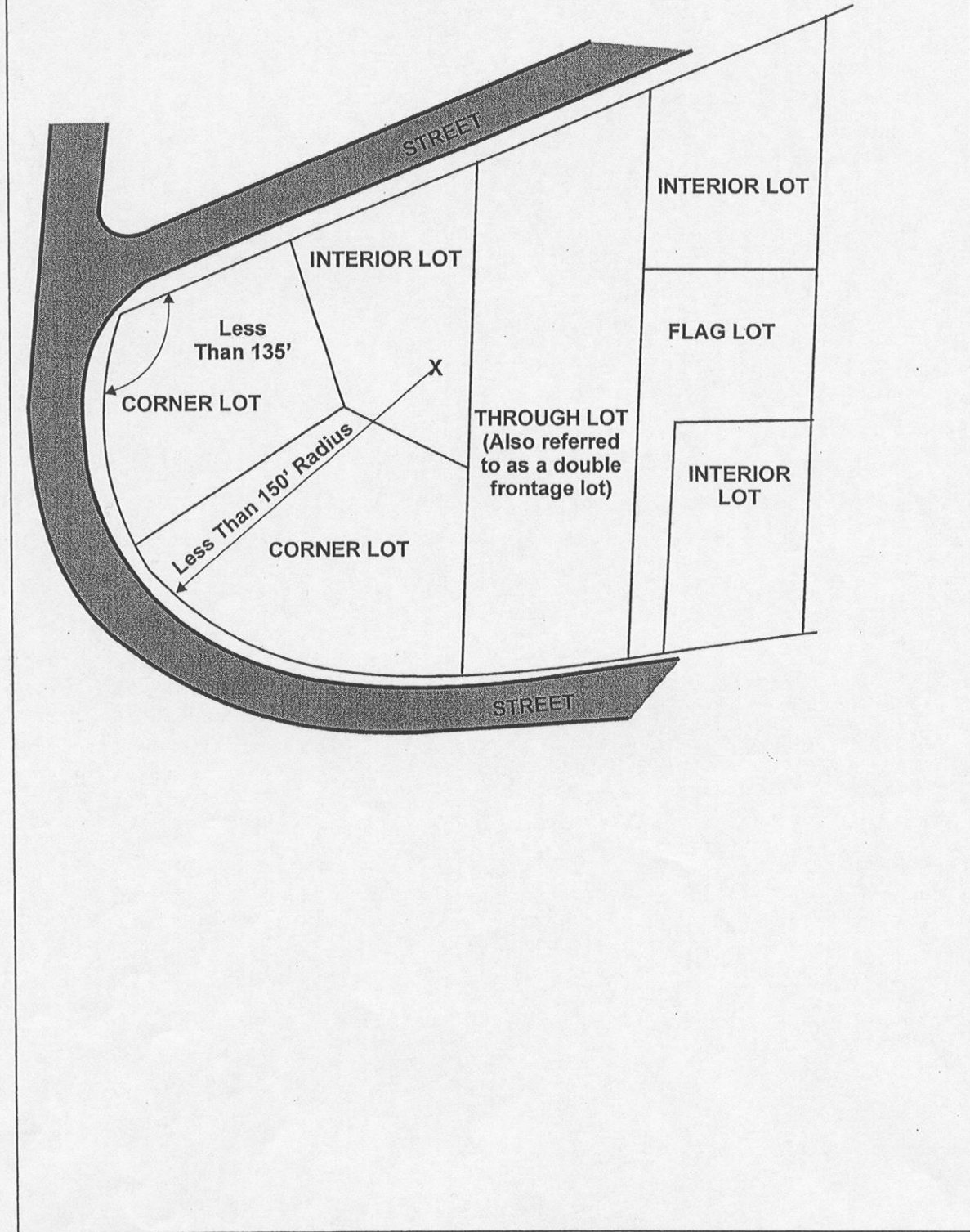
**Kalkaska County Zoning Ordinance**  
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**FIGURE 32-3**  
**AVERAGE GRADE**



