

# **Bingham Township Zoning Ordinance**

**(as amended through June 2019)**

# BINGHAM TOWNSHIP ZONING ORDINANCE

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## **BINGHAM TOWNSHIP ZONING ORDINANCE**

The Township of Bingham in Leelanau County, Michigan, ordains:

### **ARTICLE 1 TITLE, PURPOSE, ENABLING AUTHORITY AND CONDITIONS OF ENACTMENT**

#### **SECTION 1.1 TITLE**

This Ordinance shall be known as the Bingham Township Zoning Ordinance and will be referred to herein as the Ordinance.

#### **SECTION 1.2 PURPOSE**

The purpose of this Ordinance is to protect the public health, safety, morals and general welfare of the inhabitants of Bingham Township, through the establishment of zoning districts within which the proper use of land and natural resources may be encouraged and regulated to achieve planned orderly growth and development for the Township, preventing overcrowding of lands, avoiding undue congestions of population, and facilitating transportation, public utilities and fire safety.

#### **SECTION 1.3 SCOPE**

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

#### **SECTION 1.4 ENABLING AUTHORITY**

(Annotation: Amended by Ordinance No. 01-121911, effective January 6, 2012)

This Ordinance is enacted pursuant to P.A. 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3101 et seq.), hereinafter referred to as the “Zoning Act”

#### **SECTION 1.5 RELATIONSHIP TO MASTER PLAN**

(Annotation: Amended by Ordinance No. 01-121911, effective January 6, 2012)

The Zoning Ordinance and the Zoning Map are based upon the Township's Comprehensive Development Plan adopted in January of 2005 and reviewed in August of 2010, and the supporting base studies and documents. These include the results of the Township survey conducted in the summer of 1986, which substantiated and updated the survey leading to the 1999 Plan, and the results of a survey in February of 1988 of the active farming community.

## ARTICLE 2 DEFINITIONS

### SECTION 2.1 RULES APPLYING TO THE TEXT

For the purposes 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.
2. The word "person" includes a corporation or firm as well as an individual. Masculine/feminine pronouns such as "he" or "his" and "she" or "hers" are intended to be gender neutral/inclusive. Amended BTPC9-21-94
3. The term "shall" is always mandatory and not discretionary; the word "may" is permissive.
4. The word "used" or "occupied" as applied to any land or structure shall be construed to include the words "intended, arranged, or designed to be used or occupied."
5. Any word or term not interpreted or defined by this Article shall be used with a meaning in common or standard usage.

### SECTION 2.2 DEFINITIONS

(Annotation: Section 2.2 amended by Amendment 14-004, effective March 6, 2015 which deleted 37 words that do not appear in the Zoning Ordinance text)

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

ACCESSORY APARTMENT: See DWELLING UNIT, ACCESSORY APARTMENT.

ACCESSORY BUILDING: See BUILDING, ACCESSORY.

ACCESSORY STRUCTURE: See STRUCTURE, ACCESSORY.

ACCESSORY USE: See USE, ACCESSORY.

ADULT FOSTER CARE: The care of adults who do not require nursing care, but who are unable to live independently because they are developmentally disabled, emotionally impaired, physically handicapped, or old.

AFC FAMILY CARE HOME: A private home or facility licensed by the State Department of Social Services, where no more than six (6) adults are receiving foster care.

AFC SMALL GROUP HOME: A facility licensed by the State Department of Social Services, where from seven (7) to (12) adults are receiving foster care.

AGRICULTURAL DISTRICT MARKET ( OR EXPANDED FARM MARKET): A permanent, enclosed building or portion thereof used for the purpose of selling seasonal farm products, which sells products or services that exceed the definition of a Farm Market under the Michigan Right-To-Farm Act. (Annotation: Definition added by Amendment 12-002 effective June 12, 2012)

AGRICULTURAL SUPPORT BUSINESS (ASB): A Business that provides goods and/or services primarily to the local agricultural community, not just the farm on which it operates. (Annotation: Definition added by amendment 2008-001 effective on 11-07-08)

AGRICULTURAL SUPPORT INDUSTRY (A.S.I.):  
(Annotation: Definition Deleted by Amendment 2008-002, effective 11-07-08)

AGRICULTURE: See FARM.

APARTMENT: See DWELLING UNIT.

APPLICANT: A person, firm, association, partnership, corporation, or combination of any of them which may be seeking approval from Bingham Township pursuant to the requirements of this Ordinance. Added by amendment BTPC12-7-94

BED AND BREAKFAST: A single family dwelling with bedroom(s) available for guest use for compensation and by prearrangement, having no external evidence that rooms are available. Compare TOURIST HOME.

BED AND BREAKFAST INN: An owner occupied private home with four or more bedrooms available for guest use for compensation and by prearrangement.

BLUFF: A cliff or hill with a slope in excess of thirty (30) percent, which terminates in Lake Michigan, Grand Traverse Bay, or any inland lake, or their beaches.

BOAT HOUSE: Any permanent structure erected on the shore of a lake or watercourse, used for the noncommercial storage of boat(s) and related equipment and supplies.

BUFFER: A strip of land, including plantings and/or structures which may be required to protect one type of land use from another, or to minimize or eliminate conflicts between them. Compare GREENBELT and SCREEN.

BUILD: See ERECT.

BUILDING: Any structure, whether temporary or permanent, having a roof, and used or built for the shelter or enclosure of persons, animals, chattels, or property of any kind. This shall



include tents, awnings, and mobile homes whether or not mounted on wheels.

**BUILDING, ACCESSORY:** A subordinate building, *not to be confused with an accessory apartment*, which may or may not be attached to a principal building, occupied by or devoted exclusively to a use which is accessory and clearly incidental to the principal permitted use.

**BUILDING, NONCONFORMING:** See NONCONFORMING BUILDING OR STRUCTURE.

**BUILDING HEIGHT:** The vertical distance measured from the average of the highest and lowest finished grade surrounding the structure to the highest point of the roof.  
(Definition amended by Amendment 06-004 effective date August 2006)

**BUILDING, PRINCIPAL:** A building or group of buildings in which is conducted the main or principal use or activity permitted on the lot where the building is located.

**CHICKEN:** domestic fowl (*Gallus gallus domesticus*) kept for its eggs or meat.  
(Annotation: Definition added by Amendment 15-001 effective May 8, 2015)

**CHILD CARE:** (Annotation: Definitions amended by Amendment 13-005, effective April 4, 2014)

**FAMILY CHILD CARE HOME:** A private home registered with the State Department of Social Services, where one (1) to six (6) children are received for care and supervision for periods less than twenty-four (24) hours.

**GROUP CHILD CARE HOME:** A private home, licensed by the Department of Social Services, where from seven (7) to twelve (12) children are received for care and supervision for periods of less than twenty-four (24) hours.

**DAY CARE CENTER:** A facility other than a private home, licensed by the Department of Social Services, where one or more children are received for care and supervision for periods less than twenty-four (24) hours. This includes preschools.

**CIDERY:** See WINERY (Annotation: Definition added by Amendment 14-001 effective June 6, 2014)

**CLERK** - The clerk of Bingham Township. Added by amendment BTPC4-19-95

**CLUSTERED HOUSING:** Clustered housing is an innovative land use device for grouping or "clustering" buildings in order to achieve densities on some portions of the development area while leaving the remaining land open for recreational or other purposes.

**COMMERCIAL FARM:** A Farm which has produced agricultural or horticultural products worth \$2,500.00 or more annually for at least three of the past five years.  
(Annotation: Definition added by amendment 2008-001 effective on 11-07-08)

**COMMERCIAL STORAGE:** A space, or a place, for the safekeeping of goods for profit.

COMMUNITY SUPPORTED AGRICULTURE (CSA): A small-scale farm and/or garden that sell their products to buyers that have purchased a “subscription” to the farm. A CSA’s focus is usually on a system of weekly delivery or pick-up of vegetables and other farm products. It is a partnership between a local farmer and nearby consumers who become members or subscribers in support of the farm. In exchange for paying in advance (at the beginning of the growing season,) the CSA member receives fresh produce throughout the season.

(Annotation: Definition added by amendment 2008-001 effective on 11-07-08)

CONDOMINIUM: A form of ownership where the "homeowner" shares ownership in property, whose maintenance is a group responsibility, and where the individual enjoys the use of the space within the dwelling, under the Condominium Act, Michigan Public Act 59 of 1978, as amended.

CONDOMINIUM LOT(S): In the case of a site condominium, the lot shall be the condominium unit, which consists of the building envelope plus the limited common area surrounding the unit.

Added by amendment BTPC4-19-95

CONDOMINIUM, SITE: A site condo is a condominium where there is shared responsibility for common areas, but where the individual not only enjoys the use of his dwelling, but is responsible for maintaining it and the yard assigned to him, under Michigan Public Act 59 of 1978 as amended. See LOT.

CONDOMINIUM UNIT - That portion of the condominium project designed and intended for separate ownership interest and use, as described in the Master Deed, regardless of whether it is intended for residential, office, industrial, business, or recreational use as a time-share unit, or any other type of use. Added by amendment BTPC4-19-95

DAY CARE: See CHILD CARE.

DENSITY: The number of dwelling units existing or to be developed per acre of land.

DISTILLERY: An establishment licensed by the State of Michigan as a Small Distiller.

(Annotation: Definition added by Amendment 14-001 effective June 6, 2014)

DISTRICT: An area for which there are uniform zoning regulations governing the use of buildings and premises, the size and height of buildings, the size of yards, and the density of development.

DRAINAGE: The removal of surface water or groundwater from land by drains, grading, or other means. Drainage includes the control of runoff to minimize erosion and sedimentation during and after development, and includes the means necessary to preserve the water supply or to prevent or alleviate flooding.

DRIVEWAY: A private access providing vehicular passage, on a lot or condominium unit, to a public or private road. Amended BTPC12-7-94

DUPLEX: A building or part thereof containing two (2) dwelling units.

DWELLING: Any building or part thereof serving people as a home, residence, or sleeping place

DWELLING, MULTIPLE FAMILY: A building or part thereof containing three (3) or more dwelling units.

DWELLING, SINGLE FAMILY: A detached building containing one dwelling unit.

DWELLING, SINGLE FAMILY ATTACHED: A dwelling unit which is part of a building containing two or more dwelling units with common walls on property lines so that only one (1) dwelling unit is located on each lot.

DWELLING UNIT: A dwelling forming a single habitable unit for one (1) family.

DWELLING UNIT, ACCESSORY APARTMENT: See section 3.7 Accessory Apartments.

ERECT: Build, construct, reconstruct, or move upon or perform any physical operations on the land required for building. Excavations, fill, drainage, and the like shall be considered a part of erecting.

EXCAVATION: Excavation consists of digging or scraping a hole in the ground, where the hole is the desired result.

FAMILY: One or more persons occupying a dwelling unit as a single nonprofit housekeeping unit. A domestic employee residing in the dwelling unit shall be considered part of the family.  
(Definition amended by Amendment 05-002 effective on

FARM: Any parcel of land which is used for general agricultural purposes, such as the growing of forests, orchards and field crops, or the raising of animals. This includes the necessary farm structures, and the storage of equipment used in the operation of the farm.

FARM BUILDINGS: A structure normally and reasonably used in the act of farming by the Owner or Lessee of the property. (Annotation: Definition added by Amendment 12-002 effective June 12, 2012)

FARM MARKET: A building or place where agricultural products produced by the operator are sold and which qualifies as a Farm Market under the jurisdiction of Michigan Right-To-Farm Act.

(Annotation: Definition added by Amendment 12-002 effective June 12, 2012)

FENCE: A structure or barrier enclosing a field, yard, or other space, or separating it from an adjoining area; especially a structure of rails, pickets, or wooden or metal openwork. Compare SCREEN.

FLOOD PLAIN: Land adjoining or connected to a water body or watercourse which has a once in one hundred years chance of being inundated, as determined by the U.S. Army Corps of Engineers or other applicable Federal Agency. Compare WETLANDS.

FLOOR AREA: The sum of the horizontal areas of the several floors of a building, measured from the interior face of the exterior walls.

FLOOR AREA, USABLE: Usable floor area shall be calculated by taking the floor area minus hallways and entrance halls which are not used for the display or storage of merchandise, and minus mechanical areas involved solely with building and grounds maintenance.

FOOD PROCESSING: A procedure which processes, packages, grades, sorts, or changes the form of fruit or other farm products.

FOOD PROCESSING PLANT: An establishment which processes, packages, grades, sorts, or changes the form of fruit, vegetables, or other farm products.

FRUIT AND VEGETABLE RECEIVING STATION: A business which receives raw fruit and /or vegetables from area farms for shipment to market, and may include the process of brining.  
(Annotation: Definition amended by amendment 2008-001 effective on 11-07-08)

GOLF COURSE: An area of land laid out for the game of golf with a series of nine (9) or eighteen (18) holes including tees, greens, fairways, and often one or more natural or artificial hazards, practice driving ranges, and a clubhouse. This definition does not include mini-golf or similar amusement park types of games.

GRADE: The lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line or, when the property line is more than five (5) feet from the building, between the building and a line five feet from the building.

GREENBELT: A landscaped area, using grasses, trees and/or shrubs, with or without berms, to achieve the goals of this Ordinance. It is not intended to screen, and there is no minimum height requirement. Compare BUFFER and SCREEN.

GREENHOUSE: A structure, all or some of whose roof and side walls are of glass or similar material, which is used for the cultivation of plants and flowers. Compare CONSERVATORY.

GROUP DAY CARE HOME: See CHILD CARE.

GUEST HOUSE: An accessory building located on the same lot as the principal dwelling, used for housing guests.

HARDSHIP: Unnecessary and illogical deprivation of an individual's property rights which are enjoyed by others in the same zoning district.

HEIGHT: See BUILDING HEIGHT.

HOME BUSINESS: An occupation carried on at home, which is subordinate and incidental to the residential use, but which is more intense than a home occupation as defined in this Ordinance, and which has the potential of having an adverse impact on the residential character of the neighborhood.

HOME OCCUPATION: An accessory use of a dwelling involving the manufacture, provision, or sale of goods and/or services, which is clearly subordinate and incidental to its use as a residence.

HOTEL: A building in which lodging is offered to the public for compensation, and in which access to the rooms is arranged in an inside lobby or office, with someone usually on duty at all times. Compare MOTEL.

INSTITUTION: A building occupied by a municipal or nonprofit corporation or establishment.

LAND: The surface area known as real estate. Added by amendment BTPC12-7-94

LAND DIVISION: See Bingham Township Land Division Ordinance.  
(Annotation: Added by Ordinance No. 01-121911, effective January 6, 2012)

LIMITED FOOD PROCESSING KITCHEN: A small licensed kitchen area on a farm that is used for processing food such as berries for jam, cucumbers and other vegetables for pickling, and other food items for off premise consumption.  
(Annotation: Definition added by amendment 2008-001 effective on 11-07-08)

LIVESTOCK: Beef & Dairy Cattle, Bison, Swine, Equine, Cervidae, Sheep, Goats, and Camelids. (Annotation: Definition added by Amendment 12-002 effective June 12, 2012)

LOT, PARCEL OR TRACT: Contiguous areas of land unbroken by a public road, under the ownership of the same person(s), on which a principal building or structure and or use, and/or accessory structures or uses may be located. Lot may also refer to land which is described and fixed in a recorded plat or site condominium. See "CONDOMINIUM LOT"  
Amended BTPC12-7-94, Amended BTPC4-19-95

LOT AREA: The total horizontal area within the lot lines of a lot *exclusive of dedicated or private road right-of-ways*. Amended BTPC 11-8-02.

LOT, CORNER: A lot abutting on two public roads at their juncture, when the interior angle is less than one hundred and thirty-five (135) degrees.

LOT COVERAGE: That percentage of the lot area covered by all buildings and structures located on the lot.

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

LOT LINES: The perimeter boundary lines of a lot.

LOT LINE, FRONT: That line separating said lot from the road right-of-way. In the case of a through lot, it is that line separating said lot from either road right-of-way. Where a corner lot abuts two public roads, front setbacks shall be required from the rights-of-way of both roads. Where a lot is bisected by a private road, front setbacks shall be required from that road. Side setbacks shall be required from the remaining lot lines.

LOT LINE, REAR: That lot line or shoreline opposite and most distant from the front lot line.

LOT LINE, SIDE: Any lot line other than the front lot line or the rear lot line.

LOT, WIDTH: The straight line horizontal distance between the side lot lines, measured at the two points where the front setback line intersects the side lot lines.

LOT LINE, ZERO: See ZERO LOT LINE.

LOT OF RECORD: A lot which is part of a subdivision or preliminary plat approved by the Township Board prior to the date of this Ordinance. Also a lot described by metes and bounds, the deed or other conveyance to which has been recorded with the Register of Deeds in Leelanau County prior to the effective date of this Ordinance.

MANUFACTURED OR MOBILE HOME: A moveable dwelling which is constructed to be towed on its own chassis, is capable of being connected to public utilities, and is designed for year-round living as a single family dwelling unit without the necessity of a permanent foundation. The term "mobile home" shall not include pick-up campers, travel trailers, motor homes, converted buses, tent trailers, or other transportable structures designed for temporary use.

MASTER DEED - The legal document prepared and recorded pursuant to Act 59 of the Public Acts of 1978, as amended, within which are, or to which is attached as exhibits and incorporated by reference, the approved by-laws for the project and the approved condominium subdivision plan for the project. Added by amendment BTPC4-19-95

MICROBREWERY: An establishment licensed by the State of Michigan as a Microbrewery.

(Annotation: Definition added by Amendment 14-001 effective June 6, 2014)

MOBILE HOME PARK: A lot, parcel or tract of land used as the site for occupied mobile homes, including any buildings, structures, enclosures or facilities used by park residents, and licensed under Michigan Public Act 243 of 1959, as amended.

MOTEL: A building or group of buildings with sleeping accommodations available for temporary occupancy for compensation, primarily by automobile transients. Compare HOTEL.

NONCONFORMING BUILDING or STRUCTURE: A building or structure or portion thereof lawfully existing at the time of adoption of this Ordinance or of any amendments, that does not conform to the dimensional requirements of the Ordinance in the zoning district in which it is located.

NONCONFORMING USE: A use of a building or structure or of land, lawfully existing at the time of adoption of this Ordinance or of any amendments, that does not conform to the regulations of the Ordinance in the zoning district in which it is located.

NURSERY: An area where trees, shrubs, flowering plants etc. are raised for sale or transplanting.

NURSING HOME: A building other than a hospital, where the primary function is to provide nursing care for extended periods of time to persons afflicted with illness, injury, or an infirmity.

OPEN SPACE: Any parcel or area of essentially unimproved land which is set aside and dedicated either to public or to common private use, and which must remain essentially unimproved. See Section 15.4.1.A and 15.4.1.B.

PARCEL: Amended BTPC12-7-94 See LOT, PARCEL OR TRACT

PARK: Any noncommercial recreational area.

PARKING AREA: An area to be used for parking vehicles.

PARKING LOT: A lot whose principal use is the parking of motor vehicles, where parking space is rented to the general public or reserved for individuals by the hour, or for some more extended period of time.

PARKING SPACE: A surfaced area for the parking of a motor vehicle, and so located as to be readily accessible to a road. See Section 11.2.9 Minimum Design Standards.

PLOT PLAN: A drawing showing all the salient features of a proposed project or development, so that it may be evaluated in order to determine whether it meets the provisions of this Ordinance. Compare SITE PLAN.

**PROFIT:** is the making of financial gain in a business activity for the benefit of the owners of the business. (Annotation: Definition added by amendment 2008-001 effective on 11-07-08)

**PUBLIC UTILITY:** Any person, firm or corporation, municipal department, board or commission duly authorized to furnish and furnishing to the public, under federal, state, or municipal regulations: gas, steam, electricity, sewage disposal, water, communication, telephone, telegraph, or transportation.

**QUASI-PUBLIC** - a private non-profit or utility use in ownership and funding, which service use is more or less public in nature, such as but not limited to: nature conservancies, utility companies, historic/museum societies, etc. Added by amendment BTPC6-19-96

**RECREATION FACILITIES, INDOOR:** Uses, such as but not limited to, bowling alleys, health spas, tennis clubs, squash courts, ice- and roller-skating rinks, electronic game arcades and other privately owned establishments offering recreational opportunities to the community. Added by amendment BTPC6-19-96 (Annotation: Definition amended by Amendment 14-004, effective March 6, 2015)

**RECREATION FACILITIES, OUTDOOR:** Private enterprises, such as but not limited to: golf courses, miniature golf courses, golf driving ranges, marinas, swimming pools, amusement/theme parks, etc. that offer recreational opportunities to the public. Often these facilities provide an important component of the total recreational system and help to preserve open space without removing it from the tax rolls. Principal planning concerns shall be that these uses provide adequate off-street parking and screening of parking lots and heavily used or night-lighted facilities from residential areas. Added by amendment BTPC6-19-96 (Annotation: Definition amended by Amendment 14-004, effective March 6, 2015)

**RENTAL, SHORT-TERM:** The renting of a dwelling for less than thirty (30) days. (Definition added by Amendment 05-001 effective on

**RESTAURANT:** A business located in a building where meals are prepared, sold and served for consumption on the premises. This excludes consumption in parked cars, and also "fast food restaurants."

**ROAD:** Any road which meets the minimum standards of construction of the County Road Commission.

**ROAD, EMERGENCY ACCESS:** See SECONDARY ACCESS ROAD  
Added by amendment effective July 23, 2004

**ROAD, PRIMARY ACCESS:** Any Private or Public Road that serves as the lot frontage.  
Added by amendment BTPC effective July 23, 2004

**ROAD, PRIVATE:** An area of land not owned or maintained by the public used for ingress and egress to and from land. Added by amendment BTPC12-7-94



**ROAD, PUBLIC:** An open way for passage or travel under public ownership and/or maintenance. Added by amendment BTPC12-7-94

**ROAD, SECONDARY ACCESS:** A Private Road reserved for later development to an adjacent property or link to a Public or Private Road. Added by amendment BTPC effective July 23, 2004

**ROAD, UNIMPROVED:** Any public or private thoroughfare dedicated and maintained for the use and operation of vehicular traffic, which does not meet County Road Commission standards. This does not include a railroad.

**ROADSIDE STAND:** A temporary structure used for selling seasonal farm products, where the customer shops and makes purchases without entering the structure.  
(Annotation: Definition amended by amendment 2008-001 effective on 11-07-08)

**ROOMING HOUSE:** A single family dwelling where lodging with or without meals is furnished for compensation to three or more people, usually for an extended period, and usually with a sign indicating the use.

**SAWMILL:** A mill or machine for sawing logs into lumber, operated at one location for more than six months.

**SCREEN:** A high fence, or natural materials such as trees, shrubs and other plant materials, providing a visual and/or sound barrier between the area screened and adjacent property. Compare FENCE and BUFFER and GREENBELT.

**SEASONAL:** A recurrent period other than year round.  
(Annotation: Definition added by amendment 2008-001 effective on 11-07-08)

**SERVICE STATION:** A building or premises together with the necessary equipment used for direct retail sale of gasoline or other motor fuels, oils, or minor accessories. Where such sales are incidental to the operation of a public garage, the use shall be classified as a commercial garage. Compare GARAGE, COMMERCIAL.

**SETBACK:** The required minimum unoccupied distance between the lot line or the shoreline, and the principal or accessory buildings or structures.

**SETBACK, FRONT:** The required minimum unoccupied distance, extending the full lot width, between the principal or accessory buildings or structures and the front lot line.

**SETBACK, REAR:** The required minimum unoccupied distance, extending the full lot width, between the principal or accessory buildings or structures and the lot line or shoreline.  
(Annotation: Definition amended by Amendment 13-001, effective June 7, 2013)

SETBACK, SIDE: The required minimum unoccupied distance, extending from the front setback to the rear setback, between the principal or accessory buildings or structures and the side lot line.

SETBACK AREA OR YARD: The area between the lot lines and the lines representing required minimum setbacks from those lot lines.

SETBACK AREA OR YARD, FRONT: An area extending the full width of the lot between the front lot line and a line representing the required minimum setback from the front lot line.

SETBACK AREA OR YARD, REAR: An area extending the full width of the lot between the rear lot line and a line representing the required minimum setback from the rear lot line.

SETBACK AREA OR YARD, SIDE: An area extending from the front setback area to the rear setback area, between the side lot line and a line representing the required minimum side setback.

SHORE: The beach area lying between the shoreline and the water.

SHORELINE:

A. For property bordering the Great Lakes, the shoreline shall be the Ordinary High Water Mark as defined by the Great Lakes Submerged Lands Act, 1955 PA 247 (now incorporated as Part 325 of the Natural Resources and Environmental Protection Act, Act 451 of 1994 as amended). For purposes of measuring setbacks in the case of the presence of a BLUFF, the shoreline setback shall be measured from the edge of the bluff.

B. For property bordering an inland lake or stream, the shoreline shall be the actual water's edge. On Lake Leelanau, where the water level is regulated by a Circuit Court Order, the shoreline shall be the water's edge during the summer period.

(Annotation: Definition amended by Amendment 14-004, effective March 6, 2015)

SIGN: Any device including words, numerals, figures, designs, pictures or trademarks painted upon or otherwise affixed to a building, wall, board, or any structure, so as to inform or attract attention. For further sign definitions, see Section 3.13.2 Definitions.

SITE CONDOMINIUM: See CONDOMINIUM, SITE.

SITE CONDOMINIUM SUBDIVISION PROJECT - A condominium project developed under Public Act 59 of 1978, as amended, comprising of more than two (2) condominium units which is not subject to the provisions of the Subdivision Control Act, Public Act 288 of 1967, as amended. Added by amendment BTPC4-19-95

SITE PLAN: The documents and detailed drawings required for site plan review under Article XI Special Land Use Permits. Compare PLOT PLAN.

SMALL ANIMAL KENNEL: The keeping of small animals for a fee or compensation. Examples include domestic dogs, cats, ferrets, birds, reptiles, and pot bellied pigs but does not include farm animals or wild animals that would normally live in a natural, undomesticated state.  
(Added by Amendment 05-003 effective on

SPECIAL LAND USE: See USE, SPECIAL.

STORAGE: See COMMERCIAL STORAGE.

STREET: Any public or private thoroughfare dedicated and maintained for the use and operation of vehicular traffic, which meets the minimum standards of construction of the County Road Commission.

STRUCTURE: Any construction or pieces of material artificially built up or composed of parts joined together in some definite manner, whether under or on the ground. Structures include, but are not limited to, buildings, decks, advertising signs and signboards, towers, poles, antennas, storage tanks above or below ground, and parking lots. Excluded are lot and parcel boundary fences, and driveways. Amended BTPC5-18-94, BTPC9-21-94 See DWELLING STRUCTURE.

STRUCTURE, ACCESSORY: A subordinate structure, which may or may not be attached to a principal building or structure, occupied by or devoted exclusively to a use which is accessory and clearly incidental to the principal permitted use.

STRUCTURE, NONCONFORMING: See NONCONFORMING BUILDING OR STRUCTURE.

TASTING ROOM: A building or place licensed to offer wine, cider, spirits, or beer that is produced by and primary ingredients grown by the operator of the establishment, and qualifies as a Farm Market under the jurisdiction of Michigan Right-To-Farm Act.  
(Annotation: Definition added by Amendment 12-002 effective June 12, 2012)

TOPOGRAPHIC MAP: A map showing the physical configuration and features of a tract of land, with contour lines at sufficient intervals to permit determination of grades and drainage patterns.

TOURIST HOME: A single family dwelling, identified as a tourist home by a sign, offering lodging for compensation, chiefly on an overnight basis to transients. Compare BED AND BREAKFAST, and ROOMING HOUSE.

TRACT: See LOT, PARCEL OR TRACT.

TRAILER HOME: See RECREATION VEHICLE.

TRAILER PARK: See MOBILE HOME PARK.

U-PICK: a fruit or vegetable growing farm that provides the opportunity for customers to pick their own fruits or vegetables directly from the plant.

(Annotation: Definition added by amendment 2008-001 effective on 11-07-08)

USABLE FLOOR AREA: See FLOOR AREA, USABLE.

USE: The purpose for which land or a structure is designed, arranged, or intended, or for which it is or may be occupied or maintained.

USE, ACCESSORY: A use incidental and subordinate to the principal use of the land or structure.

USE, NONCONFORMING: See NONCONFORMING USE.

USE, PRINCIPAL: The principal or dominant use of the land or structure.

USE, SPECIAL: A use having greater than usual impact on the environment, the community and/or the neighboring property holders, which must be reviewed and approved by the Commission, after the plans for development have been presented at a public hearing/hearings and reviewed by all affected government agencies.

VARIANCE: A modification of the dimensional provisions of this Ordinance granted by the Zoning Board of Appeals when strict enforcement would cause undue hardship or practical difficulties owing to circumstances unique to the specific property.

WATER'S EDGE: See SHORELINE.

WATERFRONT: See SHORELINE. Added by amendment BTPC 3-15-95.

WETLANDS: Land where water is found, either on the surface or underground near the surface, all year or for only a limited period of time. Poorly drained soils and water-loving vegetation help to identify wetlands. Final determination of wetlands is made by the DNR, which administers the Gormaere-Anderson Wetland Protection Act, Act 203 of 1979. Compare FLOOD PLAIN.

WINE: The product made by the normal alcoholic fermentation of the juice of grapes or any other fruit with the usual cellar treatment, and containing not more than 21% of alcohol by volume, including fermented fruit juices other than grapes and mixed wine drinks.

(Annotation: Definition added by amendment 2008-001 effective on 11-07-08)

WINE RELATED BEVERAGES: Fortified wines, wine brandy and mixed wine drinks.

(Annotation: Definition added by amendment 2008-001 effective on 11-07-08)

MIXED WINE DRINK: A drink or similar product containing less than 7% alcohol by volume, consisting of wine and plain, sparkling, or carbonated water, and containing any one or more of the following:

1. Non-alcoholic beverages
2. Flavoring
3. Coloring materials
4. Fruit juices
5. Fruit adjuncts
6. Sugar
7. Carbon dioxide
8. Preservatives

(Annotation: Definition added by amendment 2008-001 effective on 11-07-08)

WINE-BRANDY: An alcoholic liquor as defined in 27 CFR5.22(D) (1980)

(Annotation: Definition added by amendment 2008-001 effective on 11-07-08)

WINE-FORTIFIED: Wine with brandy or wine spirits added as permitted by law.

(Annotation: Definition added by amendment 2008-001 effective on 11-07-08)

WINERY (CIDERY): An establishment licensed by the State of Michigan as a Small Winery. Wineries may, with the proper license, produce brandy under this definition.

(Annotation: Definition amended by Amendment 14-001, effective June 6, 2014)

WOODLOT: More than twenty (20) trees exceeding twelve (12) inches in diameter per acre.

(Definition amended by Amendment 06-003 effective on

YARD: See SETBACK AREA.

ZERO LOT LINE: The lot line specified in a zero lot line development, with which the building is contiguous. The building has no setback from the lot line, and a maintenance easement is granted by the adjacent lot owner for access to the wall on the lot line.

ZERO LOT LINE DEVELOPMENT: A development where dwelling units are placed with one (1) or two (2) walls on the lot line.

## ARTICLE 3

### GENERAL PROVISIONS

(Annotation: Article amended in its entirety by Amendment 14-003, effective March 6, 2015)

#### SECTION 3.1 DISTRICTS

For the purposes of this Ordinance, the Township of Bingham is divided into land use districts, as follows:

- A. Agricultural
- B. Rural Residential
- C. Residential
- D. Commercial
- E. Industrial

#### SECTION 3.2 MAP

The land use district into which each parcel of land in the Township is located is shown on the map entitled "Bingham Township Zoning Map". The Zoning Map, together with all notations, references and other information shown thereon, is hereby made a part of this Ordinance. The Zoning Map shall be kept with the records of the Township Clerk, and the Map or an exact copy thereof shall be available for examination at the office of the Township Clerk at all reasonable times. At such times as amendments are made to the zoning district boundaries, and other aspects of the map, such changes shall be entered on the Zoning Map with appropriate references to the date of the amendment.

#### SECTION 3.3 LOTS OF RECORD

Minimum lot area requirements shall not prevent the use of a lot or parcel of land of lesser size than was legal prior to the effective date of this Ordinance. See Article 18 Nonconformities

#### SECTION 3.4 INTERPRETATION OF DISTRICT BOUNDARIES

(Amended in its entirety BTPC 4-19-95)

It is the intent and understanding of this Ordinance to have all land within Bingham Township zoned. Where uncertainty exists with respect to the boundaries of any of the districts indicated on the Zoning Map, the following rules shall apply:

- A. The underlining zoning for public and private right of ways and easements is the same as the adjacent parcel's zoning, with this zoning running to the center line of the right of way or easement.
- B. The boundaries for zoning districts which are indicated as approximately following public and private right of ways and easements shall be considered the centerline of the right of way or easement.
- C. The boundaries for zoning districts which are indicated as approximately following lot lines shall be construed as following such lot lines.

- D. The boundaries for zoning districts which are indicated as approximately following Township boundary lines shall be construed as following such Township boundary lines.
- E. Where the Township Zoning Map shows that the edge of a zoning district extends parallel to, and beyond, a private or public road right of way (“ROW”), the boundary of the zoning district, determined roughly perpendicular to the ROW, shall be construed as extending 450 feet beyond the center line of the ROW, unless the Zoning Map shows the zoning district boundary terminates at the rear parcel line of a parcel that adjoins the ROW.
- F. Where the application of the aforesaid rules creates parcels with multiple zoning districts or creates a reasonable doubt as to the boundaries between two (2) districts, the following shall apply:
  - 1. Lot/parcel minimum size: the lot size regulations of the most restrictive district shall govern the entire parcel in question.
  - 2. Use/structure requirements: the district in which the use/structure is located shall be the governing district in establishing the requirements and regulations for the use/structure.