**Kalkaska County Zoning Ordinance**  
Adopted October 2001

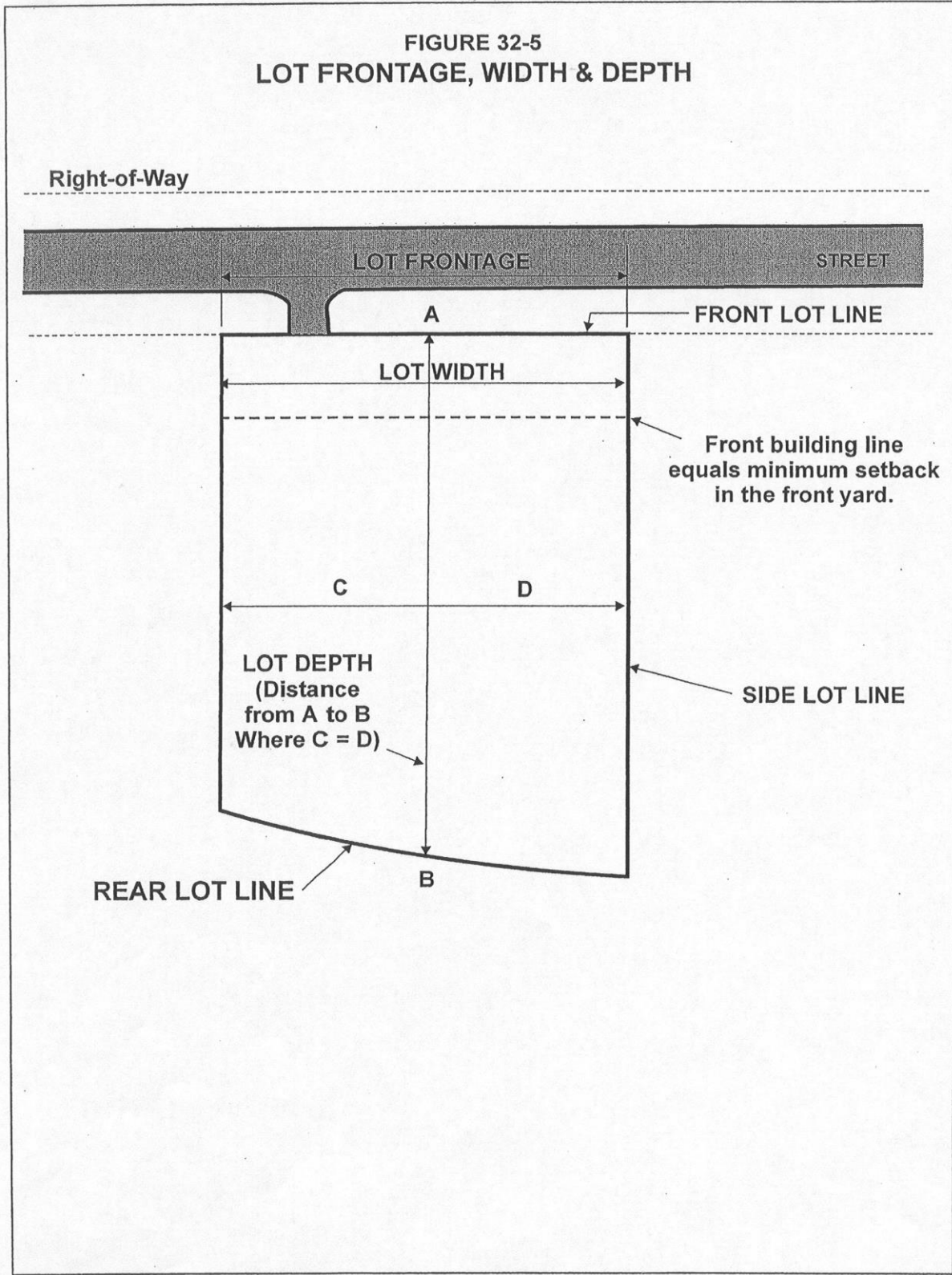
**FIGURE 32-4**  
**LOT TYPES**





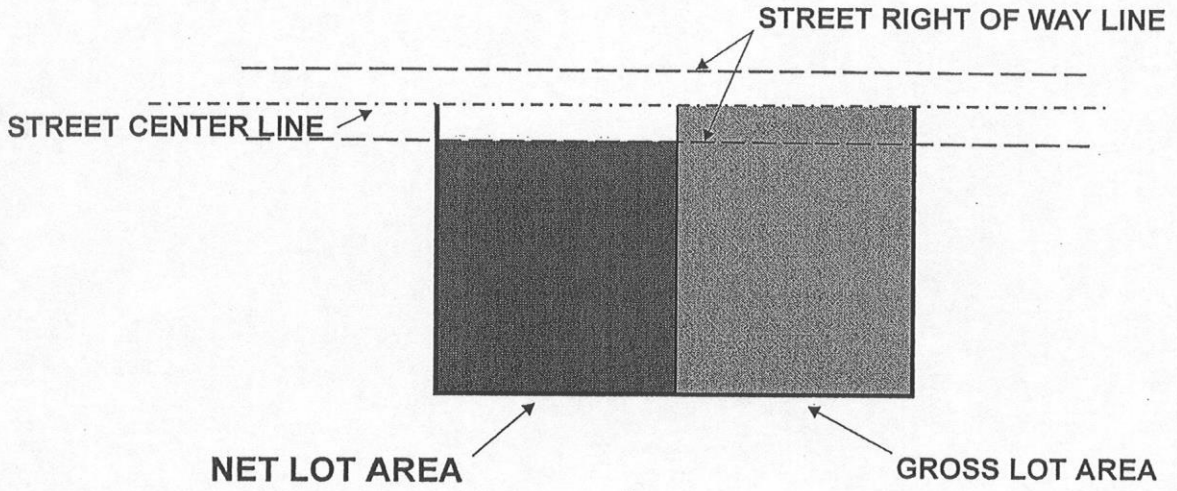
**Kalkaska County Zoning Ordinance**  
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**FIGURE 32-5**  