### **SECTION 3.5 EXACT LOCATION**

The Zoning Board of Appeals shall determine, when required, the exact location of land use boundaries that otherwise may be in question. See Article 22 Zoning Board of Appeals.

**SECTION 3.6 SCHEDULE OF AREA, HEIGHT AND PLACEMENT REGULATIONS**

(Annotation: Section amended by Amendment 13-007, effective April 4, 2014)

Zoning District

		Agricultural	Rural Residential	Residential	Commercial	Industrial
Minimum Lot Area	acres	2	2	1	None (a )	5
Minimum Lot Width, Road Frontage	feet	200	150	150	None (a )	350
Maximum Height of Structure (b)	feet	35 (c)	35	35	35	35
Maximum Building Footprint	square feet				10,000	
Minimum Area Covered by Dwelling (d)	square feet	500	500	500	500	500
Maximum Lot Area Covered by Structures(e)		25%	25%	25%	25%	25%
Minimum Setback (f)	feet					
Front		40 (g)	40	40 (g)	40 (h)	100
Side		35 (i)(j)	35 (i)	10	10	(k)
Rear		50 (i)	35 (i)	30	30	30

(a) Minimum lot area and lot width is that needed for the building(s) and the required space needed for the permitted well(s) and septic field(s).

(b) Structure shall not exceed two and one-half (2 ½) exposed stories above ground.  
Added by amendment #06-004. Effective August 2006

(c) Farm buildings other than dwellings may be allowed by the Zoning Administrator to exceed the height limitation if the Administrator determines that the height is usual for that type of building, and the building is to be used for farm purposes only.

(d) In duplexes and multiple family dwellings, the average floor area per dwelling in each structure shall be a minimum of five hundred (500) square feet.



- (e) Lot area calculations are exclusive of dedicated or private road right-of-ways.  
Added by amendment BTPC11-8-02
- (f) Walkway, stairs, docks, flagpoles, and boathouses are exempt from the shoreline setback. Side setbacks do apply within the shoreline setback.
- (g) For all shoreline parcels in the Residential and Agricultural Districts on M-22, County Road 633, or County Road 641 the front setback shall be forty (40) feet. For all other shoreline parcels the front setback shall be thirty (30) feet.
- (h) Front setback areas of commercial uses in the Commercial District shall be appropriately landscaped and maintained, and shall not be used for overnight parking. The front setback for commercial parcels on Bingham Road is ten (10) feet. The front setback for commercial parcels on County roads C-633 and C-641 and on M-22 is forty (40) feet.
- (i) See Section 4.7 Agricultural District Setbacks and Setbacks Areas or Section 5.6.Rural Residential Area, Height, and Placement Regulations.
- (j) Side setbacks for “lots of record” in Boone Aire, Murray Court, and Valley-Wood are ten (10) feet. Added by amendment BTPC9-21-94
- (k) In the Industrial District each side yard setback shall be ten (10) percent of the lot width.

### **SECTION 3.6.1 STANDARDS FOR RESIDENTIAL DEVELOPMENTS**

The following standards shall apply to residential development created after the effective date of this amendment. A residential development is defined as:

- Subdivisions
- Site condominiums
- Multi-family dwelling projects
- Private Road that services three (3) or more parcels.

#### **A. Agricultural Buffer Zone**

Any lot or lots in a residential development that borders property that is zoned agricultural shall have a side and/or rear structure setback of 100 feet from the adjacent agricultural property(ies) unless one of the following applies:

1. The adjacent property is a parcel of less than fifteen (15) acres.
2. The adjacent property is separated by a private or Public Road or a recreational trail overlay zone.
3. That the first one-hundred (100) feet of the parcel bordering the proposed residential development is a woodlot or has not been under cultivation or used for commercial food or fiber production within the previous five years and is not likely to be under cultivation in the near future.

(Added by Amendment 06-003 effective July 2006)

Notwithstanding, the side and/or rear structure setback must meet the minimum requirements of Section 3.6 Schedule of Area, Height, Placement Regulations.

B. Underground Utilities

Any new utility lines (gas, electric, telephone, cable T.V.) within a residential development shall be placed underground.

C. Access

Lots in a residential development shall be accessed from a secondary access road unless a practical difficulty exists as determined by the planning commission (during site plan review) or the Zoning Board of Appeals (variance request).

D. Greenbelt Planting

The portion of a residential development with frontage on an existing public road shall provide a planted greenbelt buffer meeting Section 3.12.5 Right-of-Way Greenbelts. Existing trees of the size listed in the Ordinance shall be counted towards the greenbelt.

See Section 3.12.10 Planting Size and Spacing.

**SECTION 3.7 ACCESSORY APARTMENTS** (Section deleted effective 3-8-02)

**SECTION 3.8 TEMPORARY ACCESSORY HOUSING**

**SECTION 3.8.1 INTENT**

Temporary housing is designed to make it easier to build a home. It may be used while a permanent house is being built on the same lot.

**SECTION 3.8.2 DEFINITION**

Temporary housing, usually a mobile home or house trailer, providing a removable, self-contained living unit on the same lot as the principal dwelling.

**SECTION 3.8.3 REGULATIONS**

During construction of a new residence, or if a dwelling is destroyed or damaged to such an extent that it is uninhabitable for a period of time, and following the issuance of a land use permit for new construction or reconstruction, a mobile home or other temporary dwelling may be moved onto the premises for use during construction or repair of the permanent dwelling, provided that:

- A. Temporary accessory housing is occupied by the owner of the premises.
- B. Temporary accessory housing is approved by the Zoning Administrator.
- C. All setback requirements for the District are met.

- D. Health department approval and permit is obtained for connection to the existing septic system, or to a new septic system.
- E. Temporary accessory housing is removed at the end of twelve (12) months from the issued date of the Bingham Township Land Use Permit for new construction or repair of a residence. The zoning administrator may issue an additional one year renewal of the temporary accessory housing permit but not for more than six (6) months from the issued date of a Leelanau County "occupancy permit" for the newly-constructed or repaired residence. (Amended BTPC9-21-94)

**SECTION 3.9 LAKE ACCESS AND SHORELINE USAGE**

(Changed in its entirety by amendment BTPC 3-15-95)  
 (Annotation: Section amended by Amendment 13-002, effective June 7, 2013)

**SECTION 3.9.1 INTENT**

It is desirable to retain and maintain the physical, cultural and aesthetic characteristic of shorelines in the Township. It has been recognized that, as shorelines of the lakes become further developed and subjected to human and mechanical influence, usage of the respective property must be regulated in order to preserve and protect riparian owners as well as non-riparian owners and the Township as a whole. Accordingly, it is the intent and purpose of the Township Board to adopt reasonable regulations of land, ingress and egress of watercraft and human usage of these resources in the Township.

**SECTION 3.9.2 SHARED ACCESS CONDITIONS**

When more than two (2) families, as defined in this Ordinance, share or have access to frontage on navigable water, such common usage and/or ownership of the waterfront shall be governed by this Section. The provisions herein shall apply regardless of whether access to the waterfront is gained by easement, common or joint fee ownership, single fee ownership, lease, license, site condominium unit, stock or membership in a corporation or any other means. All such common use waterfronts must be approved by site plan review, pursuant to Article 16 Site Plan Review, and in accordance with the following additional standards:

Each site plan shall be reviewed by the Bingham Township Planning Commission and shall include:

- A. The requirements for site plan as found in Article 16 Site Plan Review.
- B. Location and elevations of existing water courses and water bodies, including county drains and man-made surface drainage ways, floodplains, wetland, and shoreline;
- C. Proposed location and size of docks and other shoreline structures;
- D. Location and dimensions of existing and/or proposed parking areas (including indication of all spaces and method of surfacing). See Section 11.2.3 Parking Spaces Required;

- E. Exterior lighting locations with area of illumination illustrated as well as the type of fixtures and shielding to be used;
- F. North arrow, scale and date of original submittal and last revision;
- G. The location and type of any/all playground equipment to be installed on the site;
- H. The specific uses permitted on the common waterfront, the locations of same, and all conditions that must be met to entitle one to such uses;
- I. A statement that the site plan (including all terms and conditions) cannot be modified without approval of the Bingham Township Planning Commission.
- J. The bearings, distances, and calculations showing compliance with the standards listed below;
- K. Other conditions imposed by the Planning Commission pursuant to the standards listed below.

### **SECTION 3.9.3 SHARED ACCESS STANDARDS**

- A. The shoreline parcel shall have a minimum frontage on the water of not less than one hundred (100) feet (Measured at the ordinary high water mark) and have an area of at least fifteen thousand (15,000) square feet. For each family in excess of two (2), having waterfront privileges, the frontage shall be increased by twenty-five (25) feet, and the area increase by at least thirty-five hundred (3500) square feet.
- B. The site plan shall reflect provisions for one (1) off-street space for parking of vehicles for every family having waterfront usage. Depending upon the proximity of the residences having usage on the waterfront, parking requirements may be modified or waived by the Planning Commission.
- C. The site plan shall reflect provisions for all watercraft slips, moorings, boat hoists, and any other means of anchorage to be developed on the parcel. No more than four such slips, moorings, boat hoists, and other means of anchorage per one-hundred (100) feet shall be allowed.
- D. The site plan shall reflect the location of all docks to be developed on the parcel. Docks shall not exceed one per one-hundred (100) feet of shore line and shall otherwise comply with all state and federal statutes and regulations pertaining thereto.
- E. Boat launch facilities shall not be permitted.
- F. If the site serves twelve (12) or more residences, sanitary facilities must be included. Utilizing natural vegetation, all sanitary facilities shall be screened

from surrounding land uses. Sanitary facilities shall be subject to all setback requirements.

- G. The Planning Commission shall have the authority to approve, disapprove or approve with conditions the site plan based on the following criteria:
1. The extent of contemplated injury or nuisance (including noise) to owners of riparian, adjacent and nearby lands.
  2. The effects on the overall shoreline land use which compound the impact of the proposed waterfront uses by approval of subsequent development of similar nature.

### **SECTION 3.10 BOAT HOUSES AND SHORELINE STORAGE**

- A. New boathouses are prohibited, subject, however, to any applicable state or other regulation for waterfront structures. Existing boathouses may be maintained and/or re-built in accordance with Article 18 Nonconformities. A dimensional variance from the Zoning Board of Appeals is required for any expansion of an existing boathouse. Boathouses may not be used for dwelling or sleeping quarters.
- B. A shoreline property owner may have one (1) accessory storage structure within the shoreline setback area provided the following conditions are met:
1. The structure may be no larger than one hundred twenty (120) square feet in footprint area.
  2. The structure height may not exceed ten (10) feet.
  3. The structure may not be used as a dwelling or sleeping quarters.

### **SECTION 3.11 RECREATIONAL TRAIL OVERLAY ZONE**

(Added by amendment in its entirety BTPC6-19-96)  
(Section 3.11 amended in its entirety Bingham Township Ordinance No. 190617-01,  
ZO Amendment No. 19-001; effective 7-5-19)

#### **SECTION 3.11.1 INTENT**

The intent and purpose of this section is to establish criteria for public/quasi-public outdoor recreational trail uses and areas within the Township. These active or passive outdoor recreational trail uses and areas must be public or quasi-public and may include a variety of different types of recreation which allow controlled access to the natural beauty and environment of Bingham Township, with a minimal effect and a maximum protection from and to adjacent property owners. These outdoor recreational trail uses may include but are not limited to hiking and biking. These areas are not intended for other uses which would impact or change the natural character and rural environment of the Township.

### **SECTION 3.11.2 OVERLAY ZONE**

- A. Because of the varied types of outdoor recreational trail uses, these areas shall be considered as Special Land Uses, required to meet the requirements of Article 17 Special Land Use Permits, and considered an overlay zone of the district in which it is permitted.
  
- B. Any parcel(s) granted an Overlay Zone as an Outdoor Recreational Area prior to the effective date of Bingham Township Ordinance 190617-01 (Zoning Ordinance Amendment 19-001), shall subsequently be considered to be a Recreational Trail Overlay Zone after the effective date of Bingham Township Ordinance 190617-01 (Zoning Ordinance Amendment 19-001).

### **SECTION 3.11.3 PARCEL, SETBACK, STRUCTURAL, AND ACCESSORY USE REQUIREMENTS**

- A. Parcel Requirements
  - 1. Total lot size shall be a minimum of one (1) acre for each new overlay zone.
  
  - 2. Twenty-five (25) percent of the property involved in each overlay zone shall be maintained as unencumbered, undeveloped open space, with fifty (50) percent of this unencumbered, undeveloped open space in large (one acre; or twenty-five (25) percent of the total parcel area - whichever is less) contiguous pieces. An additional fifty (50) percent shall be available for environmental preservation.
  
- B. Setbacks
  - 1. As public/quasi-public uses, outdoor recreational trails and their accessory uses shall have setbacks from private property and public right-of-ways of a minimum of forty (40) feet.
  
  - 2. This setback area shall be maintained as a greenbelt and buffer area, which shall be maintained with native living materials, meeting the requirements of Section 3.12 Landscaping, Greenbelts, Buffers, Screens and Fences.
  
  - 3. In order to accommodate accessory uses, the setback for approved trails crossing a public road may be reduced to a minimum of ten (10) feet within the first three-hundred (300) feet in either direction from the centerline of the public road right-of-way.
  
  - 4. All accessory uses shall be located a minimum of twenty (20) feet from the road right-of-way.
  
- C. Structures

In order to maintain the visual character and natural beauty of the area, structures shall be a maximum of twenty (20) feet in height and shall be finished in natural/earth-tone colored materials, wherever feasible.

D. Accessory Uses

1. Only accessory uses which can be shown to be clearly incidental and accessory to the primary outdoor recreational trail uses shall be permitted.
2. Amenities serving the public, such as but not limited to, restroom facilities and shelters, shall meet all requirements required by county, state and federal permitting acts/agencies, including but not limited to, sanitation and health permitting, construction requirements, and the requirements of the Americans with Disabilities Act.
3. Off-street parking shall meet the requirements of Section 11.2 Off Road Parking and Loading, and the number of spaces required shall be approved by the Commission at the time of site plan review. Off street parking ingress/egress shall be approved by the Leelanau County Road Commission.
4. All accessory uses shall meet the landscaping standards of Section 3.12 Landscaping, Greenbelts, Buffers, Screens and Fences.

**SECTION 3.11.4 SPECIAL LAND USE & SITE PLAN REVIEW**

- A. At the time of special land use/site plan review: The applicant for recreational trail overlay zoning must demonstrate as a condition to being entitled such approval that:
1. In relation to underlying zoning, the proposed type and density of use shall not result in an unreasonable increase in the use of public services, facilities and utilities. In such cases, however, where the demands on public services, facilities and utilities would be unreasonably increased, if the applicant can present how the applicant would accommodate the anticipated demands without public burden, the application can be considered for overlay approval.
  2. The proposed special land use shall be in agreement with the Bingham Township Comprehensive Plan, and shall be consistent with the intent and spirit of this section, Section 3.11 Recreational Trail Overlay Zone.
  3. In relation to underlying zoning, the proposed special land use shall not result in a negative economic impact, as documented by same/similar use effects on surrounding properties, SEV/assessed/market values.
  4. The proposed special land use shall be under single ownership and/or control such that there is a single person or entity having responsibility for completing the project in conformity with this Ordinance and the Special Land Use Permit. The provision shall not prohibit a transfer of ownership and/or control, upon due notice to the Zoning Administrator.

5. All elements of the site plan shall be harmoniously and efficiently organized in relation to existing topography, the size and type of the lot, the character of adjoining property and the type and size of adjacent buildings and structures. The site shall be so developed as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.
6. The landscape shall be preserved in its natural state, in so far as practical, by minimizing tree and soil removal, and by topographic modifications which result in maximum harmony with adjacent areas.
7. Special attention shall be given to proper site drainage so that removal of storm waters will not adversely affect neighboring properties.
8. The site plan shall provide reasonable, visual and sound privacy for all adjacent properties. Additionally, fences, walks, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of the subject property.
9. All buildings or groups of buildings shall be so arranged as to permit emergency access by some practical means to all sides.
10. Every structure/building shall have access to an approved street, walkway or other area dedicated to common use.
11. There shall be provided a pedestrian circulation system which is insulated as completely as reasonably possible from the vehicular circulation system.
12. All loading and unloading areas and outside storage areas, including areas for the storage of trash, which face or are visible from residential districts or public thoroughfares, shall be screened, by a vertical screen consisting of approved structural or plant materials no less than six (6) feet in height.
13. Exterior lighting shall be arranged so that it is deflected away from adjacent properties and so that it does not impede the vision of traffic along adjacent streets.
14. The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets and pedestrian or bicycle pathways in the area. Streets and drives which are part of an existing or planned street pattern which serves adjacent development shall be of a width appropriate to the traffic volume they will carry and shall have a dedicated right-of-way of at least sixty six (66) feet.



15. All streets shall be developed in accordance with the County Road Commission specifications or Section 11.3 Private Road Standards and Procedures, as applicable.
  16. Site plans shall conform to all applicable requirements of state and federal statutes and approval may be conditioned on the applicant receiving necessary state and federal permits before final site plan approval or special land use permit is granted.
- B. At the time of special land use/site plan review: The Commission shall follow the procedures for review found in Article 17 Special Land Use Permits and Article 16 Site Plan Review concurrently with the following additional review requirements:
1. The approval of a recreational trail overlay zone application shall be considered a rezoning, i.e., an amendment of the zoning map constituting a part of this Ordinance so as to designate the property which is the subject of the application as for the overlay zone. Further, an approval granted under this section, including all aspects of the final plan, and conditions imposed, shall constitute an inseparable part of the zoning amendment.
  2. Signage visible to adjacent properties and public right-of-ways, shall conform to the requirements of Section 3.13 Signs. Interior signage shall be informational and incidental to the recreational trail use, each sign being no more than three square feet in size with at least fifty feet between each sign. One public information bulletin board, no more than eight square feet in size, may be placed at each entrance/parking lot within the recreational trail overlay zone.
  3. A map showing the Zoning classification(s) on and surrounding site.
  4. A community impact statement - The planning commission may determine at the time of preliminary consideration of the special land use, if a community impact statement shall be required of the project at the time of final site plan review/rezoning application.
- C. At the time of special land use/site plan review: The Commission shall follow the procedures for approval found in Article 17 Special Land Use Permits and Article 16 Site Plan Review concurrently with the following additional approval requirements:
1. As part of the preliminary consideration process, the Planning Commission shall review the application, and shall be entitled to make reasonable inquiries of and receive answers from the applicant. Following this review and a public hearing, the Planning Commission shall provide

the applicant with written comments, which shall be part of the official minutes of the Planning Commission.

2. Following the preliminary consideration hearing by the Planning Commission, a written findings shall be prepared as to conformance with the requirements of Article 17 Special Land Use Permits and this section, stating clearly how the requirement is met or not met, and in cases where a requirement is not applicable why it is not applicable, and shall approve, approve with conditions, the application, for the final special land use/site plan review public hearing, or disapprove the application.
3. Within 12 months following approval or approval with conditions of the preliminary plan, the applicant shall submit to the Zoning Administrator 10 copies of a final plan, or phase one of a final plan, including a final site plan conforming with Article 16 Site Plan Review and this Section 3.11. This plan shall constitute an application to amend this Ordinance, and shall be noticed for public hearing before the Planning Commission, and otherwise acted upon by the Planning Commission, the County, and the Township Board, each making the necessary findings of fact, as and to the extent provided by law. If the final plan has not been submitted within such period, the preliminary plan approval shall lapse, and the applicant must recommence the review process. The Township Board may extend the time for submission of the final plan upon a showing by the applicant that no material change of circumstance has occurred.

D. Applications: Applications for recreational trail overlay zones shall meet the application requirements found in Article 17 Special Land Use Permits and Article 16 Site Plan Review concurrently with the following additional application requirements:

1. A separately delineated specification of all deviations from this Ordinance, in particular the underlying zone, which would otherwise be applicable to the uses and development proposed in the absence of this Recreational Trail Overlay Zone in this Section 3.11. This specification should include ordinance provisions from which deviations are sought, and if the applicant elects to be governed by this Section 3.11 or underlying requirements, the reasons and mechanisms to be utilized for the protection of the public health, safety and welfare in lieu of the regulations from which deviations are sought shall be specified.
2. Site plans shall include:
  - a. A site plan showing the type, location and density of all uses.
  - b. All open spaces, including preserves, recreational areas, and the like, and each purpose proposed for such areas. In addition, the legal documents to record the location, use and means of maintenance of any common areas and open space areas shall be

submitted and reviewed prior to recording with the register of deeds, to confirm that they adequately insure perpetual conservation and adequate maintenance.

- c. A detailed landscaping plan per the requirements of Section 3.12 Landscaping, Greenbelts, Buffers, Screen and Fences.
  - d. A specific schedule of the intended development and construction details, including phasing or timing, and the general improvements to constitute a part of the development, including, without limitation, lighting, signage, the mechanisms designed to reduce noise, utilities and visual screening features.
- E. Performance Guarantees: The Township Board, after recommendation from the Planning Commission, may require reasonable performance guarantees, as authorized under the Michigan Zoning Enabling Act to insure completion of improvements and per the requirements of Article 17 Special Land Use Permits and Township Ordinance 95-01, Fees for Processing Zoning and Land Use Requests.
- F. Approval & Conditions: Final approval by the Township Board shall be preceded by a finding and determination with respect to compliance with the regulations set forth in this Section 3.11, as well as with the site plan review requirements of this Ordinance. Reasonable conditions may be required with the approval of a recreational trail overlay zone, to the extent authorized by law, for the purpose of insuring that public services and facilities affected by the proposed land use or activity will be capable of accommodating increased services and facility loads caused by the land use or activity, protecting the natural environment and conserving natural resources and energy, insuring compatibility with adjacent uses of land, and promoting the use of land in a socially and economically desirable manner. Conditions imposed shall be designed to protect natural resources and the public health, safety and welfare of individuals in the overlay zone and those immediately adjacent, and the community as a whole, shall be reasonably related to the purpose affected by the recreational trail zone, and shall be necessary to meet the intent and purpose of this Ordinance, and be related to the objective of insuring compliance with the standards of this Ordinance. All conditions imposed shall be made a part of the record of the approved recreational trail overlay zone.
- G. Phasing and Commencement of Construction:
- 1. Phasing: Where a project is proposed for construction in phases, the planning and designing shall be such that, upon completion, each phase shall be capable of standing on its own in terms of the presence of services, facilities, and open space, and shall contain the necessary components to insure protection of natural resources and the health, safety, and welfare of the users of the recreational trail overlay zone and the residents of the surrounding area.

2. Commencement and Completion of Construction: Construction shall be commenced within one year following final approval of the recreational trail overlay zone, or within one year of any other necessary governmental approval for commencement of the project, whichever is later, provided all other necessary approvals have been actively pursued. Each phase of the project shall be commenced within one year of the schedule established for same in the application submitted for the project. If construction is not commenced within such time, any approval of the final plan for the project shall expire and be null and void, however, an extension for a specified period may be granted by the Township Board upon good cause shown if such request is made to the Township Board prior to the expiration of the initial period. Moreover, in the event a final plan has expired, the Township Board shall be authorized to rezone the property in any reasonable manner, and if the property remains classified as a recreational trail overlay zone, a new application shall be required, and shall be reviewed in light of the then existing and applicable law and ordinance provisions.

H. Effect of Approval: If and when approved, the recreational trail overlay zone amendment, with all conditions imposed, if any, shall constitute the land use authorization for the property, and all improvement and use shall be in conformity with such amendment. The applicant shall record an affidavit with the register of deeds containing the legal description of the entire project, specifying the date of approval of the recreational trail overlay zone amendment, and declaring that all future development of the parcel has been authorized and required to be carried out in accordance with the approved recreational trail overlay zone amendment unless an amendment thereto is duly adopted by the Township Board upon the request and/or approval of the applicant, or applicant's transferees and/or assigns.

I. Fees: There shall be an advance payment of fees at the time of the preliminary consideration hearing and final special land use/site plan review public hearing pursuant to this Section 3.11, Article 17 Special Land Use Permits, and Township Ordinance 95-01, respectively. The amount of such fees shall be established by the Township Board of the Township by ordinance or resolution. Such fees may include the estimated costs of all consultant and other professional reviews contracted by the Township to insure conformance with this Ordinance.

## **SECTION 3.12 LANDSCAPING, GREENBELTS, BUFFERS, SCREENS AND FENCES**

### **SECTION 3.12.1 INTENT**

The intent of this section is to promote the public health, safety and general welfare by protecting and preserving the attractiveness and rural character of the township; improving the appearance of property along waterways, roads, and public areas; buffering between incompatible land uses; reducing noise, air, and visual pollution;

promoting water retention and preventing soil erosion and soil depletion; and protecting the banks of creeks, streams, lakes, and natural ponds.

### **SECTION 3.12.2 APPLICABILITY**

These requirements shall apply to all special land uses for which site plan review is required under Article 17 Special Land Use Permits and Article 16 Site Plan Review.

### **SECTION 3.12.3 LANDSCAPE PLAN REQUIRED**

A detailed landscape plan having a minimum scale of one inch equals fifty feet (1" = 50') shall be required to be submitted as part of a site plan review. For simple site plans, this may be included in the overall site plan. The site plan shall include where applicable, but not necessarily be limited to, the following:

- A. Identification of existing trees and vegetative cover to be preserved.
- B. Existing and proposed contours on-site and one hundred and fifty (150) feet beyond the site at intervals not to exceed two (2) feet.
- C. Typical straight cross section including slope, height and width of berms, and type of ground cover including trees, and height and type of construction of walls or fences, including footings.
- D. Location, spacing, size, and root type [(bare root (BR) or balled and burlapped (BB)]; and description for each plant type proposed for use within the required landscaped area.
- E. Identification of grass and other ground cover and method of planting.
- F. Planting and staking details in either text or drawing form to ensure proper installation and establishment of proposed plant materials.
- G. Significant construction details to resolve specific site conditions, such as tree wells to preserve existing trees, or culverts to maintain natural drainage patterns.
- H. A landscape maintenance program, including a statement that all diseased, damaged, or dead materials shall be replaced in accordance with the standards of this Ordinance.

### **SECTION 3.12.4 SCREENING ADJOINING PROPERTIES AND STORAGE AREAS**

Where goods, supplies, merchandise, or returnable containers are stored outside, screening shall be required at a sufficient height so that these items are not visible from adjoining property. Where the building(s) or activity involved in a special land use are located within three hundred (300) feet of a side or rear lot line, screening may be required at least six (6) feet in height. A landscape buffer and/or a solid wall may be used, as provided below:

- A. A landscape buffer may consist of earthen berms and/or living materials so as to maintain a minimum opacity of at least eighty (80) percent. Opacity shall be measured by observation of any two (2) square yard area of landscape screen between one (1) foot above the established grade of the area to be concealed and the top of the highest point of the required screen. The plantings must meet this standard based upon reasonably expected growth over a period of three (3) years.
- B. Where there is need to provide a greater noise or dust barrier or to screen more intense development, a solid wall shall be required. Such wall shall be of a sufficient height and thickness to screen noise and dust, and shall be at least six (6) feet in height as measured on the side of the wall having the highest grade.

#### **SECTION 3.12.5 RIGHT-OF-WAY GREENBELTS**

- A. The front setback shall be landscaped with a minimum overall number of one (1) tree for each thirty (30) lineal feet or major portion thereof, of frontage. The remainder of the greenbelt shall be landscaped in grass, ground cover, shrubs, and/or other natural, living plant material.
- B. Access ways from public rights-of-way through required greenbelts shall be permitted, but such access ways shall not be subtracted from the lineal dimension used to determine the minimum number of trees required, unless such calculation would result in a violation of the spacing requirements set forth in this section. (see tables.)

#### **SECTION 3.12.6 PARKING LOT LANDSCAPING**

Separate landscaped areas shall be provided either within or at the perimeter of parking lots. There shall be one (1) tree for every eight (8) parking spaces. A minimum distance of three (3) feet shall be established between proposed tree or shrub plantings and the backside of the curb or edge of the pavement.

#### **SECTION 3.12.7 PARTICULAR USES REQUIRING SCREENING**

When located outside a building support equipment, including air conditioning and heating devices and water and gas meters, but not including plumbing and exhaust vents or chimneys, are to be screened to the height of the particular piece of equipment, as follows:

- A. Roof-mounted equipment: Roof-mounted equipment is to be screened by architectural features from the view of abutting roads, unimproved roads and parcels.
- B. Equipment at grade: When located on the ground adjacent to a building, mechanical equipment is to be screened by landscaping, or by a solid wall or fence, from the view of the road, unimproved road, or surrounding properties.

- C. Public utility substations: Public utility substations are to be screened on all sides by a solid wall or fence, and by landscaping.

### **SECTION 3.12.8 SITE LANDSCAPING**

- A. In addition to any parking lot landscaping, greenbelts, buffers or other particular landscaping required in this section, ten (10) percent of the site area shall be landscaped or left in its natural state.
- B. Areas used for storm drainage purposes, such as unfenced drainage courses or retention areas in front or side yards, may be included as a portion of the required landscaped area, but not to exceed five (5) percent of the site area.

### **SECTION 3.12.9 HEIGHT AND TRAFFIC VISIBILITY**

- A. Unless otherwise specified or determined by the Planning Commission, screening is to be six (6) feet in height, though shrubs and trees may grow much higher.
- B. Structures at site entrances and exits may be up to twelve (12) feet in height.
- C. Fencing and structural screening materials of a height greater than three (3) feet shall not be located within a required front setback adjacent to a road or unimproved road.
- D. No fence, wall, sign, screen or planting shall be erected or maintained in such a way as to obstruct vision or interfere with traffic visibility on a curve, or within thirty (30) feet of the intersection of two roads or unimproved roads.
- E. No fence, wall, sign, screen or planting shall be erected or maintained in such a way as to obstruct vision between a height of three (3) and ten (10) feet, within twenty (20) feet of the intersection of a road or unimproved road and a driveway.

### **SECTION 3.12.10 PLANTING SIZE AND SPACING**

*(Annotation: Section deleted by Amendment 16-007, effective February 3, 2017)*

### **SECTION 3.12.11 LANDSCAPE ELEMENTS**

*(Annotation: Section amended by Amendment 18-002, effective November 2, 2018)*

The following minimum standards shall apply:

- A. Quality. Plant material and grasses shall be of generally acceptable varieties and species, free of insects and diseases, hardy to Leelanau County, and shall conform to the current minimum standards of the American Association of Nurserymen, and shall have proof of any required governmental regulations and/or inspections.
- B. Plant materials: The use of native plant species is encouraged. In no case shall invasive plant species be allowed or planted that are listed on the Class 1, Class 2, or Class 3 list contained in the “Recommended Planting Guidelines for Municipalities” published by the Northwest Michigan Invasive Species Network,

which can be found at [www.habitatmatters.org](http://www.habitatmatters.org) (then choose Resources and Planting Guide).

- C. Composition. A mixture of plant materials, including evergreens and/or deciduous trees and shrubs, is recommended as a protective measure against insect and disease infestation. A limited mixture of hardy species is recommended rather than a large quantity of different species to produce a more aesthetic, cohesive design and to avoid a disorderly appearing arrangement.
- D. Berms. Berms shall be constructed with slopes not steeper than a one to three (1:3) gradient with side slopes designed and planted to prevent erosion, and with a rounded surface a minimum of two (2) feet in width at the highest point of the berm, extending the length of the berm.
- E. Existing Vegetation.
  - 1. If existing plant material is labeled "to remain" on site plans by the applicant, or is required by the Township, protective techniques—such as but not limited to fencing or barriers placed at the drip line around the perimeter of the plant material shall be installed prior to or at the start of construction. No vehicle or other construction equipment shall be parked or stored within the drip line of any plant material intended to be saved. Other protective techniques may be used provided such techniques are approved by the Township.
  - 2. In the event that healthy trees used to meet the requirements of the Ordinance are cut down, destroyed, damaged, or excavated at the drip line, as determined by the Township, the applicant shall replace them with trees which meet Ordinance requirements.

### **SECTION 3.12.12 INSTALLATION, COMPLETION AND MAINTENANCE**

- A. All landscaping and landscape elements and earth moving and grading shall be done in a sound workmanlike manner and according to accepted good planting and grading procedures.
- B. All landscaping required by this Ordinance shall be planted as required by the Special Land Use permit.
- C. The owner of the property required to be landscaped by the Ordinance shall maintain such landscaping in a reasonable healthy condition, free from refuse and debris. All unhealthy and dead material shall be replaced within one (1) year of damage or death, or during the next appropriate planting period, whichever comes first. All landscaped areas shall be provided with a readily available and acceptable water supply.

### **SECTION 3.12.13 EXCEPTION TO FENCING AND SCREENING REQUIREMENTS**



- A. Buildings abutting property lines: Required screening or fencing may be omitted along any lot line where a building wall exists immediately abutting the lot line.
- B. Location adjustment: Where property line screening or fencing is required, the location may be adjusted so that the screening or fencing may be established at or even within the setback line, at the discretion of the Commission; provided that the areas between the fence or screening and the property lines are landscaped, used for gardens, farm crops or orchards, or retained in their natural vegetative state.
- C. Existing screening: Any fence, screen, wall or hedge which does not conform to the provisions of this section and which is legally existing at the effective date of the Ordinance (January 6, 2012), may be continued and maintained, provided there is no physical change other than necessary maintenance and repair in such fence, screen, wall, or hedge.
- D. Modification by Planning Commission: Any of the requirements of this section may be waived or modified through site plan approval, provided that the Commission first makes a written finding that specifically identified characteristics of the site vicinity would make required fencing or screening unnecessary or ineffective, or would impair vision at a driveway or road or unimproved road intersection.

#### **SECTION 3.12.14 MATERIALS FOR STRUCTURAL SCREENING**

- A. Wooden screens may be erected with wood posts not less than four (4) inch by four (4) inch and solid board cover not less than one (1) inch thick. Masonry piers may be substituted for wood posts. Posts or piers shall be spaced not more than eight (8) feet apart on center. The finished side of the screen shall face abutting properties.
- B. Wrought iron, open mesh or slatted fencing may be use, provided that the ratio of one part open to six parts solid fencing (1:6) is not exceeded.
- C. Masonry wall may be used if designed and constructed to facilitate maintenance and not to modify natural drainage in such a way as to endanger adjacent property.

#### **SECTION 3.12.15 SHORELINE GREENBELTS**

A greenbelt twenty (20) feet in width, consisting of the natural vegetation closest to the shoreline, and in addition to the shore vegetation itself, shall be established along the shorelines of all creeks, streams, lakes and natural ponds. This will protect the water from fertilizers and other polluting run-off; prevent erosion of banks and dunes, and preserve the natural beauty of the shoreline.

- A. Paths may be established only to reasonably enable people to gain access to the shore.

- B. Natural vegetation shall be preserved as far as practicable, and where removed it shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion and preserving natural beauty.
- C. Any additional planting must be of native species, or those easily naturalized.
- D. No fertilizer shall be applied in the greenbelt.

## **SECTION 3.13 SIGNS**

*(Annotation: Section amended in its entirety by Amendment 18-004, effective November 2, 2018)*

### **SECTION 3.13.1 PURPOSE**

The purpose is to encourage the effective use of signs as a means of communicating and informing while minimizing the impact on the landscape. Regulation of signs will lessen the impact on the aesthetic environment, while allowing for the promotion of economic development.

### **SECTION 3.13.2 DEFINITIONS**

**BANNER:** A sign made of non-rigid material; however, not including pennants or flags.

**FIXED SIGN:** A sign structurally affixed to the ground or to some other portion of a structure, but not a wall sign.

**FLAG:** A sign made of non-rigid material having a distinctive size, color and design used as a symbol or emblem.

**INCIDENTAL SIGN:** A sign that is less than two (2) square feet in area.

**PENNANT:** A small, often triangular, banner used in multiples as a device to call attention to a land use or activity.

**PORTABLE SIGN:** A sign placed on the ground which is portable and not anchored or secured.

**SHARED SIGN:** A sign attributed to a group of contiguous commercial or industrial entities located within the complex or group.

**SIGN:** Any device, structure, fixture, banner, placard or other object used for the display of any message that is afforded public visibility from outdoors.

**TEMPORARY SIGN:** A sign, banner or advertising display, with or without a structural frame, intended for a limited period of display, including displays for holidays or public events.

**WALL SIGN:** A sign painted on, or attached directly to and parallel to an exterior wall.

**WINDOW SIGN:** A sign affixed to, in contact with, or within twelve (12) inches of a window installed for purposes of viewing from outside the premises. This does not include merchandise located in a window.

**UNALTERED GRADE:** Grade or topography existing prior to any excavation, clearing, grading, or filling.

### **SECTION 3.13.3 PROHIBITED SIGNS**

- A. Any sign not specifically permitted by this Article.
- B. A sign that contains any moving or animated parts or has the appearance of having any moving or animated parts when such sign is visible from any public right of way or from any private driveway or vehicular easement. No sign shall employ any flashing, moving, oscillating, blinking, or variable intensity light.
- C. Pennant flags, streamers, searchlights, over-the-street banners, or other similar material or devices.
- D. A temporary or movable sign and air blown device not specifically permitted herein.
- E. Any regulated sign placed or painted upon trees or rocks or natural features.
- F. A sign placed on any light pole, utility pole, or other support.
- G. A sign erected in any place where, by reason of its position, shape, color, or other characteristic, it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device.
- H. A sign erected, located, or maintained that prevents free ingress or egress from any door, window, or fire escape or that is attached to a standpipe or fire escape.
- I. A sign erected at the intersection of any street in such a manner as to obstruct free and clear vision of motorists.
- J. A sign on a motor vehicle if the motor vehicle is parked in a position visible to traffic on a public road or parking area for the primary purpose of displaying the sign to the public.

### **SECTION 3.13.4 SIGNS NOT REQUIRING A PERMIT**

The following signs are authorized in any district without a sign permit and are not included towards the maximum number of signs allowed on a parcel, but shall conform to the applicable requirements of this chapter and the applicable building codes.

- A. Incidental signs.
- B. Temporary signs as allowed in Section 3.13.5 Signage Allowed Per District. Temporary signs shall be removed within ten (10) days after the final date of the event.
- C. Signs erected by, or on behalf of a governmental body for purposes of protecting the public health, safety, and welfare.
- D. Official signs erected by public utilities.
- E. Flags or insignia.
- F. Any sign not visible to motorists or pedestrians on any road, water body, public lands, or adjacent parcel(s).
- G. Signs painted on or integral to vending machines, fuel dispensing pumps or fuel storage tanks, as long as they are not readable from off the site.
- H. Legal postings required by law.
- I. Window signs not permanently affixed to the interior of a building.
- J. Public signs or signs sanctioned by a public body on public land are not subject to this chapter.

**SECTION 3.13.5 SIGNS ALLOWED PER DISTRICT**

The following charts show the quantity and types of signs allowed per parcel:

A. Agricultural and Rural Residential Districts

<b>Agricultural and Rural Residential Districts</b>	<b>Permit Required</b>	<b>Illumination</b>	<b>Maximum Height</b>	<b>Max Number of Signs</b>	<b>Maximum Sign Area</b>
<b>Temporary Sign</b>	No	No	5 feet above unaltered grade	2	3 square feet per sign
<b>Fixed Sign, Wall Sign or combination of the two</b>	Yes	Yes, See Sect. 3.14	8 feet above unaltered grade	N/A	16 square feet per parcel
<b>Portable Sign</b>	No	No	4 feet	1	8 square feet

B. Residential District

<b><u>Residential District</u></b>	<b>Permit Required</b>	<b>Illumination</b>	<b>Maximum Height</b>	<b>Max Number of Signs</b>	<b>Maximum Sign Area Per Sign</b>
<b>Temporary Sign</b>	No	No	5 feet above unaltered grade	2	3 square feet
<b>Fixed Sign</b>	No	No	5 feet above unaltered grade	1	2 square feet
<b>Wall Sign</b>	No	No	Below eave line	1	2 square feet

C. Commercial and Industrial Districts

<b>Commercial and Industrial Districts</b>	<b>Permitted Required</b>	<b>Illumination</b>	<b>Maximum Height</b>	<b>Max Number of Signs</b>	<b>Maximum Sign Area Per Sign</b>
<b>Temporary Sign</b>	No	No	5 feet above unaltered grade	2	8 square feet
<b>Fixed Sign</b>	Yes	Yes, See Sect. 3.14	12 feet above unaltered grade	1 (a)	24 square feet
<b>Wall Sign</b>	Yes	Yes, See Sect. 3.14	Below eave line	1 (a)	24 square feet
<b>Shared Sign</b>	Yes	Yes, See Sect. 3.14	12 feet above unaltered grade	1	24 square feet
<b>Portable Sign</b>	No	No	4 feet	1	8 square feet

(a) In the case of a shopping/business center or other integrated group of stores or commercial buildings, one (1) sign or wall sign may be erected per unit or street frontage. In addition, one (1) shared sign is allowed.

**SECTION 3.13.6 PORTABLE SIGN REGULATIONS**

Such signs are not to be counted in the maximum allowable sign area on the parcel. Portable signs must comply with the following standards:

- A. One portable sign may be displayed per business.
- B. Maximum size of eight (8) square feet with a maximum height of four (4) feet.
- C. Can only be displayed during hours of operation.
- D. Cannot be permanently affixed to the property.
- E. May not be illuminated.
- F. Shall not obstruct vehicular or pedestrian traffic.

### **SECTION 3.13.7 WALL SIGN REGULATIONS**

Such signs are to be counted in the maximum allowable sign area on the parcel unless they are not visible to motorists or pedestrians on any public road, water body, public lands, or adjacent parcel(s). Wall signs must comply with the following standards:

- A. One wall sign may be displayed per building.
- B. Maximum size of twenty-four (24) square feet.
- C. The height of the sign may not be above the eave line of the wall it is affixed to.

### **SECTION 3.13.8 REGULATIONS THAT APPLY TO ALL SIGNS**

- A. Area of sign shall be based upon the following:
  - 1. Structural elements necessary for the support of the signs shall not be included in the square footage computation so long as they are separate from the sign face by a reveal or a change in materials.
  - 2. Square footage calculation shall include such elements as decorative borders, frames, top caps, and drop signs.
  - 3. For a sign painted or applied to a building, wall or window shall be considered to be that of the smallest rectangle or other geometric shape which encompasses all of the letters, symbols, borders, and designs.
  - 4. When a sign has two (2) or more faces, the area of all faces shall be included in determining the area except where two faces are placed back to back and are at no point more than two (2) feet from each other.
- B. No signs shall be allowed in the road right-of-way without written permission from the local, county, or state road agency.

- C. No sign shall be erected or maintained in such a manner as to obstruct vision or interfere with traffic visibility on a curve, at an ingress or egress, or within thirty (30) feet of the intersection of two (2) roads.
- D. For the safety of the general public, no spinners, pennants, or inflatable signs may be used in conjunction with any sign or business.
- E. For the safety of the general public, no unshielded lights, or lights directed upward or horizontally at sign faces, flashing lights, scrolling or moving electronic lights, or other distractive devices may be used in conjunction with any sign or business.
- F. If allowed in the district, signs may be illuminated by a shielded light shining downward onto the sign in accordance with Section 3.14 Outdoor Lighting Standards. The source of the light shall be baffled so it is not visible to vehicles or pedestrians on any road, alley, water body, public lands, adjacent parcels, or in the air above the illumination.
- G. All signs shall be installed only with the prior approval of the property owner.
- H. All signs and sign structures shall be maintained in good, safe, structural condition and repair. All signs and display surfaces shall be neat in appearance and neatly painted or posted, and not ripped, tattered or faded. Premises immediately surrounding signs shall be kept clean and free of rubbish, weeds and debris.
- I. Once the purpose of the sign has ended, the sign shall be removed within thirty (30) calendar days. Anything formerly used to solely support or provide a structure for a sign and not in use for any other purpose shall be removed.

### **SECTION 3.13.9 NONCONFORMING SIGNS**

- A. Subject to the remaining restrictions of this Section, nonconforming signs that were otherwise lawful on the effective date of this chapter may be continued, repaired and maintained as is necessary to keep in a sound condition.
- B. The nonconformity of a sign and/or its structure may not be increased. Illumination may not be added to a nonconforming sign.
- C. A nonconforming sign and/or its structure may not be moved except to bring the sign into greater conformity with this chapter.
- D. If a nonconforming sign is destroyed to the extent it is impractical to be restored using a majority of its existing major components, it may not thereafter be repaired, reconstructed or replaced except in conformity with all

the provisions of this chapter, and the remnants of the former sign structure shall be cleared from the land.

- E. The message of a nonconforming sign may be changed so long as this does not create any new non-conformity.

## **SECTION 3.14 OUTDOOR LIGHTING STANDARDS** *(Effective May 2, 2003)*

### **SECTION 3.14.1 INTENT**

Outdoor lighting requirements are intended to protect the character of the night sky from light pollution originating from light fixtures. Additionally, guidelines are necessary to prevent unwanted illumination of adjacent properties, and to maintain safe nighttime vehicular and pedestrian traffic.

### **SECTION 3.14.2 EXCEPTIONS**

The following types of outdoor lighting are exempt from the provisions of these standards except that there are no exemptions from Section 3.14.3.F Regulations.

- A. Residential decorative lights such as low wattage incandescent porch lights, low level lawn lights, or holiday lights (any light less than 70 watts).
- B. Traffic control, warning lights, or signal lights required because of traffic regulations including marine navigation lights.
- C. Commercial and institutional holiday decorative lights, provided they do not include search lights, strobe lights, or flood lights.
- D. Fossil fuel lights such as kerosene lanterns and gas lights.
- E. Security lighting energized by motion detection devices provided it meets Section 3.14.2.A.
- F. Illumination of the U.S. flag or State of Michigan flag provided that the light is directed vertically and not more than one hundred fifty (150) watts.

### **SECTION 3.14.3 REGULATIONS**

- A. Outdoor lighting shall be designed and constructed in such a manner as to:
  - 1. Ensure that direct or directly reflected light is not directed off the property.
  - 2. Ensure that light sources and lenses are shielded, hooded or louvered to provide a glare free area beyond the property line or edge of any public or private road right-of-way.



- B. Lighting fixtures shall have one hundred (100) percent horizontal cut-off. The light rays shall not be emitted by the light fixture at angles above the horizontal plane.
- C. Outdoor recreational area lighting shall be equipped with baffling or other devices, to assure that the requirements of Section 3.14 Outdoor Lighting Standards are met.
- D. Lights shall be directed downward and shielded as necessary, located and directed so that direct or directly reflected light is not unnecessarily reflected onto adjacent property or a public road, nor to the night sky. This also applies to advertising and billboards.
- E. There shall be no lighting of a blinking, flashing or fluttering nature, including changes in light intensity, brightness, or color. Beacon lights, search lights, or lasers are not permitted.
- F. Colored lights shall not be used at any location nor in any manner as to be confused with traffic control devices.
- G. Height limit for lighting fixtures, shall not exceed twenty two (22) feet unless approved by the Bingham Township Board or Planning Commission.

#### **SECTION 3.14.4 NONCONFORMING LIGHTING**

Any existing nonconforming use of lighting may be repaired or maintained. Any replacement of a fixture and/or additional lighting for building expansion, or increased lighting must meet this Ordinance.

## ARTICLE 4

### AGRICULTURAL DISTRICT INCLUDING AG-BUSINESS AND AG-TOURISM

*Replaced in its entirety by Amendment 2008-001, effective November 7, 2008*

#### SECTION 4.1 INTENT

The intent of the Agricultural District is to encourage and maintain agriculture as part of a balanced and diversified economy, and to protect viable farmland from encroachment by other uses. It is also intended to provide a low density rural atmosphere which will accommodate the growing demand for residential development, while still protecting scenic and ecologically sensitive areas which make Bingham Township attractive both to home ownership and to the tourism so important to Leelanau County. Large minimum frontage requirements are designed: to permit larger side setbacks to protect adjacent farmland, to discourage the long narrow lots which extend wastefully into agricultural land and which are used to get around platting and lot area requirements, and to avoid frequent driveway cuts which pose safety hazards and reduce the carrying capacity of public roads. Lot sizes will be large enough to provide for individual wells and septic systems.

In 2008 Bingham Township determined that some Agricultural Business and Agricultural Tourism uses are acceptable in the Agricultural District and will help maintain Agriculture as a viable use in Bingham Township.

#### SECTION 4.2 USES PERMITTED BY RIGHT

Uses permitted by right require a Land Use Permit unless specified.

- A. Farming, including livestock and poultry, grain, grass, mint and seed crops, vegetables, orchards, silviculture, nuts and berries, floriculture, ornamental trees, shrubs and nursery stock, including retail sales on the premises, greenhouses, sod farming, apiculture, and aquaculture. New structures or structure additions over one-hundred (100) square feet shall require a Land Use Permit.
- B. One (1) Single Family Dwelling per lot.
- C. Family Child Care Homes. Such facilities shall be registered with the Grand Traverse/Leelanau County Department of Human Services.  
*(Annotation: Section amended by Amendment 13-005, effective April 4, 2014)*
- D. Wildlife Management Areas, plant and wildlife conservancies, refuges and sanctuaries. This use does not require a Land Use Permit except for new structures or structure additions over one-hundred (100) square feet.

- E. Adult Foster Care Family Care Homes. Such facilities shall be licensed by the Michigan Family Independence Agency. The area required by the Grand Traverse/Leelanau County Department of Human Services for an AFC septic system is a great deal larger than for a single family dwelling of comparable size, and must be permitted before building an AFC facility.
  
- F. Short-Term Rentals  
(Added by Amendment 05-001 effective August 12, 2005)  
No Land Use Permit necessary to rent on a short-term basis, however, structures and additions over one-hundred (100) square feet require a Land Use Permit.
  
- G. Community Supported Agriculture (CSA)
  - 1. Parking: A parking area to accommodate customers shall be provided off the public road right-of-way.
  
  - 2. Pick up hours or picking times: Sunrise to sunset.
  
  - 3. No land use permit is required for CSA's, except for structures or structure additions over one-hundred (100) square feet.

### **SECTION 4.3 PERMITTED ACCESSORY USES**

The following uses are deemed accessory to the principle use of any parcel in the Agricultural District. Land Use Permits are necessary for structures or additions to structures over one-hundred (100) square feet. *(Annotation: Section amended by Amendment 18-002, effective November 2, 2018)*

- A. Accessory Structures normally associated with Single Family Dwellings, such as a private garage, shed for yard tools, playhouse, boat house, woodshed, sauna, and the like.
  
- B. Swimming pools.
  
- C. Parking of automobiles, boats, and other vehicles, licensed by the owner of the property or by a resident for their own use.
  
- D. Pens and enclosures for household pets. See Section 4.4.D Keeping Dogs and Section 4.6.G. Small Animal Kennel relating to keeping dogs.
  
- E. Accessory Uses or Structures, clearly incidental to the operation of an existing farm, including barns, silos, sheds, equipment storage and similar structures customarily incidental to the permitted principal use and structures.
  
- F. Activities typically associated with the actions and functions of individual family members participating in organizations such as 4-H, Future Farmers of America, and the like.

G. Small Picnic Areas that are accessory to and for patrons of the primary use.

**SECTION 4.4 USES PERMITTED WITH CONDITIONS - WHERE THE “USE” DOES NOT REQUIRE A LAND USE PERMIT OR SITE PLAN REVIEW**

The following “USES” are permitted provided they meet the requirements listed or referenced for the particular “USE”. However, Land Use Permits are required for Structures and additions to Structures pursuant to Article 21 Administration and Enforcement.

- A. Home Occupations, provided they meet the requirements of Section 12.1 Home Occupations.
- B. Keeping horses, provided it is not for profit or as a business:
  - 1. There shall be a minimum parcel size of two (2) acres for up to two (2) horses.
  - 2. There shall be one (1) additional acre for each additional horse.
- C. Keeping horses for profit or as a business (i.e. Boarding Stable), provided:
  - 1. There shall be a minimum parcel size of ten (10) acres for up to the first two (2) horses.
  - 2. There shall be one (1) additional acre for each additional horse.
  - 3. Setback for stables, barn, and manure storage: two hundred (200) feet from all property lines.
- D. Keeping dogs, provided it is not for profit or as a business:
  - 1. Kennels and any accessory pens housing more than two (2) dogs shall not be closer to any lot line than fifty (50) feet.
  - 2. If a dog is tethered, the tether shall not permit him to reach within fifty (50) feet of any lot line.
- E. Roadside Stands Roadside Stands are permitted in the Agricultural District to allow the active farmer to directly market their farm products.  
The following conditions shall apply:
  - 1. The Roadside Stand shall be located on the parcel owned or leased by the farmer.
  - 2. The Roadside Stand shall not be located in the road right-of-way.
  - 3. A minimum ten (10) foot front setback is required between Roadside Stand and the front property line.

4. One (1) Roadside Stand shall be allowed per parcel.
5. Additional agricultural produce may be sold at the Roadside Stand provided it is grown or produced (i.e. honey, syrup,) in Bingham Township.
6. Sale of craft items is limited to those produced on the property.
7. A parking area to accommodate customers shall be provided off the public road right-of-way.
8. A minimum fifty (50) foot setback is required between the Roadside Stand and any rear or side property line.
9. All signs shall comply with Section 3.13 Signs.  
*(Annotation: Section amended by Amendment 18-002, effective November 2, 2018)*
10. Roadside stands shall not be greater than one-hundred (100) square feet in area and shall be temporary structures.
11. Roadside stands shall be allowed May 1<sup>st</sup> through December 24<sup>th</sup> of the calendar year. Removal of the roadside stand is required after the stand is closed for the season.

F. Seasonal Outdoor Maze (Corn, Straw Bale, etc.):

1. Minimum parcel size shall be forty (40) acres and secondary to a Commercial Farm, winery or cidery.  
*(Annotation: Section amended by Amendment 14-001, effective June 6, 2014)*
2. A parking area to accommodate customers shall be provided off the public road right-of-way.
3. A minimum fifty (50) foot setback is required between the parking area and any rear or side property line.
4. A minimum fifty (50) foot setback is required between any part of a maze and any property line.
5. The hours of operation shall be between 8:00 AM and 10:00 PM.  
*(Annotation: Section amended by Amendment 18-001, effective November 2, 2018)*

G. Petting Farms, Animal Display, Pony Rides:

1. Minimum lot size shall be forty (40) acres and secondary to a Commercial Farm, winery or cidery.

(Annotation: Section amended by Amendment 14-001, effective June 6, 2014)

2. A parking area to accommodate customers shall be provided off the public road right-of-way.
3. Parking areas shall be set back fifty (50) feet from all property lines.
4. The hours of operation shall be between 8:00 AM and 10:00 PM.  
*(Annotation: Section amended by Amendment 18-001, effective November 2, 2018)*
5. Setbacks – Any part of the above uses shall be setback one hundred (100) feet from all property lines.

H. Wagon, Sleigh and Hay Rides (for profit):

1. Minimum lot size shall be forty (40) acres and secondary to a Commercial Farm, winery or cidery.  
*(Annotation: Section amended by Amendment 14-001, effective June 6, 2014)*
2. A parking area to accommodate customers shall be provided off the public road right-of-way.
3. Parking areas shall be set back fifty (50) feet from all property lines.
4. Setbacks – The trail or route provided for such use shall be setback one hundred (100) feet from all property lines.
5. The hours of operation shall be between 8:00 AM and 10:00 PM.  
*(Annotation: Section amended by Amendment 18-001, effective November 2, 2018)*

I. Seasonal U-Pick Fruits and Vegetables:

1. Minimum lot size shall be forty (40) acres.
2. A parking area to accommodate customers shall be provided off the public road right-of-way.
3. Parking areas shall be set back fifty (50) feet from all property lines.
4. The hours of operation shall be between 8:00 AM and 10:00 PM.  
*(Annotation: Section amended by Amendment 18-001, effective November 2, 2018)*

**SECTION 4.5 USES PERMITTED WITH CONDITIONS THAT REQUIRE A LAND USE PERMIT, AND WHERE NOTED, SITE PLAN REVIEW AND PUBLIC HEARING**

The following uses are permitted if they meet the requirements listed or referenced for the particular use. A Land Use Permit is required, and where noted, Site Plan Review and a public hearing are required.

- A. One (1) Duplex per lot of four (4) acres or more. If the duplex is built on a zero lot line, each dwelling may have its own lot of two acres or more.

*(Annotation: Section amended by Amendment 13-004, effective June 7, 2013)*

- B. Mobile Homes are recognized by Bingham Township as valid single family dwellings. They are permitted, provided:

1. The home is used as a single family dwelling.
2. It is attached to a permanent foundation.
3. It has District Health Department approval for well and septic systems.

- C. Bed and Breakfasts, provided they meet the requirements of Section 12.4 Bed and Breakfast Inn. Abbreviated (Medium) Site Plan Review and a public hearing is required.

- D. Home Businesses, *(Annotation: Section deleted by Amendment 13-006, effective April 4, 2014)*

- E. Group Child Care Homes, provided it meets the requirements set forth in the Michigan Zoning Enabling Act: *(Annotation: Section amended by Amendment 13-005, effective April 4, 2014)*

1. Is located not closer than 1,500 feet to any of the following:
  - a. Another licensed group child care home.
  - b. An adult foster care small group home or large group home licensed under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737.
  - c. A facility offering substance abuse treatment and rehabilitation service to 7 or more people licensed under article 6 of the public health code, 1978 PA 368, MCL 333.6101 to 333.6523.
  - d. A community correction center, resident home, halfway house, or other similar facility which houses an inmate population under the jurisdiction of the department of corrections.
2. Has appropriate fencing for the safety of the children in the group child care home as determined by the Planning Commission.
3. Maintains the property consistent with the visible characteristics of the neighborhood.

4. Does not exceed 16 hours of operation during a 24-hour period. The Planning Commission may limit but not prohibit the operation of a group child care home between the hours of 10 PM and 6 AM.
  5. Meets sign regulations of Section 3.13.
  6. Parking meets that required in Section 11.2.3.A.K Group Child Care Home.
- F. Temporary Accessory Housing, provided that the requirements of Section 3.8 Temporary Accessory Housing, are met.
- G. Private Wind Turbine Generator, provided that the requirements of Section 13.3 Private Wind Turbine Generator are met.
- H. Accessory Apartments, *deleted February 29, 2002.*  
Accessory Apartments are no longer allowed in the Agricultural District.

#### **SECTION 4.6 SPECIAL LAND USES**

The following uses are permitted when the Bingham Township Planning Commission determines that the uses meet the standards and criteria of Article 17 Special Land Use Permits and Article 16 Site Plan Review, as well as the general criteria of this District and the individual criteria for each use.

- A. Housing All new residential developments in the Agricultural District on property greater than ten (10) acres or consist of three (3) or more residential parcels serviced by a private road must meet the requirements of Section 3.6.1 Standards for Residential Developments and shall be developed as clustered housing developments in accordance with Article 15 Clustered Housing Development. (Annotation: Section amended by Amendment 14-006, effective March 6, 2015)
- B. Churches, Temples, Schools of an academic nature, provided that they meet requirements of Section 11.2 Off Road Parking and Loading, and pose no hazard to traffic, pedestrians, and residents of the area.
- C. Bed and Breakfast Inn, provided they meet the requirements of Section 12.4 Bed and Breakfast Inn. Abbreviated Site Plan review is required.
- D. Home Business, provided the business meets the requirements of Section 12.2 Home Business. (Annotation: Section added by Amendment 13-006, effective April 4, 2014)
- E. Adult Foster Care Small Group Homes, provided:  
(Annotation: Section amended by Amendment 13-005, effective April 4, 2014)
1. There are no more than twelve (12) adults, including members of the resident family, receiving care.



2. The facility does not apply to adult foster care for treatment of persons released from or assigned to adult correctional institutions.
  3. Parking is provided off the road or unimproved road right-of-way for one (1) vehicle for every three (3) residents in foster care, for the use of visitors. This shall be in addition to parking for staff and/or family.
  4. The parcel size must be large enough to accommodate the septic system and the equivalent reserve area required by the Benzie/Leelanau District Health Department.
- F. Public Buildings, such as post offices, libraries, or similar public office buildings, provided that the public use serves persons living in the local area. See Section 11.2 Off Road Parking and Loading. *Added by amendment BTPC5-18-94*
- G. Small Animal Kennel: *(Subsection added by Amendment 05-003)*
1. Minimum parcel size for a kennel - ten (10) acres.
  2. Minimum setbacks for kennel and outside pens from all property lines are one hundred (100) feet.
  3. The maximum number of small animals allowed is twenty (20).
  4. If a dog is tethered, the tether shall not permit him to reach within one hundred (100) feet of any lot line.
  5. Buffering and Landscaping – a landscape plan that shows buffering as required in Section 3.12 Landscaping, Greenbelts, Buffers, Screens and Fences shall be part of site plan.
  6. Lighting – all lighting shall be subject to Section 3.14 Outdoor Lighting Standards.
  7. Maintenance Plan Required – a plan outlining general maintenance including the removal of wastes, removal of trash, upkeep of property, and pen repair shall be required.
  8. Kennels shall be subject to the requirements of Section 12.2 Home Business.
  9. Abbreviated Site Plan review is required.
- H. Outdoor Recreational Uses and Areas per Section 3.11. *Added by amendment BTPC6-19-96*
- I. Golf Courses, provided:

1. The site area shall have its main ingress and egress from a State or County road having a bituminous aggregate surfacing. Should the road not meet the above conditions, a plan shall be submitted indicating how the proprietor will meet the above conditions within a reasonable time limit. This plan and a surety bond, certified check or irrevocable bank letter of credit, in an amount sufficient to cover the cost of implementing the plan, will be considered as meeting the above conditions.
2. The site area shall be sixty (60) acres or more for a nine (9) hole course, and one hundred and twenty (120) acres or more for an eighteen (18) hole course.
3. The number of off-road parking places shall be five (5) for each golf hole plus one for every two employees and meet all other standards of Section 11.2 Off Street Parking and Loading. *(Annotation: Section amended by Amendment 18-001, effective November 2, 2018)*
4. Front, side and rear yard setback for all principal and accessory buildings, structures, and parking areas shall conform to the standards in Section 4.6 Special Land Uses and shall not be less than forty (40) feet from any road right-of-way and not less than forty (40) feet from any adjoining property line. *Amended BTPC effective 11-1-01.*
5. The site shall be screened, except along the road right-of-way. See Section 3.12 Landscaping, Greenbelts, Buffers, Screens and Fences. This requirement may be waived if the proprietor submits written waivers from adjoining property owners.
6. A clubhouse/pro shop, containing managerial facilities, toilets, lockers and food services, may be allowed in conjunction with the Golf Course. The clubhouse is intended to serve those individuals using the golf course; it is not intended to be used as a meeting/rental hall by the general public, nor are the food services intended to serve the general public.

J. Sand and Gravel Extraction provided:

1. Every precaution is taken to guard against hazards of all kinds for the full protection of the general public.
2. No mining shall be conducted within one hundred and sixty-five (165) feet of any public road right-of-way, nor closer than one hundred (100) feet from any neighboring property line.
3. No more than five (5) acres of land may be actively mined at one time.
4. Previously mined areas shall be reshaped to usable grades, and cover restored to prevent erosion.

5. This use shall be considered a temporary use. A time schedule for completion of each phase of the mining and a plan for restoration of the site, acceptable to the Bingham Township Planning Commission, shall be required. A surety bond, irreversible bank letter of credit, or certified check sufficient to cover the cost of restoration may be required by the Planning Commission.

K. Sawmills (See definition, Section 2.2), provided:

1. The Sawmill shall not be located within two hundred and fifty (250) feet of any parcel line, nor public road right-of-way.
2. The Sawmill shall not be located within two hundred and fifty (250) feet of the shoreline of any lake, creek, stream, or wetland.
3. See Section 3.12.4 Screening Adjoining Properties and Storage Areas.
4. The parcel shall have a minimum area of ten (10) acres.
5. Abbreviated Site Plan review is required.

L. Commercial Storage of Boats and Vehicles. It is our intent to provide for the seasonal storage of boats and vehicles in secluded settings where they will not become eyesores, or a nucleus for further commercial development. Such storage shall be subject to the following conditions:

1. Only currently licensed boats, cars, trucks, recreational vehicles, campers, trailers for recreational vehicles and boats, and equipment necessary to the principal use, shall occupy the storage area.
2. The parcel shall be a minimum of ten (10) acres in size for outside storage.
3. The actual outside storage area shall not be located so that it can be viewed from the surrounding land or right-of-way.
4. Nothing shall be stored in the setbacks.
5. If the storage area is protectively fenced, such fencing shall be around the storage area itself, and not along the lot perimeter.
6. No repairs and servicing shall be permitted.
7. The parcel cannot be used for other storage purposes.

8. The location of driveways entering the lot from any public road must be approved by the County Road Commission.
9. Abbreviated Site Plan review is required.

M. Seasonal Worker Housing. In anticipation of a time when housing built for seasonal farm workers may become general rental housing, it is the intent of this section to ensure that such housing will meet the requirements necessary to keep it in conformance with the Ordinance. Seasonal Worker Housing shall meet the following requirements:

1. Such housing provides temporary living quarters for the use only of itinerant farm employees and migratory workers.
2. It meets all Federal and State requirements for transient agricultural worker housing.
3. It complies with the setback requirements of this District, except as provided in Section 15.3.5 Minimum Standards for Clustered Developments.
4. It meets the requirements of Article 15, Clustered Housing Developments.

N. Fruit and Vegetable Receiving Stations. Although Fruit and Vegetable Receiving Stations are an intensive type of agricultural activity, this use is permitted as a special use in the Agricultural District because they are an integral part of fruit and vegetable farming. Fruit and Vegetable Receiving Stations shall meet the following requirements:

1. The operation is in compliance with the regulations of the Michigan Department of Agriculture and of the Michigan Department of Natural Resources, including all licensing requirements.
2. Minimum parcel size shall be forty (40) acres.
3. The operation shall be located on a paved public road.
4. The food storage areas/structures shall occupy no more than twenty-five thousand (25,000) square feet.
5. The building(s) and processing areas shall be set back fifty (50) feet from all lot lines, and shall be landscaped or visually screened.