**LOT FRONTAGE, WIDTH & DEPTH**



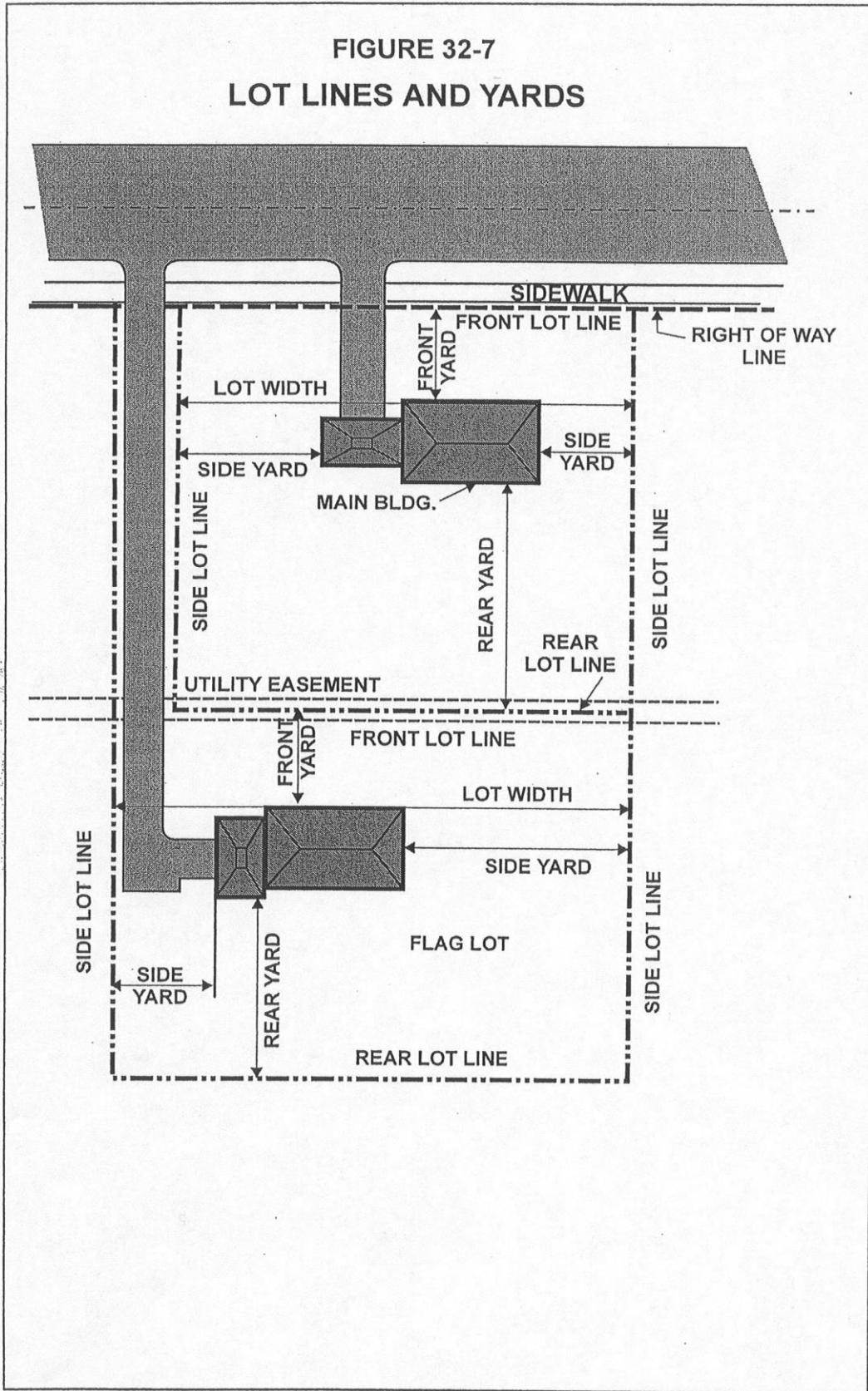
**Kalkaska County Zoning Ordinance**  
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**FIGURE 32-6**  
**NET AND GROSS LOT AREA**