O. Farm Market *(Annotation: Section amended by Amendment 18-001, effective November 2, 2018)*

1. The minimum parcel size shall be ten (10) acres. The minimum parcel width shall be three hundred thirty (330) feet.

2. Pre-existing structures built prior to 2008 that are located within one hundred (100) foot setback may be approved for use of a farm market subject to site plan review by the Planning Commission.
3. The actual area under roof used for the display and sale of farm produce shall not be greater than one thousand (1,000) square feet.
4. Parking
  - a. Shall be a minimum of fifty (50) feet from any lot line.
  - b. A lesser setback may be approved by the Planning Commission, upon site plan review, and based upon such factors as parcel size, topography, neighboring uses, road access, and other such factors.
  - c. There shall be no parking on county or state roads.
  - d. Emergency access to the site shall be maintained at all times.
  - e. Parking may be located on non-paved surfaces.
  - f. All parking shall meet the parking standards of Section 11.2 Off Street Parking and Loading.
  - g. There shall be one parking space provided for each one hundred (100) square feet of usable floor space and one additional space for every two employees and meet all other standards of Section 11.2 Off Street Parking and Loading. Parking shall be located a minimum of fifty (50) feet from any lot line.
5. Hours of operation shall not extend past 8:00 PM.
6. Sales shall be limited to: farm products such as fruit, vegetables, or baked goods; plant nursery stock; or farm related products such as milk, cheese, honey, preserves or butter. Sale of other items (pop, candy, newspapers, etc.) shall not exceed ten (10) percent of all goods sold. A bakery may exist as part of a farm market.
7. Sales of plant nursery stock shall be limited to that which has been grown in Leelanau County for at least one full growing season, i.e. planted in the spring, sold no sooner than the next spring, except that bedding plants, sown on the premises, may be sold when ready for market.
8. Sales: Sales shall be derived from products grown or produced in Michigan and at least twenty five (25) percent from products grown on the premises, or on land owned by the farm market operator.
9. All signs shall comply with Section 3.13 Signs.  
*(Annotation: Section amended by Amendment 18-002, effective November 2, 2018)*

10. Limited Food Service Kitchens are allowed in Farm Markets if requirements of Section 4.6.O are met.

P. Limited Food Processing Kitchens

*(Annotation: Section amended by Amendment 18-001, effective November 2, 2018)*

1. A minimum parcel size of ten (10) acres is required. The minimum parcel width shall be three hundred thirty (330) feet.
3. The Limited Food Processing Kitchen must be operated by the owner of the parcel.
4. The building(s) and lot area devoted to a Food Processing Kitchen shall remain part of the principal farm unit and shall not be sold as a separate entity.
5. The area devoted to a Food Processing Kitchen shall not exceed twelve hundred (1,200) square feet, unless part of an approved food service operation.
6. Pre-existing structures built prior to 2008 that are located within one hundred (100) foot setback may be approved for use of a farm market subject to site plan review by the Planning Commission.
6. The minimum front setback shall be fifty (50) feet. The minimum side and rear setback is one hundred (100) feet.
7. Parking
  - a. There shall be one parking space provided for each one hundred (100) square feet of usable floor space and one additional space for every two employees.
  - b. Shall be a minimum of fifty (50) feet from any lot line.
  - c. A lesser setback may be approved by the Planning Commission, upon site plan review, and based upon such factors as parcel size, topography, neighboring uses, road access, and other such factors.
  - d. There shall be no parking on county or state roads.
  - e. Emergency access to the site shall be maintained at all times.
  - f. Parking may be located on non-paved surfaces.
  - g. All parking shall meet the parking standards of Section 11.2 Off Street Parking and Loading.
8. The Limited Food Processing Kitchen shall be landscaped and visually screened if required by the Planning Commission.

9. Retail sales of food products produced on the premises are accessory uses, clearly secondary to food processing, and shall occupy no more than six hundred (600) square feet of floor area.
10. Food Processing Kitchens shall not create a nuisance or annoyance to adjoining property owners by reason of noise, smoke, odor, electrical disturbance, night lighting, or traffic as determined by the Planning Commission during Site Plan Review.
11. Food Processing Kitchens shall be subject to annual inspection by the Zoning Administrator and may be terminated by the Administrator whenever same fails to comply with this Ordinance.
12. The Food Processing Kitchen is in compliance with the regulations of the Michigan Department of Agriculture and the Benzie - Leelanau District Health Department, including all licensing requirements.
13. Hours of operation shall not extend past 8:00 PM.
14. Abbreviated Site Plan review is required.

Q. Agricultural Support Business (A.S.B.): The business shall be farm related and is not intended to detract from the agricultural emphasis of the farm or to become a concentration of manufacturing or industrial activity which would appropriately be located in a light manufacturing district because of size or intensity of use. A.S.B.'s shall be allowed provided the following conditions are met:

1. The A.S.B. shall be operated on a farm of ten (10) acres or more in size and shall be owner operated.
2. The Accessory Buildings used for an A.S.B. shall have no exterior evidence to indicate that it is being used for any purpose other than farm/agricultural purposes.  
*(Annotation: Section amended by Amendment 18-002, effective November 2, 2018)*
3. The building(s) and lot area devoted to an A.S.B. shall remain part of the principal farm unit and shall not be sold as a separate entity.
4. The area devoted to an A.S.B. shall not exceed two thousand four hundred (2,400) square feet.
5. No A.S.B. shall be conducted upon or from the premises which would constitute nuisance or annoyance to adjoining property owners by reason of noise, smoke,

odor, electrical disturbance, night lighting, or the creation of unreasonable traffic to the premises.

6. All A.S.B.'s shall be subject to annual inspection by the Zoning Administrator and may be terminated by the Administrator whenever same fails to comply with this Ordinance.

R. Wineries and cideries, are welcomed by Bingham Township as appropriate farm activities. It is the intent of this section to promote local agriculture production by allowing construction of a tasting room and retail sale of associated products in the Agricultural District subject to this ordinance. It is also the intent of this section to encourage the growing of crops and production as an integral component of the rural and agricultural ambiance of Bingham Township, and to maintain the viability of farming through value added processing and direct sales of beverages made from locally grown crops.

*(Annotation: Section amended by Amendment 14-001, effective June 6, 2014)*

*(Annotation: Section amended by Amendment 16-007, effective February 3, 2017)*

*(Annotation: Section amended by Amendment 18-001, effective November 2, 2018)*

1. Wineries and Cideries are permitted, provided:
  - a. The winery, cidery, must, if required, be properly licensed by any local, state, or federal regulatory agency.
  - b. The parcel area is at least ten (10) acres. The minimum parcel width shall be at least three hundred thirty (330) feet.
  - c. The parcel shall have a minimum of two planted acres of planted farm crops that support the production of products produced by the licensee.
  - d. The total land area covered by buildings and structures used for processing, storage and sales does not exceed two percent (2%) of the contiguous lot area.
  - e. The above ground portion of any individual building shall not be greater than twenty thousand (20,000) square feet.
  - f. All buildings shall be setback at least fifty (50) feet from any lot line. If the building is open to the public, that building shall be set back at least one hundred (100) feet from any lot line.
  - g. Pre-existing structures built prior to 2008 that are located within one hundred (100) foot setback may be approved for use of a farm market subject to site plan review by the Planning Commission.



- h. Retail sales and food service are clearly accessory to production of the permitted beverage. Retail sales and food service areas shall occupy no more than twenty-five (25) percent of the floor area devoted to processing and storage, or no more than four thousand (4,000) square feet, whichever is less.
- i. Hours of operation shall not extend past 8:00 PM.
- j. Only wineries and cideries may operate a restaurant that is directly related to the farm operation subject to the following conditions:  
(Annotation: Section amended by Amendment 16-006, effective January 6, 2017)
  - i. The kitchen is within a permanent structure and must meet all local, state, and federal regulations.
  - ii. The area serving food shall be determined by the Planning Commission at Site Plan Review. The area serving food includes both indoor and outdoor seating.
  - iii. Initial site plan approval shall be for no more than twenty (20) patrons. Applicant may seek an increase, not to exceed fifty (50) patrons. This review shall be based on such factors as parcel size, topography, neighboring uses, road access, and other services provided.
  - iv. Must be licensed to prepare and serve food by the appropriate health agency.
  - v. All food and beverage service shall end by 10:00 PM.
  - vi. There shall be no outdoor amplified sounds or music.
  - vii. Operation under a Class C liquor license is not allowed.
- k. Only beverages produced by the facility may be sold on site.
- l. Parking
  - i. Shall be a minimum of fifty (50) feet from any lot line.
  - ii. A lesser setback may be approved by the Planning Commission, upon site plan review, and based upon such factors as parcel size, topography, neighboring uses, road access, and other such factors.
  - iii. There shall be no parking on county or state roads.
  - iv. Emergency access to the site shall be maintained at all times.
  - v. Parking may be located on non-paved surfaces.
  - vi. All parking shall meet the parking standards of Section 11.2 Off Street Parking and Loading.
- m. Standards:

*(Annotation: Section amended by Amendment 18-003, effective November 2, 2018)*

- i. Parking shall be screened from neighboring properties per standards of Section 3.12.4 Screening Adjoining Properties and Storage Areas.
  - ii. Parked vehicles shall not block emergency access routes within the site at any time.
  - iii. All exterior lighting shall comply with Section 3.14 Outdoor Lighting Standards.
  - iv. All signage shall comply with Section 3.13. Signs.
2. Approval process: An abbreviated Site Plan Review is required, except a Detailed Site Plan Review is required if the total land area covered by buildings and structures used for processing, storage, sales, food service, and special events exceeds thirty thousand (30,000) square feet.

S. Special Events and Activities

*(Annotation: Section amended by Amendment 18-001 and 18-003, effective November 2, 2018)*

Activities associated with the promotion of agriculture and education may be permitted. Such activities are not by right and are secondary to the agricultural function. Typical activities are wine appreciation/education seminars, non-profit benefits, weddings, wine and catered food events, seasonal natural events (mushroom hunts), vineyard harvest festivals, receptions, parties, picnics, barn dances, educational conferences, and agricultural research. Outside activities must be completed during daylight hours. These activities may be permitted provided:

1. Special Events and Activities are ONLY allowed to operate in conjunction with a winery tasting room or Commercial Farm in compliance with this Ordinance, including the following requirements:
  - a. Wineries and tasting areas must be properly licensed by any applicable local, state, and federal regulatory agency.
  - b. Winery parcels shall maintain a minimum of two (2) acres of planted farm crops that support the production of products produced by the licensee.
  - c. The minimum parcel size for a commercial farm is forty (40) acres.
  - d. The minimum parcel size for silviculture is one-hundred (100) acres with an active forest management plan.

*(Annotation: Section amended by Amendment 14-001, effective June 6, 2014)*

*(Annotation: Section amended by Amendment 16-007, effective February 3, 2017)*

2. Parking:
  - a. Shall be fifty (50) feet from all lot lines.
  - b. Parking shall be screened from neighboring properties per standards of Section 3.12.4 Screening Adjoining Properties and Storage Areas.
  - c. There shall be no event parking at any time on any county or private road.
  - d. Parked vehicles shall not block emergency access routes within the site at

- any time.
  - e. Parking Attendants shall be present to assist guests with parking if determined by the Planning Commission at site plan review.
  - f. Outside transportation shall be offered and encouraged for events if determined by the Planning Commission.
3. All exterior lighting shall comply with Section 3.14 Outdoor Lighting Standards.
  4. Prior to occupancy, the following must be transmitted to Bingham Township:
    - a. The maximum number of occupants of each building allowed under the construction code permit or appropriate agency.
    - b. The capacity of the bathrooms as determined by the construction code office or appropriate agency.
    - c. The capacity of the septic system as determined by the health department or appropriate agency.
    - d. Additional portable toilets must be provided for any guests exceeding the aforementioned number.
  5. Outside activities must be completed during daylight hours, but no later than 10:00PM. Inside activities must be completed by 10:00 PM except as included in the site plan.
  6. Sound, music, and amplification:
    - a. Any music or entertainment provided for the activity must be for background purposes and not a featured item of the activity.
    - b. Sound levels at any property line shall not be above normal conversation levels.
    - c. Applicant shall follow the Sound Management Plan submitted as part of the Special Land Use Permit application.
    - d. Amplification speakers at the facility or tent area shall be located inside and shall be directed as shown on the plan.
    - e. There shall be no amplified sound outside the facility or tent area after 8:00 PM.
  7. The applicant shall maintain a log of the activities occurring at the winery including dates, group identity, times and number of guests. This list must be submitted to Bingham Township annually, no later than March 1 for the previous calendar year.
  8. The Planning Commission may direct the Zoning Administrator to send an additional notification to neighboring property owners notifying them of approved neighboring permits. This notification will include contact information.
    - a. Applicant shall provide a cell phone number for on-site event managers.
    - b. The Zoning Administrator shall provide this information to the Leelanau

County Sheriff's Department.

9. An Abbreviated Site Plan must be approved by the Planning Commission at a Public Hearing. The following information must be provided in addition to information required for Abbreviated Site Plan Review.
  - a. Location of temporary toilet facilities, which may be required.
  - b. A written description of the planned activities including:
    - i. Type of gathering.
    - ii. Frequency and number of activities proposed in a calendar year.
    - iii. Maximum number of guests for any activity.

10. Site Plan Review Standards:

The Planning Commission shall review the site plan for conformance with the standards of the Zoning district in which located; and in addition, shall establish that the following standards have been satisfied:

- a. The size of the function and the number of expected guests on the property at one time shall be determined at the sole discretion of the Planning Commission based on parcel size, proximity to adjacent neighbors and the ability of the applicant to demonstrate that there will be no adverse impact on the neighbors from the noise, traffic, trespass, light or other impacts deemed relevant by the Planning Commission.
- b. There is adequate provision for parking of vehicles so that there is no parking on public roads and adequate setbacks and screening from adjacent properties are maintained. Temporary parking areas may be approved at the sole discretion of the Planning Commission.
- c. Temporary structures are allowed if approved by the Planning Commission. The Planning Commission will review the proposed locations and amount of time the structures will be in place.
- d. The Planning Commission shall require a planted buffer between adjacent properties and parking or building if it is determined that such a buffer is necessary to avoid adverse impacts on adjacent properties.
- e. Any activities other than those included in the original approval must have additional review by the Planning Commission. The scope of the additional review will be determined by the Commission at a preliminary hearing.

- T. Other uses not included here or elsewhere in the Ordinance must first be added as a special use appropriate to Bingham Township by amending the Ordinance, before being considered in the particular as a project subject to a special land use permit.

#### **SECTION 4.7 SETBACKS AND SETBACK AREAS**

The front setback shall be forty (40) feet. The side setbacks shall be thirty-five (35) feet. The rear setback shall be fifty feet. No dwelling, nor part thereof, including an attached garage, shall

be permitted in the side setback areas; however, other accessory structures are permitted in the side and rear setback areas if they are at least ten (10) feet from the lot lines.

**SECTION 4.8 LAKE ACCESS & SHORELINE USAGE**

See Section 3.9 Lake Access and Shoreline Usage *Added by amendment BTPC 3-15-95*

## ARTICLE 5

### RURAL RESIDENTIAL DISTRICT

*(Annotation: Article added in its entirety by Amendment 12-002, effective June 8, 2012)*

#### SECTION 5.1 INTENT

The intent of the Rural Residential District is to serve as a buffer between the more dense residential areas of the Township and the productive agricultural lands of the Township. This district has standards on low density residential uses and agricultural uses that balance the impact on each other.

#### SECTION 5.2 USES PERMITTED BY RIGHT

- A. One (1) Single Family Dwelling per lot.
- B. Farming, including poultry, grain, grass, mint and seed crops, vegetables, orchards, silviculture, nuts and berries, floriculture, ornamental trees, shrubs and nursery stock, greenhouses, sod farming, apiculture, and aquaculture. New structures or structure additions over one-hundred (100) square feet shall require a Land Use Permit.
- C. Farm Buildings
- D. Family Child Care Homes. (1 to 6 children) must be registered with the Department of Social Services.
- E. AFC Family Care Homes. (1 to 6 adults) must be licensed by the Michigan Department of Social Services.
- F. Short-Term Rentals
- G. Tasting Room, provided it qualifies as a Farm Market as defined in the Generally Accepted Agricultural Management Practices (GAAMP), published by the Michigan Department of Agriculture, as outlined in the Right-To-Farm Act.
- H. Farm Market, as defined in the Generally Accepted Agricultural Management Practices (GAAMP), published by the Michigan Department of Agriculture, as outlined in the Right-To-Farm Act.
- I. Wildlife Management Areas, plant and wildlife conservancies, refuges and sanctuaries. This Use does not require a Land Use Permit except for new structures or structure additions over one-hundred (100) square feet.

#### SECTION 5.3 PERMITTED ACCESSORY USES

The following uses are deemed accessory to the principle use of any parcel in the Rural Residential District. Land Use Permits are necessary for structures or additions to structures over one-hundred (100) square feet. *(Annotation: Section amended by Amendment 18-002, effective November 2, 2018)*

- A. Accessory Uses and Structures customarily accessory, secondary, and clearly incidental to the principle uses above. There shall be an established principal residential use on the parcel or on an adjacent lot under the same ownership before a permit may be issued for an accessory use or structure. Residential Accessory Uses include a private garage, shed for yard tools, playhouse, woodshed, sauna, and the like.
- B. Swimming pools.
- C. Parking of automobiles, boats, and other vehicles, licensed by the owner or resident of the property for their own use.
- D. Pens and enclosures for household pets. See Section 5.4.H Keeping Dogs and Section 5.5.G. Small Animal Kennel relating to keeping dogs.
- E. Activities typically associated with the actions and functions of individual family members participating in organizations such as 4-H, Future Farmers of America, and the like.

#### **SECTION 5.4 USES PERMITTED WITH CONDITIONS**

The following uses of land and structures shall be permitted, subject to the conditions imposed for each use.

- A. One (1) Duplex per lot of four (4) acres or more. If the duplex is built on a zero lot line, each dwelling may have its own lot of two (2) acres or more
- B. Mobile Homes are recognized by Bingham Township as valid single family dwellings. They are permitted, provided:
  - 1. The home is used as a single family dwelling.
  - 2. Is attached to a permanent foundation.
  - 3. It has health department approval for well and septic systems.
- C. Temporary Accessory Housing provided it meets the requirements of Section 3.8 Temporary Accessory Housing.
- D. Bed and Breakfasts, provided they meet the requirements of Section 12.3 Bed and Breakfasts, in Article 12 Home Business Uses.

- E. Home Occupations, provided they meet the requirements of Section 12.1 Home Occupations, in Article 12 Home Business Uses.
- F. Private Wind Turbine Generator (*Small Wind Energy System*), provided that the requirements of Section 13.3, Private Wind Turbine Generator are met.
- G. Keeping horses and livestock: for personal use
  1. There shall be a minimum parcel size of two (2) acres for up to two (2) horses and/or livestock.
  2. There shall be one (1) additional acre for each additional horse and/or livestock.
- H. Keeping dogs, provided it is not for profit or as a business:
  1. Kennels and any accessory pens housing more than two (2) dogs shall not be closer than fifty (50) feet to any lot line.
  2. If a dog is tethered, the tether shall not permit him to reach within fifty (50) feet of any lot line.
- I. Roadside Stands are permitted in the Rural Residential District to allow the active farmer to directly market their farm products. The following conditions shall apply:
  1. The Roadside Stand shall be located on the parcel owned or leased by the farmer selling his/her products.
  2. The Roadside Stand shall not be located in the road right-of-way.
  3. A minimum ten (10) foot front setback is required between parking area and the front property line. Parking areas shall be set back fifty (50) feet from side and rear property lines.
  4. One (1) Roadside Stand shall be allowed per parcel.
  5. Additional agricultural produce may be sold at the Roadside Stand provided it is grown or produced ( i.e. honey, syrup,) in Bingham Township.
  6. Sale of craft items is limited to those produced on the property.
  7. A parking area to accommodate customers shall be provided off the public road right-of-way.

Certain conditions may not apply to stands that qualify as a Farm Market as defined in the Generally Accepted Agricultural Management Practices (GAAMP), published by the



Michigan Department of Agriculture, as outlined in the Right-To-Farm Act.

	<b>Definition</b>	<b>Product Restrictions</b>	<b>Where Allowed</b>	<b>Miscellaneous</b>
<b>Roadside Stand</b>	A temporary structure used for selling seasonal farm products where the customer shops and makes purchases without entering the structure.	Produce grown or animals raised in Bingham Township. Additional agricultural products may be sold provided it is grown or produced in Bingham Township.	In Agricultural District. In Rural Residential District, on a parcel owned or leased by the seller/farmer.	Some Roadside Stands could be considered a Farm Market under GAAMP (see the ZA)
<b>Agricultural District Market</b>	A permanent enclosed farm building or portion thereof used for the purpose of selling seasonal farm products.	Farm products, baked goods, plant nursery stock, farm related products (milk, cheese, butter, etc.). Sales of other goods shall not exceed 10% of all goods sold. Minimum of 25% from products grown on land owned or leased by Ag District Market operator.	Agricultural District only. On parcels of 10 acres or more.	
<b>Farm Market</b>	Place or area where transactions between a farm market operator and customer takes place, AND complies with all standards set forth in GAAMP for Farm Markets.	At least 50% of products must be produced on and by the affiliated farm to comply with GAAMP.	Agricultural or Rural Residential Districts	To be considered a Farm Market under this definition, must meet all current GAAMP for Farm Markets.

*(Annotation: Section amended by Amendment 13-004, effective June 7, 2013)*

**J. Community Supported Agriculture (CSA)**

1. A parking area to accommodate customers shall be provided off the public road right-of-way.
2. Pick up hours or picking times: Sunrise to sunset.

3. No land use permit is required for CSA's, except for structures or structure additions over one-hundred (100) square feet.

K. Seasonal U-Pick Fruits and Vegetables:

1. A parking area to accommodate customers shall be provided off the public road right-of-way.
2. A minimum ten (10) foot front setback is required between parking area and the front property line. Parking areas shall be set back fifty (50) feet from side and rear property lines.
3. The hours of operation shall be between 8:00 AM and 10:00 PM.  
*(Annotation: Section amended by Amendment 18-001, effective November 2, 2018)*
4. No land use permit is required for Seasonal U-Pick's, except for structures or structure additions over one-hundred (100) square feet.

L. Storage Buildings – As a Primary Use

1. No commercial storage is allowed.
2. Only one storage building allowed on a parcel as a primary use.
3. Maximum size of 2400 square feet as a primary use.
4. Maximum height of 25 feet as a primary use.
5. No accessory dwellings are allowed.
6. No outside storage shall be allowed.

M. Group Child Care Homes, provided it meets the requirements set forth in the Michigan Zoning Enabling Act. *(Annotation: Section added in its entirety by Amendment 13-005, effective April 4, 2014)*

1. Is located not closer than 1,500 feet to any of the following:
  - a. Another licensed group child care home.
  - b. An adult foster care small group home or large group home licensed under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737.

- c. A facility offering substance abuse treatment and rehabilitation service to 7 or more people licensed under article 6 of the public health code, 1978 PA 368, MCL 333.6101 to 333.6523.
  - d. A community correction center, resident home, halfway house, or other similar facility which houses an inmate population under the jurisdiction of the department of corrections.
2. Has appropriate fencing for the safety of the children in the group child care home as determined by the Planning Commission.
  3. Maintains the property consistent with the visible characteristics of the neighborhood.
  4. Does not exceed 16 hours of operation during a 24-hour period. The Planning Commission may limit but not prohibit the operation of a group child care home between the hours of 10 PM and 6 AM.
  5. Meets sign regulations of Section 3.13 Signs.
  6. Parking meets that required in Section 11.2.3.A.K Group Child Care Home.

## **SECTION 5.5 SPECIAL USES**

These Uses are permitted when the Bingham Township Planning Commission determines that the Use meets the standards and criteria of Article 16 Site Plan Review and Article 17 Special Land Use Permits and Site Plan Review, as well as the general criteria of this District and the individual criteria for each Use.

- A. Clustered Housing, including multiple housing, provided that the requirements of Article 15, Clustered Housing Development (Open Space Preservation), are met. All new residential developments in the Rural Residential District on property greater than ten (10) acres or consist of three (3) or more residential parcels serviced by a private road must meet the requirements of Section 3.6.1 Standards for Residential Development and shall be developed as clustered housing developments in accordance with Article 15 Clustered Housing Development. (Annotation: Section amended by Amendment 14-006, effective March 6, 2015)

The goal of the ordinance is to protect and maintain quality open space. The Township offers developers up to an additional twenty percent (20%) density bonus to the number of lots initially allowed if they are willing to include additional standards such as self-funding for open space management, designing internal and external connectivity for trails and open space, designing seventy-five percent (75%) or more of all lots to abut open space and preserving primary or secondary environmental corridors.

For example, a twenty (20) acre parcel could allow eight (8) individual unclustered home sites. By following the conditions in Article 15, Clustered Housing Development, an additional two (2) to a maximum of four (4) home sites could be allowed.

B. Adult Foster Care Small Group Homes, provided:

*(Annotation: Section amended by Amendment 13-005, effective April 4, 2014)*

1. There are no more than twelve (12) adults, including members of the resident family, receiving care.
2. The facility does not apply to adult foster care for treatment of persons released from or assigned to adult correctional institutions.
3. Parking is provided off the road or unimproved road right-of-way for one (1) vehicle for every three (3) residents in foster care, for the use of visitors. This shall be in addition to parking for staff and/or family.
4. The parcel size must be large enough to accommodate the septic system and the equivalent reserve area required by the Benzie/Leelanau District Health Department.

C. Group Child Care Homes *(Annotation: Section deleted by Amendment 13-005, effective April 4, 2014)*

D. Public and Quasi-public Outdoor Recreational Uses and Areas per Section 3.11.

E. Bed and Breakfast Inn, provided they meet the requirements of 12.4 Bed and Breakfast Inn.

F. Home Businesses, provided they meet the requirements of Section 12.2 Home Business

G. Small Animal Kennel:

1. Minimum parcel size for a kennel - ten (10) acres.
2. Minimum setbacks for kennel and outside pens from all property lines are one hundred (100) feet.
3. The maximum number of small animals allowed is to be determined by the Planning Commission, but not to exceed twenty (20).
4. If a dog is tethered, the tether shall not permit him to reach within one hundred (100) feet of any lot line.
5. Buffering and Landscaping – a landscape plan that shows buffering as required in Section 3.12 Landscaping, Greenbelts, Buffers, Screens and Fences shall be part of site plan.

6. Lighting – all lighting shall be subject to Section 3.14 Outdoor Lighting Standards.
  7. Maintenance Plan Required – a plan outlining general maintenance including the removal of wastes, removal of trash, upkeep of property, and pen repair shall be required.
  8. Kennels shall be subject to the requirements of Section 12.2 Home Business.
  9. Abbreviated Site Plan review is required.
- H. Keeping horses and livestock for profit or as a business (i.e., Boarding Stable), provided:
1. There shall be a minimum parcel size of ten (10) acres for up to the first two (2) horses and or livestock.
  2. There shall be one (1) additional acre for each additional horse and/or livestock.
  3. Setback for stables, barn, and manure storage: 200 feet from all property lines.
- I. Wineries and cideries, are welcomed by Bingham Township as appropriate farm activities. It is the intent of this section to promote local agriculture production by allowing construction of a tasting room and retail sale of associated products in the Agricultural District subject to this ordinance. It is also the intent of this section to encourage the growing of crops and production as an integral component of the rural and agricultural ambiance of Bingham Township, and to maintain the viability of farming through value added processing and direct sales of beverages made from locally grown crops.
- Annotation: Section amended by Amendment 14-001, effective June 6, 2014)  
(Annotation: Section amended by Amendment 16-007, effective February 3, 2017)  
(Annotation: Section amended by Amendment 18-001, effective November 2, 2018)
1. Wineries and Cideries are permitted, provided:
    - a. The winery, cidery, must, if required, be properly licensed by any local, state, or federal regulatory agency.
    - b. The parcel area is at least ten (10) acres. The minimum parcel width shall be at least three hundred thirty (330) feet.
    - c. The parcel shall have a minimum of two planted acres of planted farm crops that support the production of products produced by the licensee.

- d. The total land area covered by buildings and structures used for processing, storage and sales does not exceed two percent (2%) of the contiguous lot area.
- e. The above ground portion of any individual building shall not be greater than twenty thousand (20,000) square feet.
- f. All buildings shall be setback at least fifty (50) feet from any lot line. If the building is open to the public, that building shall be set back at least one hundred (100) feet from any lot line.
- g. Pre-existing structures built prior to 2008 that are located within one hundred (100) foot setback may be approved for use of a farm market subject to site plan review by the Planning Commission.
- h. Retail sales and food service are clearly accessory to production of the permitted beverage. Retail sales and food service areas shall occupy no more than twenty-five (25) percent of the floor area devoted to processing and storage, or no more than four thousand (4,000) square feet, whichever is less.
- i. Hours of operation shall not extend past 8:00 PM.
- j. Only wineries and cideries may operate a restaurant that is directly related to the farm operation subject to the following conditions:  
(Annotation: Section amended by Amendment 16-006, effective January 6, 2017)
  - i. The kitchen is within a permanent structure and must meet all local, state, and federal regulations.
  - ii. The area serving food shall be determined by the Planning Commission at Site Plan Review. The area serving food includes both indoor and outdoor seating.
  - iii. Initial site plan approval shall be for no more than twenty (20) patrons. Applicant may seek an increase, not to exceed fifty (50) patrons. This review shall be based on such factors as parcel size, topography, neighboring uses, road access, and other services provided.
  - iv. Must be licensed to prepare and serve food by the appropriate health agency.
  - v. All food and beverage service shall end by 10:00 PM.
  - vi. There shall be no outdoor amplified sounds or music.
  - vii. Operation under a Class C liquor license is not allowed.

k. Only beverages produced by the facility may be sold on site.

l. Parking

- i. Shall be a minimum of fifty (50) feet from any lot line.
- ii. A lesser setback may be approved by the Planning Commission, upon site plan review, and based upon such factors as parcel size, topography, neighboring uses, road access, and other such factors.
- iii. There shall be no parking on county or state roads.
- iv. Emergency access to the site shall be maintained at all times.
- v. Parking may be located on non-paved surfaces.
- vi. All parking shall meet the parking standards of Section 11.2 Off Street Parking and Loading.

m. Standards:

*(Annotation: Section amended by Amendment 18-003, effective November 2, 2018)*

- i. Parking shall be screened from neighboring properties per standards of Section 3.12.4 Screening Adjoining Properties and Storage Areas.
- ii. Parked vehicles shall not block emergency access routes within the site at any time.
- iii. All exterior lighting shall comply with Section 3.14 Outdoor Lighting Standards.
- iv. All signage shall comply with Section 3.13. Signs.

2. Approval process: An abbreviated Site Plan Review is required, except a Detailed Site Plan Review is required if the total land area covered by buildings and structures used for processing, storage, sales, food service, and special events exceeds thirty thousand (30,000) square feet.

J. Winery Special Events and Activities

*(Annotation: Section amended by Amendment 18-001 and 18-003, effective November 2, 2018)*

Activities associated with the promotion of agriculture and education may be permitted. Such activities are not by right and are secondary to the agricultural function. Typical activities are wine appreciation/education seminars, non-profit benefits, weddings, wine and catered food events, seasonal natural events (mushroom hunts), vineyard harvest festivals, receptions, parties, picnics, barn dances, educational conferences, and agricultural research. Outside activities must be completed during daylight hours. These activities may be permitted provided:

1. Special Events and Activities are ONLY allowed to operate in conjunction with a winery tasting room or Commercial Farm in compliance with this Ordinance, including the following requirements:
  - a. Wineries and tasting areas must be properly licensed by any applicable local, state, and federal regulatory agency.
  - b. Winery parcels shall maintain a minimum of two (2) acres of planted farm crops that support the production of products produced by the licensee.
  - c. The minimum parcel size for a commercial farm is forty (40) acres.
  - d. The minimum parcel size for silviculture is one-hundred (100) acres with an active forest management plan.

(Annotation: Section amended by Amendment 14-001, effective June 6, 2014)

(Annotation: Section amended by Amendment 16-007, effective February 3, 2017)

2. Parking:
  - a. Shall be fifty (50) feet from all lot lines.
  - b. Parking shall be screened from neighboring properties per standards of Section 3.12.4 Screening Adjoining Properties and Storage Areas.
  - c. There shall be no event parking at any time on any county or private road.
  - d. Parked vehicles shall not block emergency access routes within the site at any time.
  - e. Parking Attendants shall be present to assist guests with parking if determined by the Planning Commission at site plan review.
  - f. Outside transportation shall be offered and encouraged for events if determined by the Planning Commission.
3. All exterior lighting shall comply with Section 3.14 Outdoor Lighting Standards.
4. Prior to occupancy, the following must be transmitted to Bingham Township:
  - a. The maximum number of occupants of each building allowed under the construction code permit or appropriate agency.
  - b. The capacity of the bathrooms as determined by the construction code office or appropriate agency.
  - c. The capacity of the septic system as determined by the health department or appropriate agency.
  - d. Additional portable toilets must be provided for any guests exceeding the aforementioned number.
5. Outside activities must be completed during daylight hours, but no later than 10:00PM. Inside activities must be completed by 10:00 PM except as included in the site plan.
6. Sound, music, and amplification:
  - a. Any music or entertainment provided for the activity must be for background purposes and not a featured item of the activity.