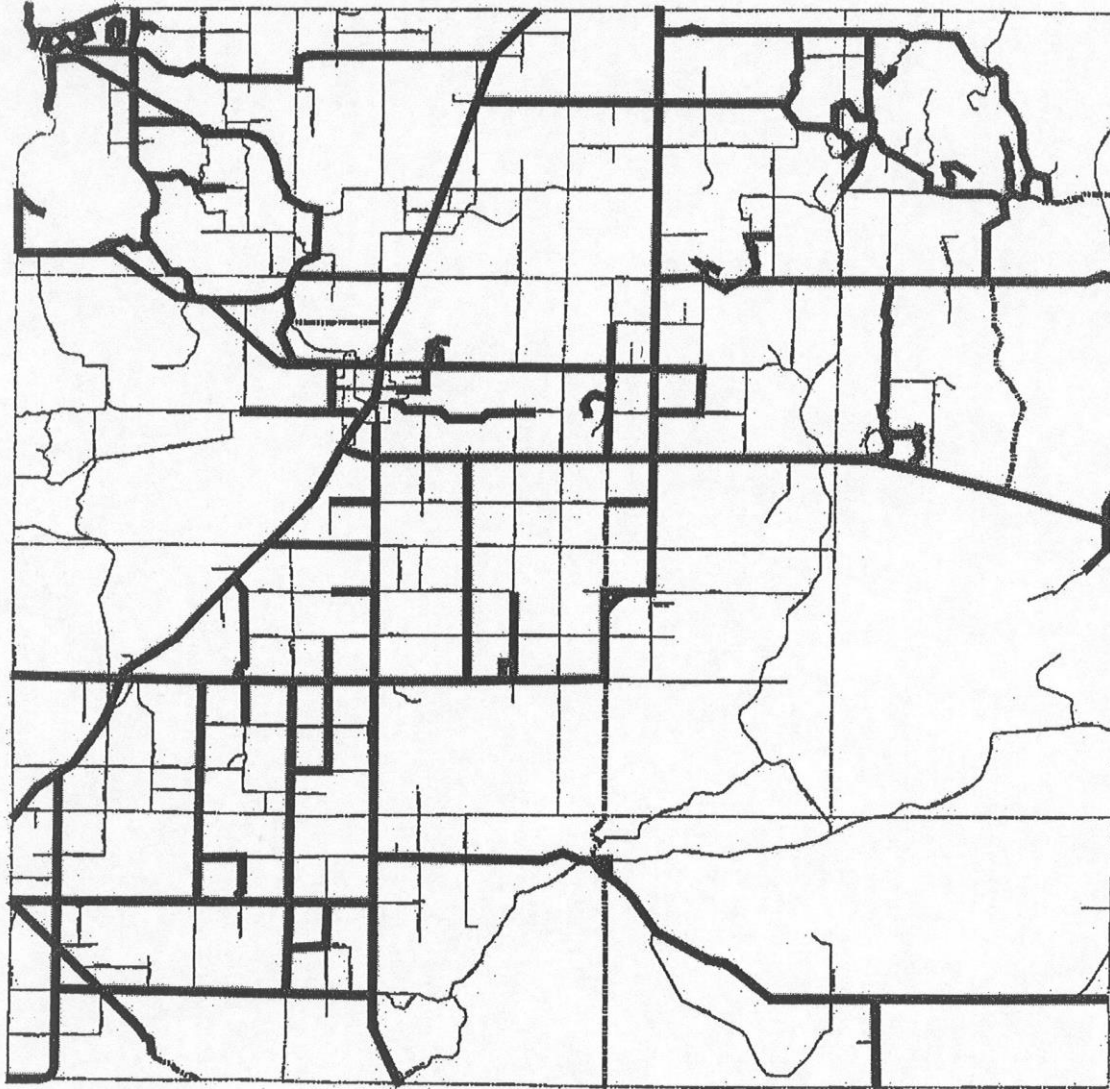
**Kalkaska County Zoning Ordinance**  
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**FIGURE 32-7**  
**LOT LINES AND YARDS**