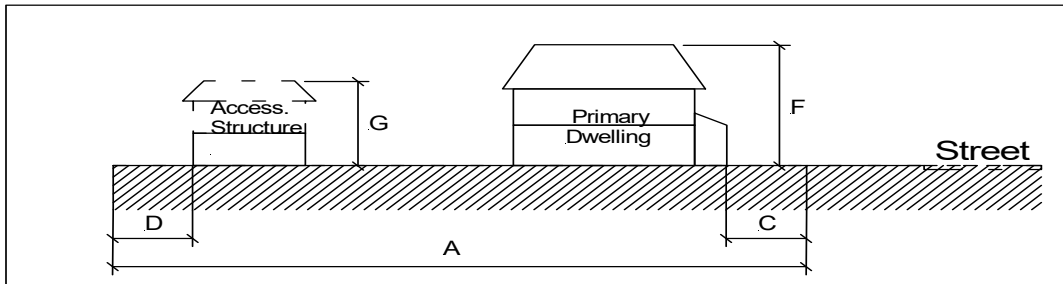
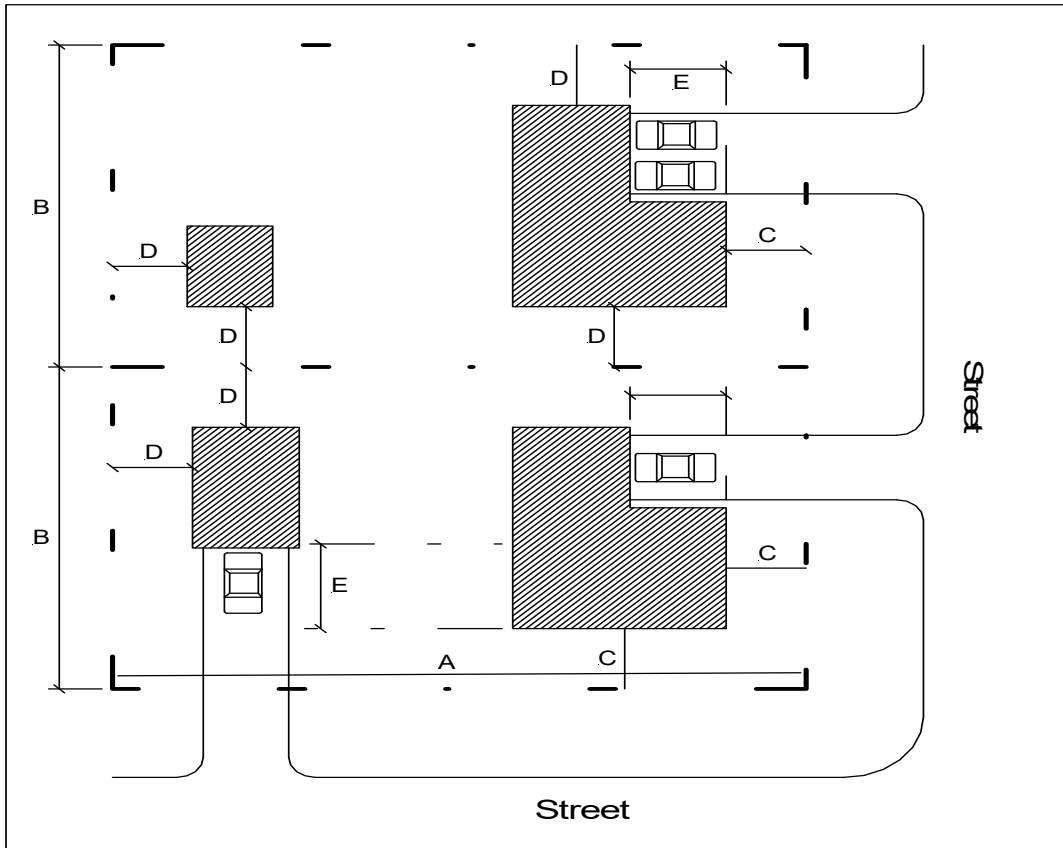


- b. Sound levels at any property line shall not be above normal conversation levels.
  - c. Applicant shall follow the Sound Management Plan submitted as part of the Special Land Use Permit application.
  - d. Amplification speakers at the facility or tent area shall be located inside and shall be directed as shown on the plan.
  - e. There shall be no amplified sound outside the facility or tent area after 8:00 PM.
7. The applicant shall maintain a log of the activities occurring at the winery including dates, group identity, times and number of guests. This list must be submitted to Bingham Township annually, no later than March 1 for the previous calendar year.
8. The Planning Commission may direct the Zoning Administrator to send an additional notification to neighboring property owners notifying them of approved neighboring permits. This notification will include contact information.
- a. Applicant shall provide a cell phone number for on-site event managers.
  - b. The Zoning Administrator shall provide this information to the Leelanau County Sheriff's Department.
9. An Abbreviated Site Plan must be approved by the Planning Commission at a Public Hearing. The following information must be provided in addition to information required for Abbreviated Site Plan Review.
- a. Location of temporary toilet facilities, which may be required.
  - b. A written description of the planned activities including:
    - i. Type of gathering.
    - i. Frequency and number of activities proposed in a calendar year.
    - ii. Maximum number of guests for any activity.
10. Site Plan Review Standards:
- The Planning Commission shall review the site plan for conformance with the standards of the Zoning district in which located; and in addition, shall establish that the following standards have been satisfied:
- a. The size of the function and the number of expected guests on the property at one time shall be determined at the sole discretion of the Planning Commission based on parcel size, proximity to adjacent neighbors and the ability of the applicant to demonstrate that there will be no adverse impact on the neighbors from the noise, traffic, trespass, light or other impacts deemed relevant by the Planning Commission.
  - b. There is adequate provision for parking of vehicles so that there is no parking on public roads and adequate setbacks and screening from

adjacent properties are maintained. Temporary parking areas may be approved at the sole discretion of the Planning Commission.

- c. Temporary structures are allowed if approved by the Planning Commission. The Planning Commission will review the proposed locations and amount of time the structures will be in place.
- d. The Planning Commission shall require a planted buffer between adjacent properties and parking or building if it is determined that such a buffer is necessary to avoid adverse impacts on adjacent properties.
- e. Any activities other than those included in the original approval must have additional review by the Planning Commission. The scope of the additional review will be determined by the Commission at a preliminary hearing.

**SECTION 5.6 AREA, HEIGHT AND PLACEMENT REGULATIONS**



- A. Parcel Depth (A) – No greater than four (4) times the Parcel Width
- B. Parcel Width (B) – One hundred fifty (150) feet minimum
- C. Front (Street) Setback (C) – Forty (40) minimum from the front Parcel line.
- D. Side and Rear Parcel Line Setbacks (D)
  - 1. Primary dwelling and attached garage: Thirty five (35) minimum from the Parcel

line.

2. Agricultural and accessory buildings larger than one hundred (100) square feet:  
Twenty (20) feet.
  3. Agricultural and accessory buildings smaller than one hundred (100) square feet:  
Ten (10) feet
- E. Garage setback eighteen (18) feet from façade line of primary structure (residential developments only)
- F. Primary Dwelling Height (F) – Thirty five (35) maximum with a maximum of two and one half (2 ½) stories
- G. Accessory Building Height (G) - Thirty five (35) feet. (Twenty five (25) feet for primary storage buildings)
- H. Maximum Building Coverage - Twenty five (25) percent of the net Parcel Area.
- I. Parcel Size: Two (2) acres minimum net acreage

**NOTE:**

The above dimensional standards may be waived or altered for clustered housing developments when approved by the Planning Commission (See Article 15).

**SECTION 5.6 ADDITIONAL DEVELOPMENTAL STANDARDS**

(Annotation: Section deleted by Amendment 14-007, effective March 6, 2015)  
See Section 3.6.1 Standards for Residential Developments

## ARTICLE 6

### RESIDENTIAL DISTRICT

#### SECTION 6.1 INTENT

The Residential District is intended to accommodate residential properties of a low density, which will be compatible with natural resources and environmental characteristics, such as hillsides, scenic areas, wetlands, and shore lands; which will preserve open space and the rural atmosphere; and which will not require public sewerage.

Properties already developed, which are not able to effectively use septic systems and tile fields, should seek privately funded solutions, and cannot expect the Township to provide sewerage.

#### SECTION 6.2 USES PERMITTED BY RIGHT

- A. One (1) Single Family Dwelling per lot.
- B. Family Child Care Homes. (1 to 6 children) They must be registered with the Department of Social Services. *(Annotation: Section amended by Amendment 13-005, effective April 4, 2014)*
- C. Adult Foster Care Family Care Homes. (1 to 6 adults) They must be licensed by the Michigan Department of Social Services. The area required by the District Health Department for an AFC septic system is a great deal larger than for a single family dwelling of comparable size, and should be checked out before building an AFC facility.
- D. Accessory Uses or Structures customarily accessory and clearly incidental to the principal permitted uses above. BTPC6-19-96
- E. Short-Term Rentals  
*(Added by Amendment 05-001 effective August 12, 2005)*

#### SECTION 6.3 USES PERMITTED WITH CONDITIONS

The following uses of land and structures shall be permitted, subject to the conditions imposed for each use.

- A. One (1) Duplex per lot of two (2) acres or more. If the duplex is built on a zero lot line, each dwelling may have its own lot of one acre or more.
- B. One Accessory Apartment *Deleted February 29, 2002*
- C. Mobile Homes are recognized by Bingham Township as valid single family dwellings. They are permitted, provided:

1. The home is used as a single family dwelling.
  2. Is attached to a permanent foundation.
  3. It has health department approval for well and septic systems.
- D. Temporary Accessory Housing provided it meets the requirements of Section 3.8 Temporary Accessory Housing.
- E. Bed and Breakfasts, provided they meet the requirements of Section 12.3 Bed and Breakfasts.
- F. Home Occupations, provided they meet the requirements of Section 12.1 Home Occupations.
- G. Private Wind Turbine Generator, provided that the requirements of Section 13.3, Private Wind Turbine Generator are met. *Added August 2, 2002.*
- H. Group Child Care Homes, provided it meets the requirements set forth in the Michigan Zoning Enabling Act. *(Annotation: Section added in its entirety by Amendment 13-005, effective April 4, 2014)*
1. Is located not closer than 1,500 feet to any of the following:
    - a. Another licensed group child care home.
    - b. An adult foster care small group home or large group home licensed under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737.
    - c. A facility offering substance abuse treatment and rehabilitation service to 7 or more people licensed under article 6 of the public health code, 1978 PA 368, MCL 333.6101 to 333.6523.
    - d. A community correction center, resident home, halfway house, or other similar facility which houses an inmate population under the jurisdiction of the department of corrections.
  2. Has appropriate fencing for the safety of the children in the group child care home as determined by the Planning Commission.
  3. Maintains the property consistent with the visible characteristics of the neighborhood.
  4. Does not exceed 16 hours of operation during a 24-hour period. The Planning Commission may limit but not prohibit the operation of a group child care home between the hours of 10 PM and 6 AM.

5. Meets sign regulations of Section 3.13.
  6. Parking meets that required in Section 11.2.3.A.K Group Child Care Home.
- I. Chickens may be kept according to the following conditions: (Annotation: Subsection added by Amendment 15-001, effective May 8, 2015)
1. A maximum of eight (8) hens may be kept per parcel. Roosters are prohibited. Eggs and meat are for the exclusive use of the owners of the chickens.
  2. Chickens shall be provided shelter and remain within a fenced enclosure.
  3. Enclosures shall be located at least forty (40) feet from any adjacent dwelling or shoreline.

## **SECTION 6.4 SPECIAL USES**

These uses are permitted when the Bingham Township Planning Commission determines that the uses meet the standards and criteria of Article 17 Special Land Use Permits and Article 16 Site Plan Review, as well as the general criteria of this District and the individual criteria for each use.

- A. Clustered Housing, including multiple housing, provided that the requirements of Article 15 Clustered Housing Developments, are met.
- B. Adult Foster Care Small Group Homes, provided:  
(Annotation: Section amended by Amendment 13-005, effective April 4, 2014)
  1. There are no more than twelve (12) adults, including members of the resident family, receiving care.
  2. The facility does not apply to adult foster care for treatment of persons released from or assigned to adult correctional institutions.
  3. Parking is provided off the road or unimproved road right-of-way for one (1) vehicle for every three (3) residents in foster care, for the use of visitors. This shall be in addition to parking for staff and/or family.
  4. The parcel size must be large enough to accommodate the septic system and the equivalent reserve area required by the Benzie/Leelanau District Health Department.
- C. Group Child Care Homes (Annotation: Section deleted by Amendment 13-005, effective April 4, 2014)
- D. Outdoor Recreational Uses and Areas per Section 3.11.  
Added by amendment BTPC6-19-96

- E. Other Uses not included here or elsewhere in the Ordinance must first be added as a special use appropriate to Bingham Township by amending the Ordinance, before being considered in the particular as a project subject to a special land use permit.
  
- F. Bed and Breakfast Inn , provided they meet the requirements of Section 12.4 Bed and Breakfast Inn. *Added by Amendment BTPC 10-28-00.*

**SECTION 6.5      AREA, HEIGHT AND PLACEMENT REGULATIONS**

See Section 3.6.

**SECTION 6.6      PARKING REQUIREMENTS**

See Section 11.2.3.

**SECTION 6.7      LAKE ACCESS & SHORELINE USAGE**

See Section 3.9. *Added by amendment BTPC 3-15-95*



## ARTICLE 7

### COMMERCIAL DISTRICT

*Amended in its entirety BTPC 9-20-95*

*(Annotation: Article amended in its entirety by Amendment 15-005, effective August 13, 2015)*

#### SECTION 7.1 INTENT

This District is intended to accommodate those retail and business activities that serve the whole community in a way that respects the natural environment and encourages the rural character of Bingham Township. Developers are encouraged to use the "Grand Traverse Bay Region Development Guidebook".

#### SECTION 7.2 SPECIAL USE DETERMINATION

If any uses permitted by right in Section 7.3 meet any of the following criteria, they will be considered a Special Use. See Section 7.4.A.

- A. If ten (10) or more new parking spaces are required.
- B. If there is a creek, stream, lake, natural pond or wetland area present on the property, or within five hundred (500) feet of the property.
- C. If the area covered by existing structure(s) plus any new structure(s) (excluding parking lots) will be greater than 3,000 square feet total.
- D. Additions to structures or buildings or additional use that presently requires a Special Use Permit under this section.
- E. If a drive-through is being considered as part of the operation.

#### SECTION 7.3 USES PERMITTED BY RIGHT

- A. Retail: a business which supplies commodities on the premise within a completely enclosed building such as, but not limited to, foods, clothing, furniture, dry goods, hardware, or notions.
- B. Services: a business which provides a service on the premise within a completely enclosed building such as, but not limited to barber and beauty shops or dance studios.
- C. Professional/Office: a business which provides a service on the premise within a completely enclosed building such as, but not limited to financial institutions, insurance office, professional office for accountant, lawyer or architect. Also included in this category are governmental offices, nonprofit agencies, and contractor or artist offices without an outdoor storage yard.

- D. Residential:
  - a. One (1) single family home or one (1) duplex.
  - b. Upper story dwelling units.
  - c. Bed and Breakfast and Rooming House.
  - d. Short-term rental.
  - e. Family Child Care Home. For up to six (6) minor children provided it is licensed and approved by the State of Michigan
  - f. Adult Foster Care (AFC) Family Care Homes. For up to six (6) adults provided it is licensed and approved by the State of Michigan.
  
- E. Private Wind Turbine Generator provided that the requirements of Section 13.3, Private Wind Turbine Generator are met. *Added August 2, 2002.*
  
- F. Business operated from within a motor vehicle, such as a food truck, provided that it complies with the setbacks, and all parking is off road and not in the right-of-way.
  
- G. Buildings or uses customarily accessory and clearly incidental to the principal permitted uses above.

#### **SECTION 7.4 SPECIAL USES**

These uses are permitted when the Bingham Township Planning Commission determines that the uses meet the standards and criteria of Article 17 Special Land Use Permits and Article 16 Site Plan Review, as well as the general criteria of this District and the individual criteria for each use.

- A. Any use in Section 7.3 above, meeting any of the criteria in Section 7.2 shall be considered a Special Use.
  
- B. Residential:
  - a. Multi-family (other than a duplex).
  - b. Nursing or convalescent home.
  
- C. Churches, Temples, Schools of an academic nature, Hospitals, Clinics, Institutions, Day Care Center, Nursing Homes, provided that they have sufficient off-road parking, and pose no hazard to traffic, pedestrians, and residents of the area. See Section 11.2 Off Road Parking and Loading.
  
- D. Restaurant.
  
- E. Motel or hotel.
  
- F. Motor vehicle-related business including all repairs or sales.

- G. Indoor or Outdoor Recreation uses.
- H. Commercial storage facilities.
- I. Any use that also includes outdoor storage of any kind.
- J. Public buildings of a type not covered in Section 7.3.
- K. Nonconforming Uses existing in the Commercial District prior to the effective date of this amendment to the Zoning Ordinance shall be treated as "Special Uses" (following the process of Article 17 Special Land Use Permits and Article 16 Site Plan Review) rather than needing to conform to the requirements of Article 18 Nonconformities.  
*Amended BTPC 9-20-95*
- L. Sexually Oriented Businesses *added in its entirety, see Bingham Twp Bd. min. 2-12-97*  
The purpose and intent of the section of this sub-section pertaining to the regulation of sexually oriented businesses is to regulate the location and operation of, but not to exclude, sexually oriented businesses within the township and to minimize their negative secondary effects. It is recognized that sexually oriented businesses because of their very nature, have serious objectionable operational characteristics which cause negative secondary effects upon nearby residential, educational, religious and other similar public and private uses. The regulation of sexually oriented uses is necessary to ensure that their negative secondary effects will not contribute to the blighting or downgrading of surrounding areas and will not negatively impact the health, safety and general welfare of township residents. The provisions of this sub-section are not intended to offend the guarantees of the First Amendment of the United States constitution or to deny adults access to sexually oriented businesses and their products, or to deny sexually oriented businesses access to their intended market. Neither is it the intent of this sub-section to legitimize activities which are prohibited by Bingham Township ordinances, state or federal law.

**DEFINITIONS:**

**NUDITY OR STATE OF NUDITY:** The appearance of the human bare buttocks, anus, male genitals, female genitals, or female breast without a fully opaque covering of the breast below a point immediately above the top of the areola, or human male genitals in a discernable turgid state even if completely and opaquely covered.

**SEMI-NUDITY OR STATE OF SEMI-NUDITY:** A state of dress in which clothing covers not more the human bare buttock, anus, male genitals, female genitals, or the female breast with a fully opaque complete covering of the breast below a point immediately above the top of the areola, or human male genitals in a discernable turgid state even if completely and opaquely covered.

**SEXUALLY ORIENTED BUSINESSES:** Establishments which exclude minors by virtue of

age and further defined as follows:

1. 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 imag-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayer are distinguished or characterized by the depicting or describing of Specified Sexual Activities or Specified Anatomical Areas.
2. Adult bookstore or Adult Video Store: A commercial establishment that, *as one of it's* principle business purposes, offers for any form of consideration any one or more of the following:
  - a. Books, magazines, periodical, or other printed matter or photographs film motion pictures, video cassettes or video reproductions, slides, other photographic reproductions or visual media that are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas; or
  - b. Instruments, devices, or paraphernalia that are designed for use in connection with Specified Sexual Activities. A commercial establishment may have other principle 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 principle business purpose of an establishment if it comprises 25 percent or more of yearly sales volume or occupies more that 25 percent or more of the floor area or visible inventory with the establishment.
3. Adult Cabaret: A nightclub, bar, restaurant or similar commercial establishment that regularly features:
  - a. Persons who appear in a state of semi-nudity or nudity;
  - b. Live performances that are characterized by the exposure of Specified Anatomical Areas or by Specified Sexual Activities;
  - c. Films, motion pictures, video cassettes or video reproductions, slides other photographic reproductions or visual media that are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas; or
  - d. Persons who engage in lewd, lascivious or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.
4. Adult Motel: A hotel, motel or similar commercial establishment that:
  - a. Offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes or video reproductions, slides, or other photographic reproductions or visual media that are characterized by the depiction or description of Specified /sexual Activities or Specified anatomical Area and has assign visible from the public road right-of way that advertises the availability of any of the above;
  - b. Offers a sleeping room for rent for a period of time that is less than 12 hours; or
  - c. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than 12 hours.
5. Adult Motion Picture Theater: A commercial establishment which for any form of

consideration, regularly and primarily shows films, motion pictures, video cassettes or video reproductions, slides or other photographic reproductions or visual media that are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas.

6. 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 Sexual activities or Specified anatomical Areas.
7. Escort: A person who, for any form of consideration, agrees to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform striptease for another person.
8. 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 any form of consideration.
9. Nude Model Studio: Any place where a person who displays specified Anatomical Areas is provided to be observed, sketched, drawn, painted, sculpted, 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.
10. Sexual Encounter Center: A commercial establishment that, as one of its principle business purposes, offers for any form of consideration:
  - a. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
  - b. Activities between male and female persons and or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity.

**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 discernible turgid state, even if completely and opaquely covered.

**SPECIFIED SEXUAL ACTIVITIES:** Include any of the following:

1. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breast;
2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
3. Excretory functions as part of or in connections with any of the activities set forth in 1. through 3. above.

Sexually Oriented Businesses shall be subject to the following standards:

- a. The proposed sexually oriented business will not be located within 300 feet of any residence, residentially zoned property, park, school, child care organization, place of worship or 1,000 feet from any other sexually oriented business. The distance between a proposed sexually oriented business and any residence,

residentially zoned property, 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 of the residence, residentially zoned property, school, child care organization, place of worship, or other sexually oriented business.

- b. Any sign or signs proposed for the sexually oriented business shall comply with the provisions of Section 3.13 Signs of this Ordinance, and shall not otherwise include photographs, silhouettes, drawings, or pictorial representations of any type, or include animated or flashing illumination.
- c. Entrances to the proposed sexually oriented business shall be posted on both the exterior and interior walls, in a location clearly visible to those entering and exiting the business, and using letters no less than 2 inches in height that state:
  - 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."
- d. 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 road right-of-way or a neighboring property.
- e. Hours of operation shall be limited to 8:00 AM to 11:00 PM.
- f. All off-street parking areas shall be illuminated during hours of operation of the sexually oriented business, and until one hour after the business closes, such that the off-street parking areas are visible from the nearest adjoining road right-of-way.
- g. 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 as showing Specified Anatomical Areas or Specified Sexual Activities shall:
  - 1. Be handicap accessible to the extent required by the Americans with Disabilities Act;
  - 2. Be unobstructed by any door, lock or other entrance and exit control device;
  - 3. 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;
  - 4. Be illuminated by a light bulb of wattage not less than 25 watts;
  - 5. Have no holes or openings, other than doorways, in any side or rear wall.

M. Other Uses not included here or elsewhere in the Ordinance must first be added as a special use appropriate to Bingham Township by amending the Ordinance, before being considered in the particular as a project subject to a special land use permit.

## **SECTION 7.5 PLANNED UNIT DEVELOPMENTS**

### **SECTION 7.5.1 INTENT**

Planned Unit Developments are intended to encourage a village atmosphere throughout the

commercially zoned property within the Township, which will respect the natural environment, and which will give a sense of community to the residents of Bingham Township.

### **SECTION 7.5.2 GENERAL REQUIREMENTS**

Planned Unit Developments must meet all of the requirements of Article 17 Special Land Use Permits and Article 16 Site Plan Review, as well as all the applicable requirements of the zoning district in which they lie, unless superseded by the specific provisions within the PUD section of this Ordinance, Section 7.5 Planned Unit Developments.

### **SECTION 7.5.3 DEVELOPMENT GUIDELINES**

Planned Unit Development (PUD) includes cluster zoning, plan development, community unit plan, planned residential development, and other terminology denoting Zoning requirements designed to accomplish the objectives of the Zoning Ordinance through a land development project review process based on the application of site planning criteria to achieve integration of the proposed land development project with the characteristics of the project area and the existing neighborhood. The development guidelines presented in the "Grand Traverse Bay Region Development Guidebook" shall be observed wherever feasible, including the review of the land development comprehensively, in a "planned entity" via a site plan which permits:

- A. Flexibility in building and site development, and the use of usable open spaces;
- B. While offering greater preservation of existing natural features than can be afforded in conventional Zoning practices;
- C. With such development containing residential, nonresidential or a mixture of land uses as provided by this commercial zoning district, including safe and convenient pedestrian access wherever practicable,
- D. With the objective of creating harmony and compatibility between each of the proposed uses and the existing natural environment.

### **SECTION 7.5.4 PARCEL MAKE-UP**

- A. The PUD parcel may consist of one or more contiguous lots, including lots or portions thereof in the adjacent district, provided these contiguous lots are not separated by a public road or a private road which is not incorporated into the "planned entity" of the PUD project.
- B. OWNERSHIP - At the time of application, the applicant shall submit a statement showing the manner and form of future ownership and control of the PUD parcel to ensure that all the conditions of the permit, if granted, will continue to be met in the future. In the event the permit is granted, a condition of the grant shall be the execution, and to the extent necessary, the recording of the documents of title, before any development commences or the permit is issued.

C. UTILITIES AND SEWER - A central sanitary sewage disposal system, and provision for storm water drainage either by retention ponds or suitable dispersal methods, may be required as a condition of the site's development, as determined by the Leelanau County Health Department and/or other applicable authorizing agency. All lines, pipes or conduits for gas or electricity shall be placed underground. Any other utility, including cable television, shall also have its access lines or pipes placed underground.

D. CLUSTER HOUSING DESIGN

1. Density: The maximum number of dwelling units permitted in a planned unit development shall not be greater than that allowed by right in the zoning districts in which the PUD is located.
2. Dwelling Types: Dwelling types may include single family, duplex, and multiple-family. They shall be identified in the application for the special land use permit, and shown on the site plan.
3. Individual Residential Lot/Unit Size: Minimum area requirements for individual residential lots/units may be reduced with Commission approval, as long as the overall density of the project is unchanged.

E. BUILDING SEPARATION & ARRANGEMENT - For public health and safety reasons, the minimum separation or spacing between buildings and structures shall be twenty (20) feet. Buildings shall be arranged, insofar as practicable, to utilize natural topography, to protect wetlands and existing vegetation, and to protect scenic views within and beyond the site.

F. PERMITTED USES - Any combination of uses listed in the Commercial District shall be permitted. In addition, a marina may be included, subject to the following regulations:

1. The marina must conform to any applicable state and/or federal regulations.
2. Off-street parking is provided in accordance with Section 11.2 Off Road Parking and Loading of this Ordinance.

**SECTION 7.5.5 OPEN SPACE REGULATIONS, DEFINITION, AND OWNERSHIP**

A. OPEN SPACE - For each square foot of land gained through the reduction of individual lot sizes, equal amounts of land shall be set aside as open space. Where the principal parcel includes more than one zoning district, the density in each district shall, nevertheless, not be greater than allowed in that district without a planned development. Such open space may include open farmland, woodlands and orchards, wetlands and natural water courses, land used for conservation purposes or for low impact recreational



activities, such as pedestrian and non-motorized bike paths, which do not require hard surface or structural development.

B. OWNERSHIP OF OPEN SPACE - Whether public or private, the open space shall be subject to such restrictions, dedications and/or requirements to ensure it remains protected as open space. Such provisions shall be stated in the planned development agreement to be recorded.

C. PRIVATE OWNERSHIP OF OPEN SPACE -

1. Title - Under private ownership, open space shall be dedicated, restricted or otherwise set aside as common land for the sole use of present and future landowners within the planned development”. When any lot or dwelling unit is sold, the access to the open space shall remain appurtenant to the land sold, whether or not stated in the conveyance.
2. Maintenance: There shall be provided within the documents of title a means of ensuring the continued maintenance of the open space in a manner consistent with the dedicated use. The specific method is at the election of the applicant, subject to approval by the Commission as part of the total application, and if granted, the permit. The application shall, by separate document, state the method selected by the applicant, as well as the minimum maintenance anticipated to be done on a regular basis, and this document shall become a part of the special land use permit. In the event the minimum maintenance is not being accomplished by those having an interest in title to the real estate comprising the planned unit development, whether reflected in deed or through a homeowners association, the documents shall provide that the Township may, at its discretion, undertake such minimum maintenance, with right of access to accomplish the same. The costs shall be a charge against the homeowners association or the individual lot owners as may be set forth in the documents referenced herein.

D. PUBLIC OWNERSHIP OF OPEN SPACE

1. Part of a Comprehensive Plan: If all or any part of the open space is to be dedicated to the general public for park or recreational purposes, the location and extent of such land and its use shall be in harmony with the Comprehensive Development and Recreational Plans of Bingham Township and/or of Leelanau County.
2. Title: The open space shall be dedicated to public use by execution and transfer of a legally recorded and enforceable document of title, and shall be agreed to by the receiving body, including such organizations as the Leelanau Conservancy, the Michigan Chapter of the Nature Conservancy, or the American Farmland Trust, at the time the proposed project is considered by the Commission.

3. Access: Access to public open space, and the arrangement of roads and unimproved roads and other common paths for either vehicular or pedestrian traffic, shall be coordinated with the road system and/or any system of footpaths or trails existing or planned in the areas adjacent to the development. Pedestrian traffic should be separated from vehicular traffic wherever practicable.
4. Parking: Appropriate parking shall be worked out with the Commission and approved by the Commission.
5. Maintenance: The “entity” accepting title to the land may demand that the developer, with his application, provide a proposed contract for the maintenance of the public open space, appropriate and adequate to its intended use.

#### **SECTION 7.5.6 OVERALL DENSITY AND INTENSITY**

The density (and intensity) of the land uses shall not exceed the overall density of the parcel as a whole for the zoning districts (See Section 7.5.5 A.). However, as long as the maximum density is not exceeded, the land uses may be clustered or concentrated in any part of the planned development parcel provided the general standards, such as those in Section 7.5.3, are met. No minimum lot sizes are required.

In addition, as part of the planned development approval, to encourage good planning inherent in the concept of Planned Unit Developments (Section 7.5.3) a ten percent Commercial District lot coverage bonus (i.e. 25 percent to 35 percent) may, at the time of Preliminary Consideration hearing, be granted by the Planning Commission, provided the applicant has demonstrated that the project meets the intent (Section 7.5.1); and development guidelines (Section 7.5.3). At this Preliminary Consideration hearing the applicant shall present the plan with both Commercial District lot coverage at twenty-five (25) percent and thirty-five (35) percent (if the applicant wishes this bonus to be considered).

#### **SECTION 7.5.7 PUD SETBACKS AND BUFFERING**

Setbacks required in Article 7 Commercial District shall be observed around the perimeter of the PUD parcel, but no interior setbacks, except as required in Section 7.5, are required. Pedestrian walkways are not required to maintain setbacks from roads, but must be located on the PUD parcel and off the road right-of-way (unless the necessary approval from the Leelanau County Road Commission and/or other agency or association of authority gives prior approval of the pedestrian walkways' location). Buffering may be required by the Commission within the development or along its perimeter to protect the values of individually owned lots/units and adjoining properties.

#### **SECTION 7.6 NON-PUD COMMERCIAL DISTRICT BUFFER ZONE**

All commercial Districts must include an 85 foot wide buffer zone between the commercial District and any adjacent District. This zone may not be used for any business purposes such as structure, parking lot or storage.

The Buffer Zone may be reduced to a minimum of thirty-five (35) feet at the discretion of the Planning Commission, upon review of a landscape plan (Section 3.12.3 Landscape Plan Required), if a combination of buffers such as trees and shrubs (of various heights and types), berming, fencing and/or wall is provided. The Planning Commission shall determine the scope and intensity of the buffer depending on the type of the Commercial use proposed. *As amended August 1, 2003.*

#### **SECTION 7.7            ACCESSORY BUILDINGS**

Accessory buildings in the Commercial District shall be subject to the same provisions of location, spacing and occupancy as the primary buildings permitted in the District and their area shall be computed as part of the maximum total area of land occupancy permitted.

#### **SECTION 7.8            OFF STREET PARKING, AND DELIVERY ACCESS**

See Section 11.2, Off Street Parking and Loading.

#### **SECTION 7.9            YARD STORAGE**

Storage of goods, supplies, merchandise, or returnable containers outside the confines of the building structure, shall be screened by a landscape buffer and/or a solid wall, as described in Section 3.12.4 Screening Adjoining Properties and Storage Areas.

#### **SECTION 7.10          AREA, HEIGHT AND PLACEMENT REGULATIONS**

See Section 3.6 Schedule of Area, Height and Placement Regulations.

**ARTICLE 8**

**OPEN**

## ARTICLE 9

### INDUSTRIAL DISTRICT

#### SECTION 9.1 INTENT

This district is intended to accommodate those industrial uses, storage, and related activities that generate a minimum of noise, glare, odors, dust, vibration, air and water pollution, fire and safety hazards, or any other potentially harmful or nuisance characteristics. It is designed to accommodate wholesale, warehouse and industrial activities whose operational and physical characteristics do not detrimentally affect any of the surrounding districts. The Industrial District permits the manufacturing, compounding, processing, packaging, assembly and/or treatment of finished or semi-finished products from previously prepared material.

#### SECTION 9.2 PRIMARY AND SECONDARY USES

*Amended in its entirety BTPC6-19-96*

All uses, except tower/antenna uses governed by the regulations of Section 13.2 Towers and Antennas in the Industrial District shall, because of their impact on the adjacent districts specifically, and the whole Township in general, be considered "Special Land Uses", and must meet the requirements of Article 3 General Provisions and Article 21 Administration and Enforcement.

- A. Any production processing, clearing, testing, repair, storage, and distribution of materials, foods, foodstuffs, and other semi-finished or finished products from previously prepared material.
- B. Buildings or uses customarily accessory and clearly incidental to the primary permitted uses above.
- C. Large Indoor Recreational Uses

#### SECTION 9.3 AREA AND BULK REQUIREMENTS

Shall be subject to the provisions of Section 3.6 Schedule of Area, Height, Placement Regulations limiting the height and bulk of buildings, the minimum size of lot permitted by land use, the maximum density permitted, and providing minimum yard set back requirements.

**ARTICLE 10**

**OPEN**

## ARTICLE 11

### DRIVEWAYS, PARKING AND PRIVATE ROADS

#### SECTION 11.1 DRIVEWAYS FOR INDIVIDUAL LOTS AND SHARED DRIVEWAYS FOR TWO LOTS

For the safety, protection and welfare of the residents of the Township of Bingham, driveways shall be so constructed as to permit free and easy access by fire-fighting apparatus and other equipment needed for such purposes, also adequate parking for all vehicles, so they will be off the road right-of-way. A minimum clearance width of twelve (12) feet shall be required.

Shared driveways are allowed for a maximum of two lots that have legal frontage on a public or private road. A shared driveway agreement must be submitted to Bingham Township before a Land Use Permit is issued.

(Annotation: Section amended by Amendment 16-007, effective February 3, 2017)

#### SECTION 11.2 OFF STREET PARKING AND LOADING

(Annotation: Section amended by Amendment 16-005, effective January 6, 2017)

##### SECTION 11.2.1 INTENT

The intent of this section is to provide adequate space for parking, standing, loading and unloading of motor vehicles on private property; to avoid undue interference with public use of roads or exits therefrom; and to lessen any conflict with neighboring uses of land.

##### SECTION 11.2.2 PARKING TO BE ON PROPERTY

Required parking shall be provided off the public road right-of-way and on the lot to which it pertains, or on a contiguous lot unbroken by easement, right-of-way, or thoroughfare. The Bingham Township Board, upon receiving evidence that parking is taking place on road shoulders because of a lack of adequate parking, may (upon recommendation of the Commission and following a public hearing) require additional parking as the Township Board determines appropriate.

##### SECTION 11.2.3 LANDSCAPING AND BUFFERING

All parking and loading and unloading areas (except for single family residential units) shall be subject to the provisions of Section 3.12 Landscaping, Greenbelts, Buffers, Screens and Fences.

##### SECTION 11.2.4 NUMBER OF PARKING SPACES REQUIRED

- A. Handicap parking required by Federal, State and Local standards must be met. These spaces may be included in the total number of spaces required.
- B. Residential Use:  
Two (2) parking spaces per dwelling unit. These spaces may consist of a parking strip, parking apron, driveway, carport, and/or garage or some combination thereof.

C. Non-Residential Use:

The following parking formulas listed below (D-Q) are to be used as guidelines for non-residential site plans. A maximum number of parking spaces may be imposed by the Commission at site plan review. The Commission may, at their discretion, depart from these guidelines and allow fewer parking spaces if the following conditions are met:

1. Applicant must present a parking analysis indicating that less parking is necessary for the proposed use(s). A parking study or data from recognized traffic engineering references may be required.
2. A reserve parking area is provided on the Site Plan to be used if the initial parking area is not adequate or the use is such that a reserve area is needed. The Planning Commission has the discretion to determine that a reserve parking area is not necessary.

D. Shared parking, or an arrangement in which two or more nonresidential uses with different peak parking demands (hours of operation) uses the same off-street parking spaces to meet their off-street parking requirements, may be allowed.

1. The Zoning Administrator may approve an adjustment to the parking requirements allowing shared parking arrangements for nonresidential uses with different hours of operation.
2. Applicant must provide that there is no substantial conflict in the principal operating hours of the uses for which the shared parking is proposed.
3. Shared parking must be within fifty (50) feet walking distance, measured from the entrance of the use to the nearest parking space in the shared lot.
4. An agreement providing for the shared use of the parking, executed by the parties involved, must be filed with the Zoning Administrator, in a form approved by the Zoning Administrator upon consultation with the township attorney.

E. Professional Office Buildings (non-medical): One (1) parking space for each two hundred fifty (250) square feet of gross floor area.

F. Retail Stores and Personal Service Shops: One (1) space for each two hundred fifty (250) square feet of gross floor area.

G. Manufacturing and/or Processing: One (1) space per employee, plus additional spaces required for necessary business operations such as loading docks, etc.



- H. Automobile Repair and Automobile Service Stations: Three (3) spaces per service bay, plus one (1) space per three hundred (300) square feet of gross floor area.
- I. Golf Courses: Four (4) spaces for each golf hole, plus one (1) space for every two (2) employees.
- J. Tourist Homes: One (1) space for each rental room.
- K. Motels: One and one half (1 1/2) spaces for each rental room.
- L. Churches: One (1) space for each three (3) seats within the main auditorium. Where pews or benches are provided, one (1) space for every six (6) lineal feet of pew or bench.
- M. Restaurants: One (1) space for each three (3) occupants, using the maximum number permitted by the Fire Marshall.
- N. Group Day Care Homes: Two (2) spaces for every three (3) children under care and not in the resident family.
- O. Medical Offices, Dental Offices, and Health Clinics: Three (3) spaces per examining room, plus one (1) space per practitioner and per employee, plus one (1) space per two hundred (200) square feet of gross area.
- P. Wineries, Cideries and uses in the Agricultural District open to the public: One (1) space per employee, plus one (1) space for each one hundred (100) square feet of floor area used for retail sales or other public use including office reception areas. A minimum of five (5) automobile parking spaces are required. One (1) parking space for oversize vehicles is required for each three hundred (300) square feet of floor area used for retail sales or other public use with a minimum of one (1) space required. Parking for oversize vehicles shall be designed to allow drive through parking (no backing required.)
- Q. Adult and Sexually Oriented Businesses: One (1) space per two hundred fifty (250) square feet of gross floor area plus one (1) space per employee.

### **SECTION 11.2.5 MIXED USES**

Where uses within individual buildings is mixed, the number of parking spaces for each specific use shall be provided, and the space for one use shall not be considered as providing spaces for any other use, except for churches.

Mixed-use developments shall comply with Section 11.2.4 Number of Parking Spaces Required.

**SECTION 11.2.6 USES NOT MENTIONED**

In the case of uses not specifically mentioned in Section 11.2.4 Number of Parking Spaces Required, but which are allowed under this Ordinance, off-street parking requirements shall be those applied to the mentioned use which is most similar in terms of parking demand.

**SECTION 11.2.7 FRACTIONAL SPACES**

Where the calculation of parking spaces required results in a fraction, any fraction less than one half (1/2) shall be disregarded, and any fraction of one half (1/2) or more shall require one (1) space.

**SECTION 11.2.8 PARKING ONLY**

The use of any required parking space for the storage of any motor vehicle for sale, or for any purpose other than the parking of motor vehicles, is prohibited.

**SECTION 11.2.9 PARKING IN REAR OR SIDE YARDS REQUIRED**

For all uses other than single family residential, and unless otherwise approved by the Planning Commission during site plan review, all parking shall be in the rear or on sides of buildings.

**SECTION 11.2.10 MINIMUM DESIGN STANDARDS FOR PARKING AREAS**

**A. EMERGENCY VEHICLE ACCESS**

There shall be clear access for emergency vehicles at all times.

**B. SURFACING**

Unless otherwise approved by the Planning Commission during site plan review, primary parking areas for non-residential uses shall be surfaced with a hard, stable, non-erodable surface such as bituminous asphalt mixture or concrete.

Site Plans are encouraged to use water permeable parking surfaces, especially for non-primary or reserve parking areas.

**B. PARKING LOT LANDSCAPING**

Parking areas that contain in excess of five (5) parking spaces shall comply with Section 3.12.6 Parking Lot Landscaping.



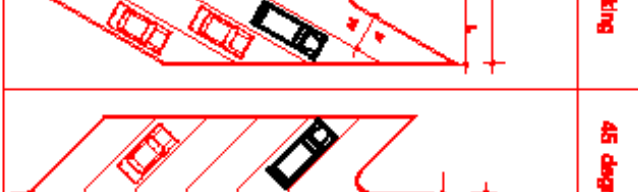
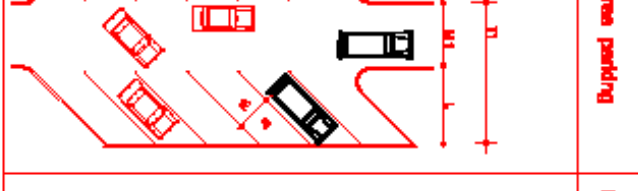

**C. DIMENSIONAL STANDARDS**

The following minimum design standards, as shown in the attached tables, shall be observed in designing off-street parking facilities:

## MINIMUM PARKING LAYOUT STANDARDS

Parking Angle in degrees	Minimum maneuvering Lane Width		Parking Lane Width in FL	Parking Space Length in FL	Total Minimum Width of 4-lane plus Maneuvering Lane (One-Way Traffic) T1 in FL	Total Minimum Width of 2-lane plus Maneuvering Lane (Two-Way Traffic) T2 in FL
	1 Way Traffic M 1 in FL	2 Way Traffic M 2 in FL				
parallel	12	18	8	23	20	34
30	14	18	9	19	33	56
45	18	20	9	18	36	66
60	20	22	9	16	38	68
90	22	24	9	16	42	60

**NOTE:** During the Site Plan Review the Planning Commission may approve alterations to these standards if it is determined that emergency vehicular access is adequate.

parallel parking	30 degree parking	45 degree parking	60 degree parking	90 degree parking
				

### **SECTION 11.2.11 LOADING AND UNLOADING**

All non-residential Site Plans shall provide adequate loading/unloading areas and shall indicate the proposed loading and unloading areas on the Site Plan.

### **SECTION 11.2.12 CHANGE IN USE**

Any change in use of an existing structure shall meet Ordinance standards for the new use. All changes of occupancy or use of existing commercial or industrial sites shall be reviewed by the Zoning Administrator, and may require Site Plan review to determine that parking requirements comply with this Ordinance.

### **SECTION 11.2.13 SNOW STORAGE**

An area for snow storage shall be shown on site plan. If snow removal to an area off site is planned, a statement detailing the snow removal plan shall be required on the site plan.

## **SECTION 11.3 PRIVATE ROAD STANDARDS AND PROCEDURES**

*(Annotation: Section amended by Amendment 12-001, effective June 8, 2012)*

### **SECTION 11.3.1 INTENT**

To provide standards and guidelines for private common access to parcels, lots or units as provided for under this Article, to assign fiscal responsibility for maintenance and other purposes; and to make as certain as possible that properties can be serviced at least from the private road frontage by fire and other emergency equipment.

### **SECTION 11.3.2 PROJECTS REGULATED**

#### **A. APPLICABILITY**

1. This article shall be applicable to all accesses – whether they are easements, ways, private drives, common areas, or otherwise – by which common access to a parcel(s) or lot(s) is shared, except as provided below.
2. No new subdivision lot, land division parcel or condominium unit ("lots"—collectively) may be created unless such a lot has the required amount of frontage upon a Public or Private Road that meets the requirements of this ordinance.
3. It shall be unlawful to establish a new private road or to extend an existing Private Road except in conformance with this ordinance. Construction of a Private Road, an extension of a Private Road shall require a land use permit under the terms of this ordinance.
4. This section also applies to any private accesses/easements that serve one parcel when such easement provides the only access to a parcel or lot.
5. This section does not apply to lots (two maximum) that share a common driveway if the lots have legal frontage (lot width) on an approved Public or Private Road.

6. This section does not apply to roads constructed to Public Road Standards and maintained by the Leelanau County Road Commission.
7. Leelanau County will not assign or recognize a private road name unless there are at least five (5) residences on the road.

**SECTION 11.3.3 PRIVATE ROAD CONSTRUCTION AND CERTIFICATION PRIOR TO ISSUANCE OF LAND USE PERMITS**

- A. Private Roads shall be constructed in accordance with site plans in accordance with this section. Revisions must be approved by the Township.
- B. Upon completion, the construction of the Private Road must be certified in writing by an Engineer. Roads not required to have engineering drawings may be certified by the Owner or their Agent.
- C. Engineer certification and road construction verification by the Zoning Administrator, must occur prior to issuance of any Land Use permits for lots on the Private Road, unless a financial guarantee is provided to ensure completion of the road.

**SECTION 11.3.4 APPLICATION REQUIREMENTS FOR A PRIVATE ROAD LAND USE PERMIT**

- A. SUBMITTAL REQUIREMENTS - The following will be required for Private Road applications, to be made on Township form:
  1. Private Road Site Plans:
    - a. Plan and profile drawings, sealed by a licensed Engineer or Surveyor, of the proposed private access road are required in detail complete enough to be used as construction plans. Sealed engineering plans will not be required for roads serving four (4) or fewer lots.
    - b. The drawings shall show the proposed gradients of such roads, topography, location of drainage facilities and structures, location of public and private utilities, proposed turn-arounds, along with any other pertinent information.
    - c. The drawings shall include a proposed cross-section showing the right-of-way width, pavement width, shoulders, proposed side slopes, and drainage/ditching.
    - d. Topography and profile plans are not required where the proposed road grade does not exceed five (5) percent and the number of lots served is four (4) or fewer.

2. Survey and legal description of private road.
3. Permit approval from Michigan Department of Transportation or Leelanau County Road Commission for entrance to private road.
4. Maintenance Agreement: A Road Maintenance Agreement must be submitted, satisfactory to the Bingham Township Attorney, and shall be recorded as a restrictive covenant on the land and shall consist of, and/or require, the following:
  - a. All owners of property with access to the private road shall refrain from prohibiting or restricting in any manner normal ingress and egress and use by any of the other owners, their family, guests, delivery and emergency vehicles or other invitees.
  - b. Grant to the Township an easement for the purpose of providing for the installation, operation, inspection, maintenance or removal of any public or private utility systems.
  - c. Grant to the Township the right, but not the obligation, to inspect and repair said private road, at the expense of the owners of property served by the private road, and the Township shall have the sole discretion whether to create a special assessment to defray all costs incurred in repairing the private road.
  - d. State that all current and future owners agree that they are waiving all rights to challenge all aspects of the special assessment district, and that all the owners and all future owners agree that the private road agreement shall be deemed a petition or an adjunct to a petition by the property owners for a special assessment district, if such a petition is legally required.
  - e. Provide that the owner of each parcel will be responsible for payment of the share or costs apportioned to his or her parcel.
  - f. Provide that the owners along the proposed private road shall be responsible to collect fees and to build and maintain the private road or roads, and provide for majority vote rules regarding road maintenance and improvement decisions.
  - g. Grant the owners standing to commence legal or equitable action against a delinquent parcel owner or parcel owners to foreclose a lien or otherwise collect the sums owed.

- h. Provide for the requirement to grade, drain, and otherwise maintain the private road in accordance with the requirements of the ordinance.
- i. State that the owners have not asked the Leelanau County Road Commission to accept the road as a public road. As such, the roadway will be private and the Road Commission will have no obligation to maintain the road in any manner. This provision does not prevent the future upgrading to County Road Standards nor requesting the road to be taken over by the County Road Commission.
- j. Provide for a feasible and practical method for financing the repair, improvement, maintenance and extension of the private road in compliance with this ordinance.
- k. Include an explicit clause advising all current and future owners that Bingham Township is not obligated to perform regular inspections of the easement area or provide repairs or maintenance to the private road and that the Township is not responsible for the legality or enforcement of the maintenance agreement.

**SECTION 11.3.5 PRIVATE ROAD SITE PLAN AND CONSTRUCTION STANDARDS**

A. SIGHT DISTANCE AND HORIZONTAL AND VERTICAL ALIGNMENT  
 Sight distance and horizontal and vertical alignment shall be based on a minimum design speed of fifteen (15) miles per hour and shall be in accordance with the American Association of State Highway and Transportation Officials’ (AASHTO) “Policy of Geometric Design and Highways and Streets,” under the designation of “Recreational Roads.”

PROPOSED CENTERLINE GRADE	LIMITATIONS WITHIN GRADE AREAS
Up to and including 8% grade	No limits
> 8% to 10% grade	A. Must be paved B. 500 foot maximum length of segment C. Minimum horizontal curve radius of 100’
> 10% to 12% grade	A. Must be paved B. Maximum 200’ length of segment C. Minimum horizontal curve radius of 275’
No grade above 12% will be accepted.	

- The maximum grade at the stopping side of an intersection shall be two percent (2) percent.
- Turn-a-round areas shall have a maximum grade of three (3) percent.
- The minimum radius for turn-a-round areas shall be fifty (50) feet.
- Vertical and horizontal curves shall be used at all changes in grade or direction.

**B. DESIGN STANDARDS**

Unless otherwise designated in this Article, Private Road workmanship and materials shall be designed to Leelanau County Road Commission Standards for Subdivision Streets. These design standards include clearing, grubbing, grading, materials, structures, pavement, guardrail, restoration, etc. The Engineer may propose equal or preferred materials on the Road Plans.

**C. DRAINAGE**

Unless waived by the township, a drainage plan submitted on a topographic map with no larger than two (2) foot contour intervals shall be submitted, indicating the manner in which surface drainage is to be handled. In no case shall runoff from a subdivision be diverted due to construction beyond the limits of that subdivision onto adjacent property unless appropriate easements are provided. A crown of sufficient slope to insure drainage shall be provided across the width of the traveled-way for either gravel or bituminous surfaced roads. The plan shall meet the requirements of the Leelanau Conservation District and the Leelanau County Drain Commissioner’s Office.

**D. LENGTH, WIDTH, AND VERTICAL CLEARANCE**

The right-of-way (ROW), preserved by recorded easements, the traveled way, shoulders, utility areas and cleared zones are to be minimally dimensioned as shown below, depending on the number of lots served.

Type or Class	Number of lots/residents to be served	Traveled Way Width	Shoulder Width (both side)	Recorded ROW Easement	Type of Surface Required	Type of Turn-a-round***
ALL MEASUREMENTS IN FEET						
I	1 to 2	14	1	30	Gravel or better*	“T” Type
II	3 to 8	20	1	40**	Gravel or better*	“T” Type
III	More than 9	22	2	50	Gravel or better*	Cul-de-Sac
IV	More than 19	22	2	50	Paved	Cul-de-sac

Note: There may be more than one classification of private roads within a development, however an individual road must maintain the same classification throughout



its length.

\*Roads greater than 8% grade must be paved.

\*\*The required right-of-way of Class II roads may be reduced to 30 feet by the Zoning Administrator if drainage and utilities are accommodated within the easement or separate easements.

See Figure 1 for illustration of private road dimensions.

\*\*\*See Figures 2 & 3 for dimensions of Turn-a-rounds.

#### E. SHOULDERS

Shoulder material shall be of a type that when compacted will not rut or displace under traffic, and shoulder design and ditch construction shall adequately drain water away from the roadway, while preventing erosion.

#### F. SIGNS

At a minimum a stop sign must be placed at the intersecting county roads. The applicant shall furnish and erect private road name signs at all intersections within the subdivision and entrances thereto. Road name signs must be in conformance with the Leelanau County Address Ordinance. Please note that Leelanau County will not assign or recognize a private road name unless the road serves more than five (5) residences.

#### G. PRIVATE ROAD ACCESS ALIGNMENT

1. Private Access Roads should intersect with each other or with public roads at ninety (90) degrees or closely thereto and in no case less than seventy (70) degrees.
2. Where the proposed continuation of an access road at an intersection is not in good alignment with the opposing road, it must not intersect the crossroad closer than one hundred seventy-five (175) feet from such opposite existing road, as measured from the centerline of said roads.
3. For the end of any private access road, the design must provide a turn-a-round for large vehicles, such as a fire truck. See Figure 2. Other types of turn-a-rounds may be used if approved by the Township.

### **SECTION 11.3.6 REQUIREMENT OF PRIVATE ROAD AGREEMENT AND NOTICE**

Prior to the sale of any units that are accessed from a new or expanded Private Road the developer/owner shall record with the Leelanau County Register of Deeds office the following notices against all lands served by the access:

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

land has private road access across a permanent \_\_\_\_ (insert size of easement) foot easement which is a matter of record and a part of the deed. This notice is to make the purchaser aware that this parcel of land has egress and ingress over this easement only. Neither the County nor the Township has any responsibility for maintenance or upkeep of any improvement across this easement. This is the responsibility of the owners of record. The United States mail service and the local school district are not required to traverse this private improvement and may provide service only to the closest public access.

### **SECTION 11.3.7 EXISTING NON-CONFORMING PRIVATE ACCESS ROADS**

Roads existing and used as private access roads at the time this Article becomes effective, and which do not meet all the design requirements specified herein, may continue to be used, provided that the safety features necessary for passage of emergency vehicles, such as minimum traveled way width of Twelve (12) feet and overhead clearance of fourteen (14) feet, are met prior to the issuance of land use permits to those lots or parcels to be served by the private access road.

Roads existing and used as private access roads at the time this Article becomes effective, and which do not meet all the design requirements specified herein, must meet the requirements of this Article if they are to be used to access additional lots created from the effective date of this Article.

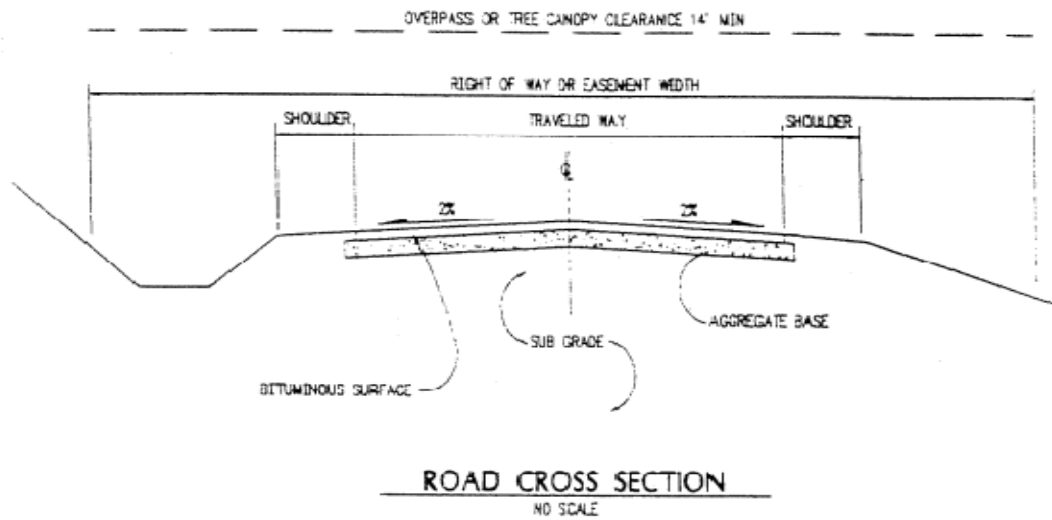
### **SECTION 11.3.8 ADMINISTRATION AND VARIANCES**

Land Division Applications, Proposed Site Condominiums, or Proposed Subdivisions that contain Private Roads may be approved by the appropriate body with conditions that guarantee that the Proposed Private Road will be reviewed and approved prior to issuance of Land Use Permits, and that potential lot or unit purchasers will be properly noticed.

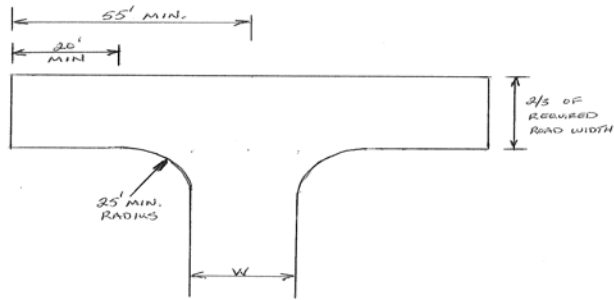
The Zoning Administrator shall review all private road construction plans to determine conformity with this Ordinance. Any applications for approval to the Ordinance shall be submitted to the Administrator along with the applicable fee.

Variances shall only be considered and approved by the ZBA provided:

- A. The proposed variance does not result in reduced safety, durability, drainage, erosion control, or the all-weather access aspects of the project; and,
- B. If deemed necessary by the Bingham Township Board, the applicant deposits with the request for variance, sufficient funds estimated to cover the cost to the Township of retaining a civil engineer to review the variance request, submit opinions thereon to the Township Board and draft conditions for approval. The minimum fee shall be as established by the Township Board and the administrator shall determine the amount of deposit, based in the estimated review of cost, if greater than the minimum.

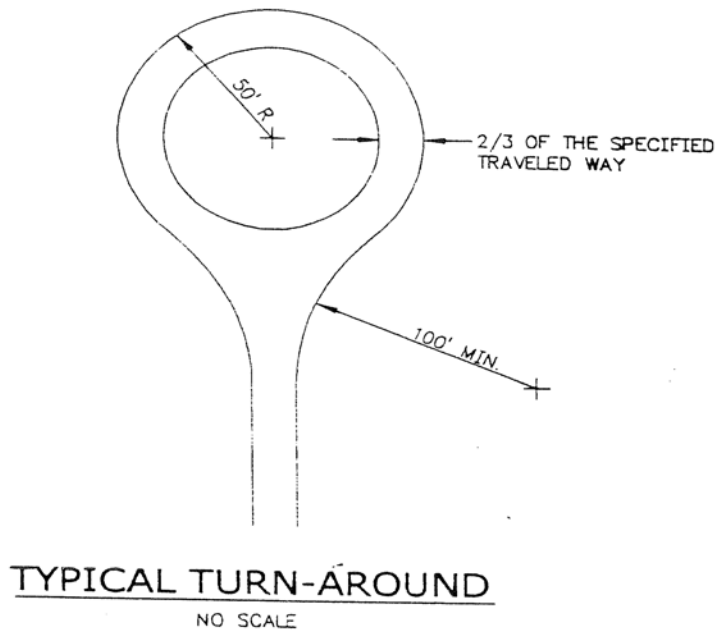


**FIGURE 1 - TERMINOLOGY**



TYPICAL T-TYPE TURN AROUND

Figure 2



TYPICAL TURN-AROUND

NO SCALE

Figure 3 – Typical Cul-de-Sac

## ARTICLE 12

### HOME BUSINESS USES

#### SECTION 12.1 HOME OCCUPATIONS

##### SECTION 12.1.1 INTENT

Home occupations are traditional in Bingham Township. It is the intent of this section to accommodate both old and new styles of home occupation, which are clearly subordinate and incidental by their very nature to the use of a single family dwelling unit for residential purposes, and which are clearly compatible with the character of a residential neighborhood. (Annotation: Section amended by Amendment 14-007, effective March 6, 2015)

##### SECTION 12.1.2 CONDITIONS

Home Occupations shall be permitted, subject to the following conditions:

- A. All Home Occupations shall be so conducted as not to be noticeable from the exterior of the house.
- B. All signs shall comply with Section 3.13 Signs.  
*(Annotation: Section amended by Amendment 18-002, effective November 2, 2018)*
- C. Traffic and delivery of goods created by the Home Occupation shall not exceed that normally created by residential uses.
- D. No employees other than residents of the Dwelling Unit shall be employed in the Home Occupation.
- E. No noise, odors, or illumination created by the Home Occupation shall be noticeable outside the Dwelling.

#### SECTION 12.2 HOME BUSINESSES

*(Annotation: Section amended by Amendment 13-006, effective April 4, 2014)*

##### SECTION 12.2.1 INTENT

Some home based enterprises are by their very nature more noticeable and more intrusive than other uses allowed in the district. It is the intent of this section to strike a balance between surrounding uses and such home-based business uses, which is fair both to the home entrepreneur and to neighboring properties, and poses no threat to the environment.

##### SECTION 12.2.2 CONDITIONS FOR HOME BUSINESS IN AGRICULTURAL AND RURAL RESIDENTIAL DISTRICTS

Home Businesses in the Agricultural and Rural Residential Districts require a Special Land Use Permit, Article 17 Special Land Use Permits, issued by the Planning

Commission following a public hearing, Article 16 Site Plan Review. Due notice shall be given. See Section 21.3.3 Notices.

Home Businesses shall be permitted, if the Planning Commission determines that the following conditions have been met. The Planning Commission may establish additional reasonable conditions on a Home Business to ensure that it meets these conditions:

- A. The Home Business shall meet all the governing standards for issuance of a Special Land Use Permit, Article 17, as determined by the Planning Commission.
- B. The use is compatible with the overall residential character of the District and of the immediate neighborhood in which it is located.
- C. The business is incidental and subordinate to the principal use as a residence.
- D. The business is carried on entirely within the dwelling or its accessory buildings. Outdoor storage may be allowed at the discretion of the Planning Commission upon site plan review when screened from surrounding properties and the road.
- E. The residential appearance of the premises is preserved.
- F. No retail or services shall be permitted unless they are clearly incidental and directly related to the conduct of the Home Business.
- G. The business is conducted by members of the family in residence, and no more than one (1) other employee.
- H. Only off-road parking facilities normal to residential use and located on the premises may be used. A parking plan shall be approved as part of the site plan.
- I. No more than three (3) vehicles, including boats and off-road vehicles, currently licensed by someone other than the owner and the resident family, may be parked outside, and shall not be parked overnight closer to any lot line than thirty-five (35) feet. However, a larger number of vehicles may be parked at any given time during business operations, if established by the Planning Commission during the approval process for each business permit. This number shall be based on neighborhood traffic considerations, the number of workers, the nature of the business, and the ability to conform to Section 11.2 Off-Road Parking and Loading.
- J. Only one (1) vehicle used as part of the Home Business shall be stopped or stored on the lot at a location approved by the Planning Commission.
- K. All signs shall comply with Section 3.13 Signs.

*(Annotation: Section amended by Amendment 18-002, effective November 2, 2018)*

- L. No Home Business shall prove offensive by reason of noise, odor, dust, fumes, smoke, glare, or comparable nuisances. Sites at which hazardous substances and polluting materials are stored or used shall be designed to prevent spills and discharges of polluting materials to the air, surface of the ground, groundwater, lakes, streams or wetlands.
- M. All applicable requirements of County, State, and Federal statutes shall be met.
- N. Any such home business may be subject to annual inspection by the Zoning Administrator, and may be terminated as a Home Business by order of the Planning Commission after a Public Hearing whenever the home business fails to comply with the Special Land Use Permit and/or this Ordinance.
- O. Home Business Applications shall include the following, in addition to the applicable items required in Article 16 Site Plan Review:
  - 1. Written description of the proposed Home Business.
  - 2. Where the business, proposed parking and vehicles would be located.
  - 3. Number of employees.
  - 4. Hours of operation.
  - 5. Parking plan.
  - 6. Details of any retail sales.
  - 7. Estimated traffic and deliveries generated by the business.
  - 8. List of any hazardous materials to be used in the business.
  - 9. Vehicles used in the business.
  - 10. If outdoor storage is requested, location of any outdoor storage, items to be stored, and including any existing or proposed screening and buffering.

## **SECTION 12.3 BED AND BREAKFASTS**

### **SECTION 12.3.1 INTENT**

It is the Township's intention that Bed and Breakfasts will help its residents maintain single family homes, which blend in with the Township's rural residential character, and offer the traveler an alternative to conventional accommodations.

### **SECTION 12.3.2 CONDITIONS**

Bed and Breakfast establishments shall comply with the following conditions:

- A. The owner shall be in residence.
- B. All signs shall comply with Section 3.13 Signs.  
*(Annotation: Section amended by Amendment 18-002, effective November 2, 2018)*
- C. No more than three (3) bedrooms shall be available for Bed and Breakfast use.
- D. One off-road parking space shall be available for each Bed and Breakfast bedroom.

**SECTION 12.4 BED AND BREAKFAST INN**

*(Annotation: Section amended by Amendment 17-002, effective November 3, 2017)*

**SECTION 12.4 BED AND BREAKFAST INN**

**SECTION 12.4.1 INTENT**

It is the Township’s intent that the Bed and Breakfast Inns shall be allowed by special land use permit in certain districts, be harmonious with the character of the surrounding land and use, and shall not create undue traffic congestion, noise or other conflict with the surrounding properties.

**SECTION 12.4.2 CONDITIONS**

Bed and Breakfast Inns shall comply with the following conditions:

- A. The structure must have been built as a single family residence before January 1, 2000. The rooms utilized for transient tenants shall be part of that residential use and not specifically constructed for rental purpose.
- B. Sleeping accommodations may be offered to transient tenants in ten (10) or fewer rooms for rent, not to exceed an average of three (3) tenants per room per night.
- C. There shall be a manager or innkeeper available on site twenty-four (24) hours per day whenever one (1) or more rooms are occupied.
- D. The required lot size shall be a factor of the number of guest rooms allowed. A minimum of five (5) acres for each guest room is required.
- E. The Bed and Breakfast Inn shall be located at least fifty (50) feet from side and rear lot lines.
- F. No public food service establishment shall be allowed within the Bed and Breakfast Inn. The Bed and Breakfast Inn may provide a cooked breakfast to registered guests.
- G. On-site use of snowmobiles, all-terrain vehicles or similar vehicles, boats and other marine equipment, by transient tenants shall be prohibited.



- H. All signage shall comply with Section 3.13 Signs.
- I. Off-street parking is required as per Section 11.2.3. Parking Spaces Required.
- J. Standards of Section 3.12 Landscaping, Greenbelts, Buffers, Screens and Fences shall apply.
- K. All exterior lighting shall comply with Section 3.14 Outdoor Lighting Standards.
- L. Any uses not listed above are hereby expressly prohibited.

## **SECTION 12.5 SHORT-TERM RENTALS**

*(Entire Section added by amendment 07-2005)*

### **SECTION 12.5.1 INTENT**

Short term rentals have been used as temporary lodging for decades in Bingham Township. Given the lack of traditional motels and hotels and the increase of tourist and vacation demand for this use, it is the intent of this section to accommodate short term rentals in Bingham Township.

### **SECTION 12.5.2 DISTRICTS ALLOWED**

Short-term rentals shall be an allowable use in the Residential, Agricultural Rural Residential, and Commercial Zoning Districts.

*(Annotation: Section amended by Amendment 18-002, effective November 2, 2018)*

## **SECTION 12.6 MEDICAL MARIHUANA AS A HOME OCCUPATION.**

*(Annotation: Added by Ordinance No. 02-121911, effective January 6, 2012)*

### **SECTION 12.6.1 INTENT**

The purpose of this section is to implement land use regulations to address the medical use of marihuana in Bingham Township only to the extent specifically authorized by the enactment of the Michigan Medical Marihuana Act (“MMA”) Initiated law 1 of 2008, MCL 333.26423, et seq, and its administrative rules , R 333.101 et seq (“MMA Rules”).