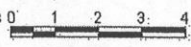


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FIGURE 32-8  
STREET AND HIGHWAY CLASSIFICATION MAP



**Kalkaska County**  
Existing Transportation Network

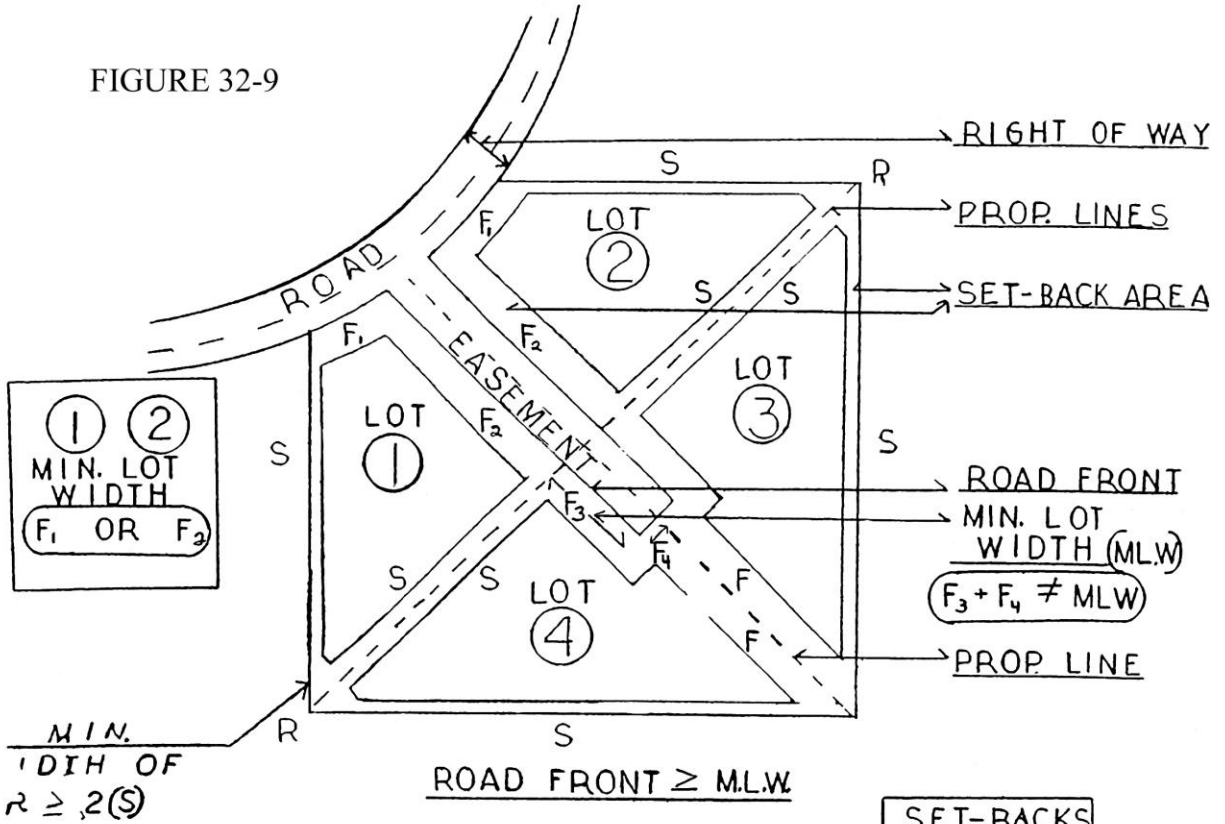
- |  |  |
|--|--|
|  Major Thoroughfares<br>U.S. Highways<br>State Highways<br>County Roads Paved |  Local Roads      |
|  Township Lines   |  North            |
|  |  Miles 0 1 2 3 4 |