### **SECTION 12.6.2 DEFINITIONS**

The following definitions apply for purposes of this Section 12.6:

**ENCLOSED, LOCKED FACILITY:** An enclosed, locked facility as defined in Section 3 of Initiated Law 1 of 2008, as amended (Michigan Medical Marihuana Act), being MCL 333.26423.

**MEDICAL MARIHUANA OR MEDICAL USE OF MARIHUANA:** Marihuana as defined in Section 7106 Of Act No. 368 of the Public Acts of 1978, as amended (Michigan Public Health Code), being MCL 333.7106, that meets the definition of “medical use” in Section 3 of Initiated Law 1 of 2008, as amended (Michigan Medical Marijuana Act), being MCL 333.26423.

**PRIMARY CAREGIVER:** A primary caregiver as defined by Section 3 of Initiated Law 1 of 2008, as amended (Michigan Medical Marihuana Act), being MCL 333.26423 who has registered with the Michigan Department of Community Health under the Michigan Medical Marihuana Act.

**QUALIFYING PATIENT:** A qualifying patient as defined by Section 3 of Initiated Law 1 of 2008, as amended (Michigan Medical Marihuana Act), being MCL 333.26423, who has registered with the Michigan Department of Community Health under the Michigan Medical Marihuana Act.

### **SECTION 12.6.3 LIMITATIONS**

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

### **SECTION 12.6.4 CONDITIONS APPLICABLE TO PRIMARY CAREGIVERS**

A primary caregiver shall be permitted to provide the medical use of marihuana pursuant to the MMA and the MMA Rules, and the requirements of this section. The requirements of this section are not intended to supersede or to conflict with the requirements of the MMA or MMA Rules but as a supplement to address zoning concerns.

A primary caregiver shall be considered a Home Occupation subject to all of the provisions of Section 12.1 for Home Occupations. No land use permit shall be required. In addition, a primary caregiver, shall comply with the following requirements:

- A. The medical use of marihuana shall comply at all times and in all circumstances with the MMA and the MMA Rules as they may be amended from time to time.
- B. Any medical use of marihuana beyond what is permitted by the MMA and MMA Rules is expressly prohibited.
- C. Each qualifying patient's medical marihuana plants and product shall be kept in a separate enclosed, locked facility, pursuant to the MMA and MMA Rules that permits access only by the primary caregiver.
- D. A primary caregiver may only conduct the medical use of marihuana from the primary caregiver's principal dwelling and residence. No more than one (1) primary caregiver per dwelling unit shall be permitted.
- E. Medical marihuana shall be delivered to the qualifying patient where the qualifying patient resides. Pick up of medical marihuana from the primary caregiver's dwelling is prohibited. In addition, no compensation to a primary caregiver by a qualifying patient shall occur at a primary caregiver's dwelling.
- F. All signs shall comply with Section 3.13 Signs.

*(Annotation: Section amended by Amendment 18-002, effective November 2, 2018)*

### **SECTION 12.6.5    EXCEPTIONS**

This Section shall not be deemed to prohibit or restrict or require a permit for the following:

- A. The cultivation, storage and/or use of marihuana by a qualifying patient solely for his/her personal use at his/her residence or at a hospital or hospice at which he/she is receiving care and in accordance with the provisions of the MMA and the MMA Rules as amended.
- B. The cultivation, storage and/or distribution of marihuana in accordance with the MMA and MMA Rules, as amended, by a primary caregiver solely to provide services to not more than one qualifying patient who is a member of the primary caregiver's household and whose residence dwelling is shared with the primary caregiver.
- C. The provision of assistance to a qualifying patient by his/her designated primary caregiver relating to medical marihuana use, including distribution or other assistance, in accordance with the MMA and the MMA Rules as amended, at the residence of the qualifying patient or at a hospital or hospice at which the qualifying patient is receiving care.

### **SECTION 12.6.6    VIOLATIONS AND ENFORCEMENT**

A violation of this section shall subject the offender to the enforcement provisions and penalties set forth in Section 21.7 Civil and Criminal Penalties.

## ARTICLE 13

### QUASI PUBLIC AND PRIVATE UTILITIES

#### SECTION 13.1 ESSENTIAL SERVICES

amended BTPC 8-20-97 and (Annotation: Section amended by Amendment 15-002, effective May 8, 2015)

##### SECTION 13.1.1 INTENT

It is the intent of this section to allow minor essential services in any zoning district as a permitted use. Major essential services, depending on their size and nature, have a greater potential for an adverse impact on surrounding property, and are thus allowed on a more limited basis, subject to site plan and special land use approvals. It is also the intent of this section to clarify how governmental functions relate to this Zoning Ordinance.

##### SECTION 13.1.2 ESSENTIAL SERVICES

Essential services shall be permitted as authorized under any franchise in effect within the Township, subject to regulation as provided in any law of the State of Michigan, or in any ordinance of the Township. It is the intent of this section to ensure conformity of all structures and uses to the requirements of this Zoning Ordinance, wherever such conformity shall be practicable, and not in conflict with the specific requirements of such franchise, state legislation, or Township Ordinance.

Wireless Telecommunications Services and Wind Energy Conversion Systems shall not be considered Essential Services and are addressed elsewhere in this Ordinance.

- A. The following are considered major essential services and are permitted in certain zoning districts subject to specific review and approval procedures as described below:
1. Distribution substations, transmission substations, transformer substations, pump stations, and petroleum pipelines designed to serve a geographic area beyond Bingham Township are permitted in all districts, subject to site plan and special land use approval.
  2. Municipal sewage treatment plants, public water plants, power plants, fuel storage facilities, public works buildings, storage yards and similar uses are only permitted in the Commercial or Industrial zoning districts, subject to site plan and special land use approval.
  3. Any essential service that is not a minor essential service pursuant to Section 13.1.2.B or which is not listed in Section 13.1.2.A.1 or 2 shall be considered a major essential service, permitted in any zoning district, subject to site plan and special land use approval.
- B. The following are considered minor essential services and are permitted in all zoning districts:

1. Overhead and underground utility facilities such as water mains, sewer mains and lift stations, electrical, gas, telephone, and cable television distribution lines and associated structures, transformers, and utility boxes that are designed to serve primarily Bingham Township and any adjacent township, village, or city subject to any franchise agreement with the Township. With new developments, utility easements will be approved as part of a subdivision plat, condominium, or site plan.
2. Any other similar facilities not listed above, as determined by the Planning Commission.

### **SECTION 13.1.3 TOWNSHIP GOVERNMENTAL FUNCTIONS**

Bingham Township owned properties and uses, where maintained and operated in furtherance of a governmental function, shall be exempted from the provisions of this Ordinance. Township projects are subject to the requirements of the Michigan Planning Enabling Act Section 125.3861 (as amended) which requires review by the Planning Commission for location, character, and extent of all projects in areas covered by the master plan.

### **SECTION 13.1.4 OTHER GOVERNMENTAL FUNCTIONS**

Uses pertaining to functions of governmental agencies other than Bingham Township shall be subject to the provisions of this Ordinance unless exempted by Federal, State, or Local laws or court decisions.

## **SECTION 13.2 WIRELESS COMMUNICATION TOWERS AND EQUIPMENT**

*added in its entirety BTPC 8-20-97 (Annotation: Section amended by Amendment 16-003, effective January 6, 2017)*

### **SECTION 13.2.1 INTENT**

The general purpose and intent of these regulations is to regulate the establishment of Wireless Towers and Wireless Equipment in accordance with MCL 125.3514 of the Michigan Zoning Enabling Act (“ZEA”) and the Federal Telecommunications Act of 1996 (“FTA”) and in recognition of the public need and demand for advanced telecommunication and information technologies and services balanced against the impacts such facilities may have on properties within the Township. It is further the purpose and intent of these regulations to:

- A. Provide for the appropriate location and development criteria for Wireless Towers and Wireless Equipment within the Township.
- B. Minimize the adverse effects of such facilities through careful design and siting; maximize the use of existing and future communication Wireless Towers and encourage the multiple uses of such facilities and protect the character of residential areas throughout the Township by limiting Wireless Towers to non-residential zoning districts.
- C. Promote the public health, safety, and welfare of the Township.

## **SECTION 13.2.2 DEFINITIONS**

As used in this Section 13.2, the following terms shall have the meanings set forth below:

- A. "Antenna" means any exterior transmitting or receiving device mounted on a tower, building or structure that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.
- B. "Backhaul network" means the lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.
- C. "Collocate" means to place or install wireless communications equipment on an existing Wireless Tower or in an existing Equipment Compound. "Collocation" has a corresponding meaning.
- D. "Equipment compound" means an area surrounding or adjacent to the base of a wireless communications support structure and within which wireless communications equipment is located
- E. "FAA" means the Federal Aviation Administration.
- F. "FCC" means the Federal Communications Commission.
- G. "Height" means, when referring to a tower or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.
- H. "Preexisting Wireless Towers, Antennas and Equipment Compound" means any tower, antenna equipment compound for which a land use and building permit or special use permit has been properly issued prior to the effective date of this ordinance, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.
- I. "Wireless Communication" means wireless, broadband, licensed or unlicensed, terrestrial or satellite, including commercial mobile, private mobile, broadcast, and public safety services, as well as fixed wireless services such as microwave backhaul or fixed broadband, and other such services. Wireless Communication does not include non-commercial amateur ham radio activity.
- J. "Wireless Equipment" means the set of equipment and network components used in the provision of commercial 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 Towers. Wireless Equipment does not include non-commercial amateur ham radio activity.

- K. "Wireless Equipment Shelter" means a small building at the base of a Wireless Tower, located within the Equipment Envelope where Wireless Equipment is stored.
- L. "Wireless Tower" means 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. The term "Wireless Tower" includes "Alternative Tower Structure" including man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers. An AM array, consisting of one or more tower units and supporting ground system which functions as one AM broadcasting antenna, shall be considered one tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Wireless Tower does not include a tower used for non-commercial amateur ham radio activity.

### **SECTION 13.2.3 ZONING DISTRICT RESTRICTIONS**

Wireless Towers and Wireless Equipment, whether classified as a permitted use, or as a special land use, under the following provisions of this Zoning Ordinance, shall be allowed in all zoning districts in the Township, except for the Residential District.

### **SECTION 13.2.4 WIRELESS EQUIPMENT AS A PERMITTED USE**

- A. To encourage co-location and to minimize the number of Wireless Towers within the Township, Wireless Equipment shall be considered a permitted use of property and is not subject to special land use approval or any other approval under this Zoning Ordinance if all of the following requirements are met:
1. The Wireless Equipment will be collocated on a Pre- existing Wireless Tower or in an Existing Equipment compound.
  2. The proposed collocation will not do any of the following:
    - a. Increase the overall height of the Wireless Tower by more than twenty (20) feet or ten (10) percent of its original height, whichever is greater.
    - b. Increase the width of the Wireless Tower by more than the minimum necessary to permit collocation.
    - c. Increase the area of the Existing Equipment compound to greater than two-thousand-five-hundred (2,500) square feet.
  3. The proposed collocation complies with the terms and conditions of any previous final approval of the Wireless Tower or Equipment Compound under this Zoning Ordinance.

- B. Additional towers within an existing Wireless Tower AM array shall be permitted as a matter of right.

**SECTION 13.2.5 WIRELESS EQUIPMENT AS A PERMITTED USE WITH SPECIAL LAND USE APPROVAL**

Wireless Equipment that meets the requirements of Section 13.2.4 A. 1. but does not meet the requirements of Section 13.2.4. A. 2. shall be a permitted use as long as it receives special land use approval under the following provisions:

- A. An application for special land use approval of wireless communications equipment described in this Section 13.2.5 shall include all of the following:
  - 1. A site plan as required under Section 13.2.13 including a map of the property and existing and proposed buildings and other facilities.
  - 2. Any additional relevant information that is specifically required by other Subsections.
- B. After an application for a special land use approval is filed with the Zoning Administrator, the Zoning Administrator shall determine whether the application is administratively complete. Unless the Zoning Administrator proceeds as provided under subsection (3) below, the application shall be considered to be administratively complete when the Zoning Administrator makes that determination or fourteen (14) business days after the Zoning Administrator receives the application, whichever is first.
- C. If, before the expiration of the fourteen (14) day period under subsection (4), the Zoning Administrator notifies the applicant that the application is not administratively complete, specifying the information necessary to make the application administratively complete, or notifies the applicant that a fee required to accompany the application has not been paid, specifying the amount due, the running of the fourteen (14) day period under subsection (4) is tolled until the applicant submits to the Zoning Administrator the specified information or fee amount due. The notice shall be given in writing or by electronic notification. A fee required to accompany any application shall not exceed the Township's actual, reasonable costs to review and process the application or one thousand (1,000) dollars, whichever is less.
- D. The Planning Commission shall approve or deny the application not more than sixty (60) days after the application is considered to be administratively complete. If the Planning Commission fails to timely approve or deny the application, the application shall be considered approved and the Planning Commission shall be considered to have made any determination required for approval.

**SECTION 13.2.6 REPLACEMENT OF EXISTING COMMUNICATION TOWERS**

An existing wireless tower which was lawful at the time of its construction may be replaced for purposes of accommodating co-location of additional antenna, or otherwise, provided that:



- A. The replacement tower shall not exceed the prior approved height.
- B. The replacement tower shall be located within the same zoning lot as the existing wireless tower and shall be located so as to maximize compliance with existing minimum setback requirements.
- C. The applicant shall cause the existing tower to be removed within ninety (90) days of completion of the replacement tower and the relocation or installation of the antenna. In any event, the existing wireless tower shall be removed within one hundred eighty (180) days of the Township's final construction inspection of the replacement wireless tower.
- D. If the location of the replacement tower is such that the existing tower must be moved before the replacement tower is constructed, temporary portable antenna support facilities may be used, but must be removed within ninety (90) days of the completion of the replacement tower and the relocation or installation of the antenna. In any event, the temporary portable antenna facilities must be removed within one hundred eighty (180) days of the Township's final construction inspection of the replacement wireless tower.
- E. The installation of a replacement tower in any zoning district shall be approved by the Zoning Administrator through the issuance of a land use permit. The Zoning Administrator shall approve such requests that meet the requirements of this section. Review by the Zoning Administrator shall be without notice.
- F. This section shall not exempt the applicant from such other governmental review and permitting procedures (i.e., Federal Communication Commission (FCC), Federal Aviation Administration (FAA), etc.).

**SECTION 13.2.7 NEW WIRELESS TOWERS AND WIRELESS EQUIPMENT APPLICATIONS**

Wireless Towers to be newly-approved, and Wireless Equipment that do not qualify for co-location or for use in an existing Equipment Envelope under Section 13.2.4, and Section 13.2.5 shall require an application for approval under a special land use permit under the procedures in Section 13.2.5 except that the period for approval or denial is ninety (90) days.

**SECTION 13.2.8 GENERAL SPECIAL LAND USE STANDARDS FOR WIRELESS TOWERS**

A new wireless tower shall not be approved unless it can be demonstrated by the applicant that there is a need for the new wireless tower which cannot be met by placing an antenna on an existing wireless tower, or on another structure, or through the replacement of an existing wireless tower. Information concerning the following factors shall be considered in determining that such need exists:

- A. Insufficient structural capacity of existing wireless towers or other suitable structures and infeasibility of reinforcing or replacing an existing wireless tower.

- B. Unavailability of suitable locations to accommodate system design or engineering on an existing wireless tower or other structures.
- C. Radio frequency interference or other signal interference problems at existing wireless towers or others structures.
- D. The refusal of owners or parties who control wireless towers or other structures to permit an antenna to be attached to such wireless towers or structures.
- E. Other factors which demonstrate the reasonable need for the new wireless tower.

**SECTION 13.2.9 SPECIFIC WIRELESS TOWER SPECIAL LAND USE STANDARDS**

The following standards apply to all Wireless Towers requiring a special use permit.

- A. A Wireless Tower may be located on a zoning lot containing other principal uses. The wireless tower may be located within an area smaller than the minimum lot size of the applicable zoning district provided the zoning lot complies with the applicable minimum lot size for the existing principal use or is a legally established nonconforming lot. The area within which the wireless tower is located shall be the area subject to the requirements of this section, rather than the entire zoning lot, unless otherwise provided herein.
- B. The Wireless Tower shall meet all requirements of the zoning district in which it is located which are not inconsistent with this section. Minimum setback requirements shall be measured from the boundary of the zoning lot to the closest portion of the wireless tower, or the accessory equipment or storage area, whichever is closer.
- C. The minimum distance between a Wireless Tower and any property line shall be equal to the height of the proposed tower, unless engineering specifications provided dictate otherwise, as determined through a certification by a licensed and registered professional engineer.
- D. Wireless Towers shall be constructed and maintained in compliance with all applicable construction codes, which include the Electronics Industries Association/ Telecommunications Industry Association (EIA/TIA) Structural Standards of Steel Antenna Towers and Antenna Supporting Structures.
- E. Wireless Towers shall not be used for advertising purposes.
- F. Fencing shall be required to ensure security and safety of a Wireless Tower with accessory equipment structure or storage area. Fences shall consist of durable wood, vinyl, metal or other similar materials and shall not contain barbed wire, razor wire, electric current, or charge of electricity. Fences shall not exceed a height of eight (8) feet.

- G. The Wireless Tower shall have a landscaped buffer so that the base of the wireless tower and accessory equipment structure or storage area shall be screened from any right-of-way or residential use. Such landscaped buffer shall be placed on the site in a manner which will maximize the aesthetic and environmental benefits, while at the same time providing the visual buffer required herein. The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the equipment storage area. Quality and composition of landscape elements shall be of generally acceptable evergreen varieties and species of trees and shrubs hardy to Leelanau County. The buffering requirements outlined herein may be waived by the Zoning Administrator or Planning Commission where existing vegetation to be maintained on the site generally accomplishes the same effect.
- H. Wireless Towers shall not have a shiny or reflective finish.
- I. Wireless Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.
- J. Not less than one off-street parking space shall be provided on-site for use by service and public safety vehicles.
- K. Adequate ingress and egress to the Wireless Tower shall be provided by means of an all-weather durable driveway not less than twelve (12) feet in width.
- L. No Wireless Tower shall be placed within a public right-of-way or within a road easement.
- M. All Wireless Towers over one hundred (100) feet in height shall be designed for co-location. If co-location is not part of the application, then the applicant must demonstrate in the application as to why co-location is not possible.
- N. All Wireless Towers that utilize guy wires shall have those guy wires clearly marked by a colored sleeve.
- O. A Wireless Tower proposed to be located on a National or State registered historic landmark or in a local historic district established in conformance with the Local Historic Districts Act, Public Act 169 or 1970, as amended, may be denied if the antenna would detract from the historic character of the historic landmark or district.

**SECTION 13.2.10 SPECIFIC WIRELESS EQUIPMENT SHELTER  
SPECIAL LAND USE STANDARDS**

- A. Wireless Equipment Shelters in the Agricultural, Rural Residential and Commercial zoning districts shall comply with the following requirements:
  - 1. Shelter Size. The shelter structure shall not contain more than sixteen (16) square feet of gross floor area or be more than six (6) feet in height.

2. Equipment storage buildings or cabinets shall comply with all applicable building codes.
3. The Shelter may be located:
  - a. In a front or side yard provided the Shelter is no greater than four (4) feet in height or sixteen (16) square feet of gross floor area. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of at least forty-two to forty-eight (42-48) inches and a planted height of at least thirty-six (36) inches, with eighty-five (85) percent opacity throughout the year.
  - b. In a rear yard, provided the Shelter is no greater than six (6) feet in height or sixteen (16) square feet in gross floor area. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of eight (8) feet and a planted height of at least thirty-six (36) inches, with eighty-five (85) percent opacity throughout the year.

B. Wireless Equipment Shelters in the Industrial zoning district shall comply with the following requirements:

1. The equipment cabinet or structure shall be no greater than twelve (12) feet in height or one hundred (100) square feet in gross floor area and shall be located in accordance with the minimum setback requirements of the Industrial zoning district in which located.
2. The structure or cabinet shall be screened by an evergreen hedge with an ultimate height of eight (8) feet and a planted height of at least thirty-six (36) inches, with eighty-five (85) percent opacity throughout the year. In all other instances, structures or cabinets shall be screened from view of all residential properties which abut or are directly across the street from the structure or cabinet by a solid fence eight (8) feet in height or an evergreen hedge with an ultimate height of eight (8) feet and a planted height of at least thirty-six (36) inches, with eighty-five (85) percent opacity throughout the year.

**SECTION 13.2.11 SPECIAL LAND USE CONDITIONS OF APPROVAL AND DECISIONS BASED ON SUBSTANTIAL EVIDENCE**

A. Conditions may be added that are:

1. Designed to protect natural resources, the health, safety, and welfare, as well as the social and economic well-being, of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.

2. Related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
  3. Necessary to meet the intent and purpose of the zoning requirements, be related to the standards established in the zoning ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.
- B. The Decision to grant or to deny a special land use shall be in writing and shall be based upon substantial evidence in the record.

#### **SECTION 13.2.12 ESCROW FEE REQUIRED**

Each applicant for administrative approval shall apply to the Zoning and Planning Office providing the information required by this Section 13.2 of this Zoning Ordinance and a non-refundable fee and escrow deposit as established by resolution of Bingham Township Board in order to reimburse Bingham Township for the costs of reviewing the application, along with the required signed and notarized "ACKNOWLEDGMENT OF RECEIPT & AGREEMENT OF COMPLIANCE" form.

#### **SECTION 13.2.13 SITE PLAN REVIEW AS PART OF SPECIAL LAND USE APPROVAL**

- A. The following requirements shall be part of the site plan review requirements for Wireless Towers and antenna in addition to those found in Article 17 Special Land Use Permits and Article 16 Site Plan Review, respectively:
1. Applications for site plan review under this sub-section shall be subject to the procedures and requirements of Article 17 Special Land Use Permits and Article 16 Site Plan Review, except as modified in this sub-section.
  2. Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer.
  3. A scaled site plan, elevation drawings, and narratives clearly indicating:
    - a. the location, type and height of the proposed tower; on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities);
    - b. adjacent roadways, proposed means of access;
    - c. setbacks from property lines;
    - d. elevation of the proposed tower and any other structures;
    - e. topography;
    - f. parking; and

- g. other information deemed by the Zoning and Planning Office or Planning Commission to be necessary to assess compliance with the intent of this zoning ordinance.
4. Legal description of the parent tract and leased parcel (if applicable).
  5. The setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties, including those within the commercial and agricultural districts.
  6. A landscape plan showing specific landscape materials.
  7. Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.
  8. A descriptive narrative of compliance with the special land use standards:
    - a. Inventory of Existing Site;
    - b. Aesthetics;
    - c. Lighting;
    - d. State or Federal Requirements;
    - e. Building Codes/Safety Standards;
    - f. Franchises;
    - g. Signs;
    - h. Buildings & Support Equipment
    - i. Setbacks;
    - j. Separation;
    - k. Security Fencing;
    - l. Landscaping; and
    - m. all applicable federal, state or local laws.
  9. Identification of the entities providing the backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the coverage area which have an impact on this application.
- B. No part of this Section 13.2 shall exempt the applicant from such other governmental review and permitting procedures (i.e., Federal Communication Commission (FCC), Federal Aviation Administration (FAA), etc.).

#### **SECTION 13.2.14 CO-LOCATION COMMITMENT**

The applicant must include a statement in the application of its good faith intent to allow the co-location of Antennae and of other wireless equipment of other entities, provided that the cost of modifying the wireless tower to accommodate the co-location is borne by the co-locating entity.

#### **SECTION 13.2.15 REMOVAL OF ABANDONED COMMUNICATION TOWERS**

Any wireless tower which is abandoned shall immediately be removed or demolished. For the purposes of this section, abandoned shall mean that no antenna or other commercial antenna has been operational and located on the wireless tower for one hundred eighty (180) days or more. Where the removal or demolition of an abandoned wireless tower has not been lawfully completed within sixty (60) days of the applicable deadline, and after at least thirty (30) days written notice, the Township may remove or secure the removal of the facility or required portions thereof. The Township may place a lien on the property to cover costs for the removal of the wireless tower. A lien on the property shall be superior to all other liens except taxes.

### **SECTION 13.2.16 NONCONFORMING TOWER USES**

- A. Not Expansion of Nonconforming Use. Towers that are constructed, and antennas that are installed, in accordance with the provisions of this ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure.
  
- B. Preexisting towers. Preexisting towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this ordinance.
  
- C. Rebuilding Damaged or Destroyed Nonconforming Towers or Antennas. Notwithstanding Section 13.2.15, bona fide nonconforming towers or antennas that are damaged or destroyed may be rebuilt without having to first obtain administrative approval or a special use permit. The type, height, and location of the tower on-site shall be of the same type and intensity as the original facility approval. Building permits to rebuild the facility shall comply with the then applicable building codes and shall be obtained within 180 days from the date the facility is damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned as specified in Section 13.2.15.

### **SECTION 13.2.17 VARIANCES AND APPEALS**

Variances from this section may be requested from the Zoning Board of Appeals. Requests for additional height to any permitted or previously approved wireless tower may be granted by the Planning Commission to provide for the co-location of additional antenna so long as such additional height does not exceed thirty (30) feet. Appeals of a Planning Commission decision shall be taken to the Zoning Board of Appeals.

### **SECTION 13.3 PRIVATE WIND TURBINE GENERATORS**

*added August 1, 2002*

#### **SECTION 13.3.1 INTENT**

The intent of this section is to recognize the concern for the conservation of energy resources and to recognize the desire of residents of Bingham Township to contribute to such conservation with the installation of privately owned devices for the generation of electricity for their own use.

#### **SECTION 13.3.2 GENERAL REQUIREMENTS**

Since such installation may require a structure that is taller than the standards set for in Section 3.6 Schedule of Area, Height, Placement Regulations, special consideration must be made in order to maintain the rural atmosphere in the Township. Attention to the aesthetic effects of the installation should be given consideration.

### **SECTION 13.3.3 SPECIFIC CONDITIONS**

- A. Tower construction to be in accord with County Standards.
- B. Setback: Base of tower must be setback from an adjacent property line by a distance to the overall height of the tower.
- C. Color of the tower and attached equipment to be a neutral color such as to blend with the surrounding foliage and buildings.
- D. Towers must be enclosed by security fencing not less than 6 feet in height or be equipped with an appropriate anti-climbing device.
- E. Installer must assure that all sounds of the operation will not exceed normal conversation levels at the property line.
- F. Overall installation height must not exceed 100 feet.
- G. Towers which are unused for a period of one (1) year or more must be removed by the landowner at the landowner's expense.
- H. No more than one (1) tower permitted per parcel.
- I. Commercial production or distribution of electricity is prohibited.
- J. Installation of associated electrical handling and storage of equipment shall comply with all applicable Electrical and Building Codes.



## ARTICLE 14

### SITE CONDOMINIUM DEVELOPMENTS

*Added in its entirety 4-19-95*

(Annotation: Article amended in its entirety by Amendment 16-004, effective January 6, 2017)

#### SECTION 14.1 INTENT

It is the intent of this Article to establish and implement the goals of the Bingham Township Comprehensive Master Plan, which directs the Township to retain the rural atmosphere of Bingham Township, and to protect the wetlands, farmlands, woodlands, and other open space by encouraging clustering for residential and commercial uses. The greater flexibility afforded by allowing site condominium developments should make development of difficult sites easier and more aesthetically pleasing.

#### SECTION 14.2 GENERAL PROVISIONS

For the purpose of this section, a Site Condominium Subdivision shall include any residential or commercial development proposed under the provisions of the Condominium Act [Public Act 59 of 1978, as amended ("PA 59")] consisting of two (2) or more single family detached/attached residential structures and/or commercial units on a single parcel, including single family residential structures developed as "clustered housing developments", as reviewed and approved through the Article 15 Clustered Housing Development, when ownership is "condominium" rather than "fee simple". The Township's zoning review of condominium projects is based upon MCL 559.141 of PA 59.

#### SECTION 14.3 PROJECT CONSIDERATIONS AND REQUIREMENTS

- A. Condominium Lots - The Condominium Subdivision Plan shall indicate specific parcel dimensions with front, rear and side condominium lot lines allocated to each condominium unit intended for separate ownership. For the purpose of this Article, and to assure compliance with the provisions herein, condominium units as defined in PA 59, shall be referred to as condominium lots.
- B. Area and Bulk Requirements - Each condominium dwelling unit shall be located within a condominium lot.
  1. Each site condominium lot, with regard to lot size, building heights, setbacks, and lot coverage shall conform with the requirements of the zoning district in which it is located, as indicated in Section 3.6 Schedule of Area, Height, and Placement Regulations of this Ordinance.
  2. The condominium lot size and the required setbacks shall be measured from the designated front, rear and side condominium lot lines.

3. A twenty (20) foot wide landscaped easement shall be maintained on all condominium lots which border M-22 and other County Primary Roads, to restrict access to the primary road, to minimize noise, and to protect outdoor living areas.
  4. Unless the circumstances are such that the land area is not of sufficient size to develop secondary roads, all condominium lots shall front on secondary roads. Condominium lots along M-22 and other County Primary Roads shall either back up to such roads or shall front onto a service drive.
- C. Streets - All condominium lots shall front upon a public road, or private road which complies with the road standards of this Ordinance. All public streets within a condominium subdivision shall be constructed as required by the Leelanau County Road Commission. All private roads within a site condominium shall meet the requirements of Section 11.3 Private Roads Standards and Procedures.
- D. Water Supply and Sewage Disposal Systems - Water Supply and Sewage Disposal Systems shall comply with the requirements of the Benzie/Leelanau District Health Department and/or State of Michigan.
- E. Landscaping - The condominium subdivision development shall comply with applicable requirements of Section 3.12 Landscaping, Greenbelts, Buffers, Screens and Fences.
- F. Lighting – All outdoor lighting shall meet the standards of Section 3.14 Outdoor Lighting Standards.
- G. Storm Water - Stormwater runoff shall be contained and handled on the site. Adequate and full measures shall be taken to accommodate the storm water runoff of the condominium subdivision on site.
- H. No condominium lot, common area or element shall be further divided or changed in use without the express review and approval of the Planning Commission under site plan review, and otherwise in compliance with the standards of this Ordinance.

#### **SECTION 14.4 PLAN PREPARATION AND CONTENTS**

Site Plan submittal requirements for Site Condominium Subdivisions shall conform to MCL 559.166 of PA 59 and shall be as described in Article 17 Special Land Use Permits, Article 16 Site Plan Review, and this Article, with the following additional/concurrent requirements:

- A. The preliminary plan shall be designed and drawn by a licensed Civil Engineer, a licensed Land Surveyor, a licensed Architect or a licensed Landscape Architect.
- B. Identification and Description:

1. Proposed name of the project.
2. Full legal description to adequately describe the parcel or parcels of land in question.
3. Names and addresses of the applicant, owners, and the planner, architect, design engineer, surveyor, or landscape architect who designed the project layout. The applicant shall also indicate his interest in the land.

C. Existing Conditions:

1. Boundary lines of proposed project, section or corporation lines within or adjacent to the tract and overall property dimensions.
2. Property lines of adjacent tracts of subdivided and un-subdivided land shown in relation to the tract being proposed for site condominium subdivision including those areas across abutting roads.
3. Location, widths, and names of existing or prior easements of record, public and/or private.
4. Location of existing sewers, water mains, storm drains and other underground facilities within or adjacent to the tract being proposed for site condominium subdivision.
5. Topography drawn at contours with an interval of not more than two (2) feet. Topography to be based on USGS datum.
6. The location of significant natural features such as natural water courses, bodies of water, and stands of trees.

D. Proposed Conditions: Site Condominium Subdivisions shall meet the project plan considerations and requirements of Section 14.3 Project Considerations and Requirements and the following additional/concurrent requirements:

1. Layout of streets indicating proposed street names, whether public or private, right of way widths, and connections and adjoining streets, and also the widths of and locations of alleys, easements, public walkways, bike paths and other transportation related elements. Street names require approval from the Leelanau County Planning and Community Development department.

2. Layouts, numbers and dimensions of lots, including building setback lines showing dimensions and finished grade elevations of buildings first floor elevation.
3. Proposed topography, including contour lines at the same interval as shown for existing topography.
4. Indication of the parcels of land and/or easements intended to be dedicated or set aside for public use and a description of the common elements of the project and the use and occupancy restrictions as will be contained in the master deed.
5. An indication of the ownership and existing and proposed use of any parcels identified as "excepted" on the-preliminary plan (indicating whether or not it is future "convertible area" or part of an "expandable condominium" under PA 59.). If the applicant has an interest, or owns any parcel so identified as "excepted," the preliminary plan shall indicate how this property could be developed in accordance with the requirements of the existing zoning district in which it is located and with an acceptable relationship to the layout of the proposed preliminary plan.
6. Statement describing the sewage system and method to be approved by the Benzie/Leelanau District Health Department and/or State of Michigan. If private individual septic systems are to be utilized, such systems shall be contained within the lot area and shall be limited to the exclusive use of the owner of the condominium unit.
7. Statement describing water supply system, with applicable agency(s) approval.
8. Schematic indication, run off calculation and description of storm drainage proposed that prevents any additional storm water runoff to other properties and is acceptable to the County Soil Erosion Officer and County Drain Commission.
9. In the case where the applicant wishes to develop a given area, but wishes to begin with only a portion of the total area, the preliminary plan shall include the proposed general layout for the entire area. The part which is proposed to be developed first shall be clearly superimposed upon the overall plan in order to illustrate clearly the method of development which the applicant intends to follow. Each subsequent development shall follow the same procedure until the entire area controlled by the applicant is subdivided. Each phase of the development shall not exceed, on a cumulative basis, the average density allowed for the entire development.