Map by Planning & Zoning Center, Inc., Updated 2000  
Source: MDOT, MIRIS, County Road Commission



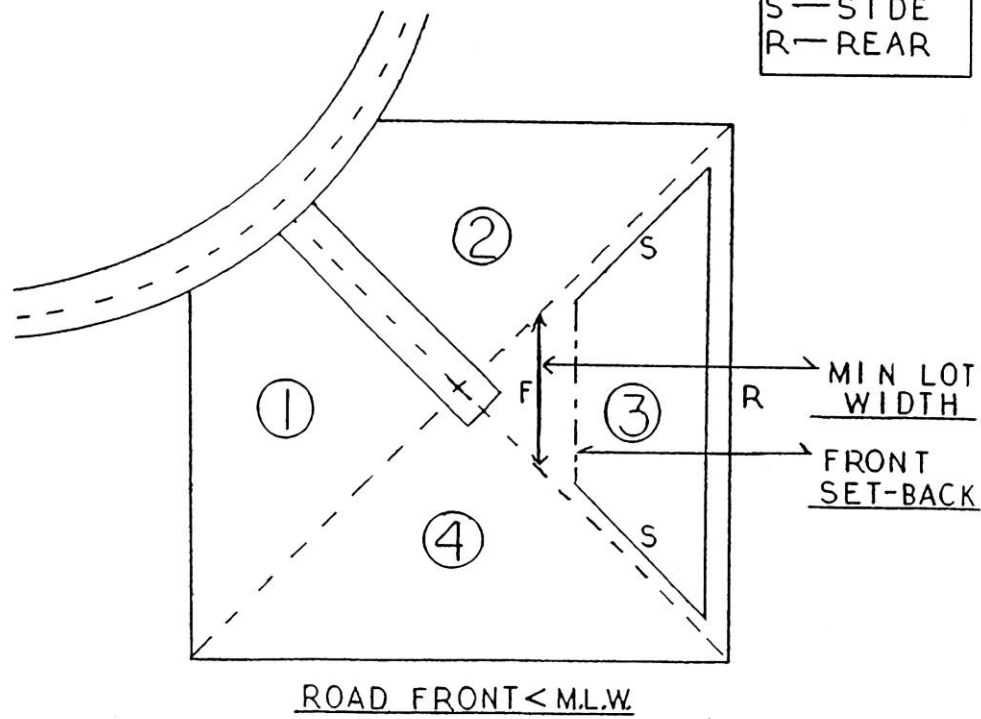
**Kalkaska County Zoning Ordinance**  
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FIGURE 32-9



① ②  
MIN. LOT WIDTH  
 $F_1$  OR  $F_2$

**SET-BACKS**  
F—FRONT  
S—SIDE  
R—REAR



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**ARTICLE THIRTY-THREE**

**VALIDATION AND EFFECTIVE DATE**

**SECTION 33.01 - SEVERABILITY**

If any section, clause or provision of this Ordinance be declared unconstitutional or otherwise invalid by a court of competent jurisdiction, said declaration shall not affect the remainder of the Ordinance. The Kalkaska County Board of Commissioners hereby declares that they would have passed this Ordinance and each part, section, subsection, phrase, sentence and clause irrespective of the fact that any one or more parts, sections, subsections, phrases, sentences or clauses be declared invalid.

**SECTION 33.02 - EFFECTIVE DATE**

This Ordinance shall be in full force and effect on the date following its approval by the Kalkaska County Board of Commissioners, pursuant to the provisions of the Michigan Zoning Enabling Act, PA 110 of 2006, as amended.<sup>1</sup>

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<sup>1</sup> Ordinance #139, Amendment #160 adopted on January 27, 2010