10. An indication of the means by which and extent that significant natural features such as water courses, bodies of water, and stands of trees are to be preserved in conjunction with the development of the proposed project.
11. Indication of the approximate area for all site improvements including roads, utilities, drains, and all building activity that will have to be cleared and graded in order to develop the proposed project.
12. The Preliminary Site Condominium Subdivision Plan will also indicate the significant ecological areas that are to be preserved in their natural state. The intent is not to require a detailed grading plan at this time but to ensure that the developer's consultant has given sufficient thought to the clearing and grading requirements in preparing the Preliminary Plan.
13. Condominium Protective Covenants and Deed Restrictions which hold harmless the Township for improvements within the site condominium subdivision and requires conformance of all conditions and requirements of site plan approval and this Ordinance. All deed restrictions, restrictive covenants or other proposed regulations for the layout, use and maintenance of public or common areas and structures shall be incorporated into the site plan as detail sheets and notes.
14. A grading and storm water drainage plan that shows proposed finished floor elevations, finished grades at structures, proposed storm water collection system, storm outlet(s), ultimate downstream outlet, all necessary off-site drainage easements, and, when required, retention/detention basin design calculations. Any areas of filled or reclaimed land shall be identified and all development shall detain storm water so that the runoff from the property does not negatively impact upon adjacent properties or public and private rights-of-way.
15. The condominium subdivision shall provide for the dedication of easements to the appropriate public agencies for the purposes of construction, operation, maintenance, inspection, repair, alteration, replacement and/or removal of pipelines, conduits, mains, and other installations of a similar character for the purpose of providing public utility services, including conveyance of sewage, potable water and stormwater runoff across, through, and under the property subject to said easement, and excavation and refilling of ditches and trenches necessary for the location of such installations. Easement dedication documentation may be reviewed by the Township Attorney and Engineer.
16. A utility plan shall show all existing and proposed utilities and easements located on or serving the site, including sizes of water and sewer lines, wells, proposed hydrants, proposed meter size, and proposed fire suppression line into building. Proposed sanitary leads, proposed sanitary sewers or on-site disposal systems must also be shown, as applicable.

17. A street construction and paving plan showing types of surfacing, method of drainage, and grade elevations. For private streets, a maintenance plan must also be provided.
18. Limited common elements, common elements, condominium lots, preservation areas, convertible areas and any other designated ownership areas shall be clearly delineated on the site plan.
19. Prior to the issuance of any land use permit the site shall be marked with monuments per PA 59 and administrative rules, and a certified copy of the survey shall be filed with the Township.

#### **SECTION 14.5 REVIEW PROCEDURES**

- A. Distribution to Authorities - The Zoning Administrator shall deliver the proposed condominium subdivision plan to the Commission for review. The Zoning Administrator shall retain one copy, and send one copy to the Township Fire Chief.
- B. Staff Review - The Township Zoning Administrator and/or Planner or consultant shall send recommendations to the Commission at least seven (7) days prior to Commission meeting.
- C. Planning Commission –
  1. The Commission shall review the condominium subdivision plan and the reports of the County Road Commission, the County Drain Commissioner, the County Soil Erosion Officer, the County Health Department, and the Township Zoning Administrator. An independent consultant(s) may be hired, at the applicant's expense, to review the project and make recommendations to the Commission.
  2. The Commission shall hold a public hearing on the proposed condominium subdivision plan, for the purpose of reviewing and approving, approving with conditions, or denying the application.
  3. The Commission shall either approve the site condominium subdivision plan with or without conditions, reject the plan and give its reasons, or table the proceedings pending changes to the plan to make it acceptable to the Commission.
- D. Attorney Review - The master deed, condominium bylaws, restrictive covenants, and related condominium documents shall be provided for Township Attorney review.
- E. Outside Agency Permits or Approvals - The applicant shall be responsible for obtaining all necessary permits or approvals from applicable outside agencies.

## **SECTION 14.6      CONDITION AND DURATION OF APPROVAL**

- A. Conditions - The approval of the Commission will indicate that the proposed site condominium subdivision plan meets the provisions of this Article 14 and PA 59, but does not cover additional permits that may be required after the Master Deed has been recorded.
  
- B. Duration - Upon approval the applicant shall have one (1) year from date of approval to complete common area infrastructure of roads and utilities. The Commission may extend the one year period upon written petition for extension. Such extension, if granted, shall cover only the material contained in the original approval process. Not more than three one-year extensions shall be granted.
  
- C. Condominium Subdivision Plan Approval Contract -
  - 1. If the Commission approves the site condominium subdivision plan, it may request that the township attorney review a contract setting forth the conditions upon which such approval is based; such contract, after approval by the Township Board, shall be entered into between the township and petitioner prior to the issuance of a land use permit for any construction in accordance with the approved site condominium subdivision plan. All reasonable costs, as established by the Township Board, related to the preparation of said contract shall be paid by the petitioner to the Township Treasurer prior to issuance of any land use permits.
  
  - 2. If the Commission determines that the basic zoning application fees will not cover the actual costs of the application review, or if the Commission determines that review of the application and/or participation in the review process by qualified professional planners, engineers, attorneys, or other professionals is necessary, then the applicant shall deposit with the Township Treasurer such additional zoning fees in an amount determined by the Commission equal to the estimated additional costs.

## **SECTION 14.7      DESIGN LAYOUT STANDARDS, IMPROVEMENTS**

Construction of Development in Phases. For developments where construction is to occur in phases, that portion which is constructed shall conform with all laws, ordinances and regulations of all governmental bodies having jurisdiction, and be capable of functioning independently without further improvements, including, without limitation, without the necessity of constructing any additional roads, drainage or utilities.

## **SECTION 14.8      INTERPRETATION**

- A. Minimum Requirements. The provisions of these regulations shall be held to be minimum requirements adopted for the promotion and preservation of public health, safety, and general welfare of Bingham Township.

- B. Application of Traditional Definitions. In the review of preliminary and final plans, as well as engineering plans, it is recognized that it may not be feasible to precisely apply traditional definitions and measures of "fee simple" development to the condominium subdivision. However, the review of plans submitted under this article shall be accomplished with the objective and intent of achieving results which are in harmony with the existing development of the adjacent properties and are consistent with the intent of the Township's Master Plan, and are in conformance with all requirements of Section 3.6 Schedule of Area, Height, Placement and Regulations of this Ordinance, as amended.
- C. Conflict with Existing Regulations. These regulations are not intended to repeal, abrogate, annul or in any manner interfere with existing regulations or laws of the Township, nor conflict with any statutes of the State of Michigan or Leelanau County except that these regulations shall prevail in cases where these regulations impose a greater restriction than is provided by existing statutes, laws or regulations. Nothing in this Ordinance shall be construed as requiring a Site Condominium Subdivision to obtain plat approval under the Subdivision Control Act.



## ARTICLE 15

### CLUSTERED HOUSING DEVELOPMENT (OPEN SPACE PRESERVATION)

as amended in its entirety effective May 30, 2003.  
(Annotation: Article amended in its entirety by Amendment 15-003, effective May 8, 2015)

#### SECTION 15.1 INTENT

It is the intent of this Article to establish and implement the goals of the Bingham Township Comprehensive Master Plan, which directs the Township to retain the rural atmosphere of Bingham Township, and to protect the wetlands, farmlands, woodlands, and other open space by encouraging the clustering of single family dwellings while keeping the same per unit area requirements. The greater flexibility afforded by clustering should make development of difficult sites easier and more aesthetically pleasing.

#### SECTION 15.2 GENERAL REQUIREMENTS

##### SECTION 15.2.1 DISTRICT REQUIREMENTS

Clustered housing developments are permitted as a Special Use in the Agricultural, Rural Residential, and Residential Districts. Unless otherwise listed in this Article, clustered developments must meet the requirements of the district in which they are located, including Section 3.6 Schedule of Area, Height and Placement Regulations. Clustered developments shall also go through the process and meet all the standards and criteria set forth in Article 17 Special Land Use Permits, and Article 16 Site Plan Review.

##### SECTION 15.2.2 CONVEYANCE

Clustered housing developments may utilize any legal form of land conveyance allowed by the Bingham Township Zoning Ordinance, including subdivisions, site condominiums, and land divisions. The project shall also meet the requirements of each method of conveyance.

##### SECTION 15.2.3 MAXIMUM DENSITY

The maximum number of dwelling units permitted in a clustered housing development shall not be greater than that allowed by right in the zoning district in which the property is located. A clustered housing development that consists of property within two zoning districts may, upon approval of the Planning Commission, cluster the dwelling units in one or both of the districts.

##### SECTION 15.2.4 ROADS

Roads within the clustered development may be public or private and shall meet the following:

- A. Public Roads: Public Roads shall meet the requirements of the Leelanau County Road Commission.
- B. Private Roads: Private roads shall meet the requirements of Section 11.3 Private Road Standards and Procedures.

#### **SECTION 15.2.5 SEWAGE DISPOSAL**

Clustered housing developments sometimes require community sewage disposal systems. The Bingham Township Board has a procedure for the approval and permitting of these systems. Projects with community sewage disposal systems shall require Township Board approval as a condition of the Special Land Use Permit.

#### **SECTION 15.2.6 ALLOWABLE DWELLING TYPES**

Dwelling types shall meet the requirements of the district in which it is located. Multiple family dwellings are allowed in the Residential and in Commercial Districts as a PUD. Dwelling types shall be identified in the application and shown on the site plan.

#### **SECTION 15.2.7 MINIMUM PROJECT SIZE:**

A parcel must have a minimum gross acreage of ten (10) contiguous acres to be considered for a clustered housing development.

### **SECTION 15.3 STANDARDS FOR CLUSTERED HOUSING DEVELOPMENTS**

#### **SECTION 15.3.1 TOTAL NUMBER OF UNITS ALLOWED / CLUSTERING OPTIONS**

The total number of dwelling units allowed within a clustered housing development will depend on the total gross acreage of the property, the underlying maximum density, and the amount of Open Space provided. The following Open Space options are offered:

- A. 55% or greater Open Space option  
A clustered housing development that provides greater than or equal to 55% Open Space shall be allowed a maximum number of dwelling units equal to the gross acreage of the property divided by the allowable density of the district in which it is located. For example, a 100 acre (gross acreage) clustered development in the Agricultural Zoning District with 55% dedicated Open Space would be allowed a maximum of 50 dwelling units. (*100 acres/per 2 acre/ per unit=50 units*)
- B. Less than 55% more than 34% Open Space Option  
A clustered housing development that provides less than 55% but more than

34% Open Space shall be allowed a maximum number of dwelling units equal to 90% of the gross acreage of the property divided by the allowable density of the district in which it is located. For example, a 100 acre (gross acreage) clustered development in the Agricultural Zoning District with 35% dedicated Open Space would be allowed a maximum of 45 dwelling units (*100 acres/per 2 acre/ per unit x 90% = 45 units*)

C. Less than 34% more than 20% Open Space Option

A clustered housing development that provides less than 34 % but more than 20% Open Space shall be allowed a maximum number of dwelling units equal to 80% of the gross acreage of the property divided by the allowable density of the district in which it is located. For example, a 100 acre (gross acreage) clustered development in the Agricultural Zoning District with 20% dedicated Open Space would be allowed a maximum of 40 dwelling units (*100 acres/per 2 acre/ per unit x 80 %=40 units.*)

**SECTION 15.3.2 CALCULATING OPEN SPACE**

- A. Calculations of Open Space and gross acreage shall be performed to the nearest hundredth of an acre (0.01).
- B. The Total Allowable Units amount shall be rounded down to the nearest whole number.
- C. Roads and road easements or right-of ways may be included in the Open Space computation; however, the footprint of any existing or proposed buildings in the Open Space shall not be included.
- D. Any future or (unused) allowable residential units shall be accounted for on the Site Plan.
- E. Future divisions of the Open Space for residential use will be prohibited.

**SECTION 15.3.3 CALCULATING TOTAL ALLOWABLE UNITS IN MULTIPLE DISTRICTS**

The Total Allowable Units for a clustered development that is located in more than one zoning district shall be determined by calculating the Total Allowable Units in each individual district (gross acreage in district divided by allowable density within district) and adding the individual district results together.

This Section takes precedence over Section 3.4 Interpretation of District Boundaries.

**SECTION 15.3.4 OFF-PREMISES OPEN SPACE**

The Open Space requirement of a clustered development may be partially achieved by using dedicated Open Space from a separate Agriculturally zoned property in Bingham Township and must meet the following conditions:

- A. At least half of the Open Space required shall be located on the parcel in which the development is located.
- B. Wetlands and natural water courses in the off-premises parcel shall not be included in the calculation of Open Space.
- C. Only sixty five percent (65%) of the Open Space in the off-premises parcel shall be credited toward the Open Space Requirement of the principle parcel.

### **SECTION 15.3.5 MINIMUM STANDARDS FOR CLUSTERED DEVELOPMENTS**

In order to encourage flexibility and creativity consistent with the open space preservation concept, a clustered housing development may depart from the normal dimensional standards for lot size, setbacks, lot width, and lot coverage, however, the following minimum standards shall apply:

- A. The minimum setback shall be ten (10) feet from any lot line, easement line, or right-of-way line, or thirty (30) feet from any shoreline.
- B. Clustered lots that have a lot line which borders on a development boundary shall maintain the normal zoning district side or rear setback on that line.
- C. All lots shall have a minimum of thirty (30) feet of frontage on an approved road.
- D. Residential Standards Section 3.6.1 Standards of Residential Development.

### **SECTION 15.4 OPEN SPACE**

#### **SECTION 15.4.1 OWNERSHIP OF OPEN SPACE**

The Applicant, at the time of application, shall submit a statement or documents showing the manner and form of future ownership. Open Space may be owned in one or more of the following forms:

- A. Public Ownership if accepted by the Township Board or another public agency.
- B. Common Ownership by homeowners within the project.

- C. Private Ownership by one or more individual owners. This form could include farms or large estate parcels

#### **SECTION 15.4.2 CONVEYANCE OF OPEN SPACE**

Open Space shall be permanently preserved through an irrevocable conveyance in form and substance acceptable to the Township Board and upon review of the Township's Attorney. A Special Land Use Permit will only be issued upon conveyance and recording with the Leelanau County Register of Deeds.

#### **SECTION 15.4.3 PERMITTED USES IN THE OPEN SPACE**

Unless otherwise described in this Article, uses that are allowed in the zoning district in which the clustered development is located may be allowed in the Open Space including access roads, road easements or right-of-ways, commercial agricultural production of food and fiber, and passive recreational uses. Only Structures associated with passive recreational use subject to planning commission approval shall be allowed. The intent is to limit structures within the dedicated open space. Proposed uses that, under current district standards, require a Special Use Permit shall meet all applicable standards. The applicant, at the time of application, shall submit a statement or documents showing the proposed or allowed uses and restrictions within the Open Space.

#### **SECTION 15.4.4 PROHIBITED USES IN THE OPEN SPACE**

The following uses shall be prohibited within the Open Space:

- A. Motorized Recreational Facilities.
- B. Golf Courses
- 3) Parking areas and storage of vehicles, trailers, or boats.

#### **SECTION 15.5 DESIGN OBJECTIVES FOR CLUSTERED DEVELOPMENTS**

The following objectives are presented in order to give the Applicant guidelines of what Bingham Township is trying to achieve with Open Space Preservation and to assist in the preparation of the Site Plan. A Clustered Development Applicant should follow these guidelines as much as reasonably practical:

- A. Preserves and maintains existing fields, pastures, meadows, and orchards, and creates sufficient buffer areas to minimize conflicts between residential and agricultural uses. When new development must be located in these areas due to greater constraints in all other parts of the site, buildings should be sited on the least prime, important or unique farm and forestland soils.
- B. Minimizes impacts on large woodlands (greater than five (5) acres), especially

those located on upland soils considered prime for timber production.

- C. Leaves scenic views and vistas unblocked or uninterrupted, particularly as seen from adjacent public roads and waterways.
- D. Examine the elevation of any rooftop in relation to the elevation of any ridgeline as seen from any public way. Visual horizon line shall have the appearance of being unbroken. This is not intended to prevent the selective trimming of trees for filter views. Existing trees should be retained or new plantings be made and maintained to lessen the visual impact of new construction sited near hilltops or ridges as seen from any public way.
- E. Avoid development fronting directly onto existing public roads to preserve rural roadside character and public safety. A majority of the new lots created are to be adjacent to permanently protected open space.
- F. Protects wildlife habitat areas of species listed as endangered, threatened or of special concern.
- G. Designs around and preserves sites of historic, archaeological or cultural value insofar as needed to safeguard the character of the feature.
- H. Allows Common Open Space lands to be located in a manner that offers convenient access and are to be as contiguous as possible.

#### **SECTION 15.6      PROCEDURE FOR APPROVING CLUSTERED HOUSING DEVELOPMENTS**

- A. Clustered Housing Developments shall follow the procedures established in Article 17 Special Land Use Permits and Article 16 Site Plan Review.
- B. Clustered Housing Developments shall also meet the requirements of the Articles pertaining to the method of conveyance. (i.e. Site Condominium, Subdivision, Land Division)
- C. The Applicant, upon application, shall submit a statement or documents showing the method of Open Space conveyance, as well as the proposed or allowed uses and restrictions within the Open Space.

## ARTICLE 16

### SITE PLAN REVIEW

(Annotation: Article amended in its entirety by Amendment 14-002, effective June 6, 2014)

#### SECTION 16.1 INTENT

The purpose of this Article is to establish uniform site plan procedural requirements and standards for all applicable land use developments in the Township so the site plan provisions of this Ordinance can be applied equitably and fairly, encouraging a harmonious relationship of land uses within the site and adjacent lands. Toward this end, this Ordinance requires site plan review and approval by the Planning Commission (Commission), Zoning Board of Appeals (ZBA), or the Zoning Administrator as set forth below, or as otherwise provided in this Ordinance.

#### SECTION 16.2 APPLICABILITY

Site Plan Review is required for any project requiring a Land Use Permit, Special Land Use Permit, Planned Unit Development, Site Condominium, Subdivision, Appeal, Variance, or under other circumstances required by this Ordinance.

#### SECTION 16.3 CATEGORIES / TYPES OF SITE PLANS AND REVIEW

There shall be three categories of site plans that are applicable depending on the different type and complexity of proposed land uses:

- A. **Administrative Site Plan** applies to Land Use Permits issued by the Zoning Administrator. Applies to projects such as single family dwellings, additions to dwellings, construction of accessory structures. See Article 21 Administration and Enforcement, Section 21.4 Land Use Permits.
- B. **Abbreviated Site Plan** applies to Variance Requests, Appeals, and projects where Abbreviated Site Plan Review is specified in this Ordinance. This review is performed by the Commission or ZBA.
- C. **Detailed Site Plan** applies to more intensive land uses as specified in this Ordinance, and applies to site plans that are not listed as Administrative or Abbreviated.

**SECTION 16. 4. CHART OF LAND USE PROJECT TYPES AND THE APPLICABLE SITE PLAN REQUIRED**

Type of Project	Administrative Site Plan Review	Abbreviated Site Plan Review	Detailed Site Plan Review
Land Use Permits	X		
Clustered Housing Development			X
Commercial Site Plan (over 3000 sft)			X
Commercial Site Plan (less than 3000 sft and change of use)			X
Commercial Site Plan (less than 3000 sft and no change of use, or accessory building)	X		
Industrial Site Plan (over 3000 sft or change of industrial use)			X
Industrial Site Plan (less than 3000 sft and no change of use)	X		
Winery/Cidery		X	
Agricultural Special Events		X	
Home Business		X	
All Other Special Land Uses			X
Dimensional Variances - ZBA		X	

(Annotation: Section amended by Amendment 16-007, effective February 3, 2017)



**SECTION 16.5. OPTIONAL PRE-APPLICATION SKETCH PLAN AND REVIEW**

Prior to submitting an application, and/or one of the applicable site plans described above, an applicant may choose to submit a sketch plan for review by the Zoning Administrator and/or the Commission. The sketch plan may be superimposed on an air photo of the parcel subject to the land use or may be a scaled drawing. The sketch should show the location of existing and proposed parcels, parcel boundaries, natural features, existing and proposed structures, and proposed improvements. The review shall be informal and advisory only, and shall not constitute any form of approval or authorization of granting any type of land use or other permit. The review shall be done without cost to the applicant, but must be scheduled as an item of business on the Commission’s agenda if the sketch plan is to be reviewed by the Commission.

**SECTION 16.6 ADMINISTRATIVE SITE PLAN**

For submission standards, please see Article 21 Administration and Enforcement and Section 21.4. Land Use Permits. The Zoning Administrator shall review an Administrative Site Plan.

**SECTION 16.7 ABBREVIATED SITE PLAN SUBMITTAL REQUIREMENTS AND REVIEW**

- A. The Commission or the ZBA shall review an Abbreviated Site Plan depending upon the type of land use described in Section 16.4 Chart of Land Use Project Types and the Applicable Site Plan Required, or elsewhere in this Ordinance. An Abbreviated Site Plan Review requires a completed application, application fee, site plan, and applicable supporting documents such as photos, studies, permits, agency approvals, maps, etc. provided by the Applicant or when requested by the Commission.
- B. The site plan shall be drawn to scale in a clear and concise manner, and shall be on paper which measures at least 8.5 by 11 inches, but not more than 36 by 42 inches. The drawing shall be such that the Zoning Administrator, ZBA and Commission can readily interpret the site plan, and shall include more than one drawing where required for clarity. The Site Plan shall include the information listed below, unless specifically waived by the Zoning Administrator, with concurrence by the Commission, or ZBA upon the determination that the requirements to be waived are not reasonably related to the proposed use.
- C. The Zoning Administrator, ZBA or Commission, upon initial review, may request additional information that it deems necessary to make a decision on the Application.
- D. The Site Plan shall include the following, unless waived by the Commission or ZBA:
  - 1. The following information shall be on the site plan: the applicant; the preparer; the date, including revisions; the signature; and seal (if applicable).

(Annotation: Section amended by Amendment 16-007, effective February 3, 2017)

2. The property, identified by parcel lines and location and size.
3. The scale and north point.
4. Natural features such as woodlots, water bodies, wetlands, high risk erosion areas, slopes over 25%, beach, drainage and similar features.
5. The location and dimensions of all proposed and existing primary and accessory buildings, structures, and fences on the site, including height.
6. All existing and proposed driveways.
7. Structures and buildings that are located on adjacent property.
8. Existing and proposed exterior lighting.
9. Show any changes or modifications required for any applicable regulatory agencies' approvals.
10. Location dimensions of existing and proposed utility easements, water, storm sewer and sanitary sewer lines, storm water drainage and retention areas.
11. Neighboring driveways, and other vehicular circulation features within and adjacent to the site; also the location, size and number of parking spaces in the off-street parking areas and the identification of service lanes and service parking.
12. Proposed alterations to the topography and other natural features shall be indicated.
13. The proposed location of any open spaces, landscaping and buffering features such as greenbelts, fences, etc.
14. Location of any stream, wetland, or body of water within 500' of the subject parcel.
15. An area map showing the location of the site in relation to the surrounding street system.
16. A vicinity map showing the location of the site and the adjacent existing land uses within 300 feet of the project location.

## **SECTION 16.8      DETAILED SITE PLAN SUBMITTAL REQUIREMENTS AND REVIEW**

- A. The Commission shall review a Detailed Site Plan. Detailed Site Plan Review requires a completed application, application fee, site plan, traffic study (if applicable), statement on hazardous materials, groundwater extraction statement and supporting documents such as photos, studies, permits, agency approvals, maps, soil borings, etc. provided by the Applicant or requested by the Commission.
- B. The site plan which shall be of a scale not to be greater than one (1) inch equals ten (10) feet nor less than one (1) inch equals two hundred (200) feet, and of such accuracy that the Commission can readily interpret the site plan, and shall include more than one drawing where required for clarity. The site plan shall be prepared by a registered professional architect, landscape architect, engineer, land surveyor, or community planner.
- C. The site plan shall include the information listed below, unless specifically waived by the Zoning Administrator, with concurrence by the Commission, upon the determination that the requirements to be waived are not reasonably related to the proposed use.
- D. The Commission, upon its review, may request additional information that it deems necessary to make a decision on the application.
- E. The site plan shall include the following, unless waived by the Commission:
  - a. All the data required for the Abbreviated Site Plan Review listed above.
  - b. The location, proposed finished floor and grade line elevations.
  - c. Site plans for residential development shall include a density schedule showing the number of dwelling units per acre, including a dwelling schedule showing the unit type and number of each unit type.
  - d. Any proposed roads, driveways, sidewalks and other vehicular and pedestrian circulation features within and adjacent to the site.
  - e. Topography information based on USGS datum, or selected on-site elevations. More detailed information may be required where the Commission determines that the site and use warrant a more critical review of topography.
  - f. Generalized soil analysis data, which may include data, prepared by the Leelanau County Soil Conservation District, Leelanau County Planning Department, or more detailed soil data regarding the soils and their adaptability to the use. More detailed information may be required where the Commission determines that the site and use warrant a more critical review of soils.

- g. Soil erosion and sediment control measures which shall include preventative soil erosion devices or measures, both during and after any site work related to the development, when required.
- h. Show any changes or modifications required for any applicable regulatory agencies' approvals. Site plan or design plan changes required after the Commission issues a Special Land Use Permit shall also be changed in accordance with procedures established in this Ordinance for minor adjustments or amendments to Special Land Use Permits.
- i. A traffic impact study prepared by a traffic engineer or traffic professional shall be provided that includes an analysis of vehicle type using the facility or development (police, medical, employees, visitors) peak hour traffic, and projected noise impact from increased traffic. If applicable, copies of the Michigan Department of Transportation and/or the Leelanau County Road Commission requirements and/or studies shall be submitted to the Township. The Commission may waive this requirement when it is deemed unnecessary.
- j. Hazardous materials statement indicating whether there will be any hazardous materials used or stored on the property.
- k. Groundwater extraction statement indicating the amount of groundwater to be extracted and any impact on the groundwater table.

**SECTION 16.9 SUBMISSION OF SITE PLAN COPIES AND ESCROW FUNDS TO COVER COSTS WHERE APPROPRIATE**

- A. For an Administrative Site Plan Review one (1) copy is required.
- B. For an Abbreviated and Detailed Site Plan Review twelve (12) to eighteen (18) copies are required, as requested by the Zoning Administrator.
- C. Application fee is required at time of submittal. Fee is as required per the Bingham Township Fee Schedule
- D. If the Commission or ZBA determines that the basic zoning application fees will not cover the actual costs of the application review or appeal, or if the Commission or ZBA determines that review of the application and/or participation in the review process or appeal by qualified professional planners, engineers, attorneys, or other professionals is necessary, then the applicant shall deposit with the Township Treasurer such additional zoning fees in an amount determined by the Commission or ZBA equal to the estimated additional costs. The additional zoning fees shall be held in escrow in the applicant's name and shall be used solely to pay these additional costs.

**SECTION 16.10 REVIEW FOR COMPLETENESS**

- A. The Zoning Administrator shall provide an initial review of an Abbreviated Site Plan and a Detailed Site Plan to insure they are complete, and contain all of the elements required by the standards of this Ordinance. Such review shall be undertaken concurrently with the initial review of the land use application to determine that it is complete, as may be required elsewhere in this Ordinance.
- B. If the site plan is found to be incomplete, the Administrator shall return the site plan to the applicant with a list of items needed to make the site plan complete.
- C. If the site plan is found to be complete, the Administrator shall notify the Chairperson of the ZBA or Commission, schedule the Site Plan Review and Public Hearing if necessary, place the Application on the appropriate agenda, perform a written staff review of the Application, and distribute the Application, Site Plan and other materials to the reviewing body.

#### **SECTION 16.11 COORDINATION WITH OTHER AGENCIES**

- A. The Zoning Administrator shall forward Abbreviated and Detailed Site Plans and Applications to the following Agencies where applicable for their information and opportunity to comment:
  - 1. Suttons Bay/Bingham Fire and Rescue
  - 2. Leelanau County Road Commission
  - 3. Michigan Department of Transportation
  - 4. Benzie/Leelanau District Health Department
  - 5. Leelanau County Drain Commissioner
  - 6. Leelanau County Sheriff's Department
  - 7. Any other agency that may be affected by the Site Plan.
- B. This review does not alleviate the Applicant from obtaining any and all required permits and/or approvals from these agencies. Any comments received within a reasonable time (21) days will be reviewed and considered by the Commission and/or the ZBA.
- C. The Commission may approve an Application conditioned on obtaining agency permits, or may, if the permit is critical to the Site Plan, require the permit or approval prior to issuance of their approval.

- D. No construction activity associated with an approved site plan shall be undertaken until permits and approvals from all applicable agencies have been presented to the Township Zoning Administrator.
- E. Whenever possible site plan review by the Zoning Administrator and Commission shall be coordinated and done simultaneously with other reviews by the Zoning Administrator and Commission on the same application.
- F. When an Application is dependent on the need for a dimensional variance from the ZBA, re-zoning of property, or a zoning ordinance text amendment, such action must be completed prior to Final Site Plan Approval by the Commission.

### **SECTION 16.12 SITE PLAN REVIEW PROCESS**

- A. Abbreviated Site Plan Review: The site plan shall be reviewed and subject to any public hearing requirement of this ordinance and/or the Zoning Act. If a public hearing is required, no final decision on the site plan shall be made until at least one public hearing has been conducted. A site plan final decision may be tabled for more information. Any public hearing required may be conducted at the first scheduled public meeting after the application is found to be complete. For Zoning Board of Appeals cases refer to Article 22 Zoning Board of Appeals.
- B. Detailed Site Plan Review: An introductory public meeting is required, and the public hearing may be scheduled at the introductory meeting. A public hearing shall not occur, however, at the introductory public meeting. A decision may be made following the public hearing, or the Commission may table the request if it requires more information.

### **SECTION 16.13 STANDARDS FOR SITE PLAN REVIEW**

The Commission, or Zoning Administrator, as applicable, shall approve, or approve with conditions, a site plan if that site plan meets all of the following standards:

- A. All applicable regulations of this Ordinance which apply generally to all districts, found in Article 3 General Provisions of this Ordinance.
- B. All applicable regulations of this Ordinance which apply to the specific zoning district.
- C. All specific standards for the specific proposed special use, if applicable.
- D. Any conditions imposed with the granting of a Special Use Permit or variance.
- E. All utility easements shall be distributed on site in a manner which is least harmful to surrounding properties. Electric, telephone, coaxial cable and other lines shall be located underground.

- F. Water lines, sewer lines, all provisions of surface water drainage shall be approved by the appropriate agency and designed in compliance with any applicable federal and state statute, Township and county ordinance.
- G. There exists sufficient protection to ensure there shall be no additional storm water run-off created by the project, or that adequate measures have been taken to accommodate such storm water run-off created on the site.

#### **SECTION 16.14 APPROVAL AND COMPLIANCE**

- A. In cases where the Commission reviews the site plan, the Commission shall act to approve, approve with conditions, or disapprove the site plan in writing with findings of fact.
- B. The action shall be recorded in a record of the zoning application and shall be filed with the Zoning Administrator. The Zoning Administrator or Commission shall notify the applicant in writing of its decision along with the Findings of Fact.

#### **SECTION 16.15 ESTABLISHING CONDITIONS ON SITE PLAN APPROVAL**

- A. A site plan may be approved with conditions necessary to comply fully with the intent of this Ordinance.
- B. Reasonable conditions may include conditions necessary to:
  - 1. 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.
  - 2. Protect the natural environment and conserve natural resources and energy.
  - 3. Insure compatibility with adjacent uses of land.
  - 4. Promote the use of land in a socially, economically and aesthetically desirable manner.
- C. Conditions imposed shall meet all of the following requirements:
  - 1. Be designed to protect natural resources, the health, safety, and welfare and the social and economic well-being of those who will use the land or activity under consideration, residents and landowners immediately adjacent to the land or proposed activity, and the community as a whole.
  - 2. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.

3. Be necessary to meet the intent and purpose of the zoning ordinance, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.

#### **SECTION 16.16 SECURITY REQUIREMENT**

- A. To insure compliance with the site plan and zoning ordinance and any conditions, limitations or requirements imposed by the Zoning Administrator or Commission as necessary to protect natural resources or the health, safety and welfare of the residents of the Township and future users or inhabitants of the proposed project or project area, the Administrator, upon advice and consent of the Commission, may require:
  1. Cash deposit.
  2. Certified check.
  3. Irrevocable bank letter of credit or surety bond in an amount and under the conditions permitted by law.
- B. Such security shall be deposited with the Township Treasurer at the time of the issuance of the permit authorizing the commencement of such project. Where the project will take more than ninety (90) days to be completed, the Administrator or Commission may authorize a rebate of any cash deposit in reasonable proportion to the ratio of the work completed as the work progresses.
- C. Such security shall not exceed the reasonably estimated cost of the required conditions, limitations, requirements for which the security is designed to insure compliance.

#### **SECTION 16.17 AUTHORITY AND LIMITATIONS**

- A. A person aggrieved by a decision of the Zoning Administrator or Commission in granting or denying approval of a site plan, or regarding any conditions attached to an approval, may appeal the decision to the ZBA per the requirements of Article 22 of this Ordinance.
- B. Decisions on a Special Use Permit or Planned Unit Development site plan may not be appealed to the ZBA, and may be appealed directly to Circuit Court.
- C. Land Use Permits associated with an approved site plan will not be issued until permits and approvals from applicable outside agencies have been presented to the Township Zoning Administrator. Such permits and approvals shall include but not be limited to soil erosion and sedimentation control permits, wetland permits, floodplain permits, driveway and road permits, and Health Department permits.

#### **SECTION 16.18 EXPIRATION/PHASING/COMPLETION TIME/ EXTENSIONS**

An approved site plan shall be valid for a period of one (1) year from the date of approval. If construction or the permitted use has not commenced and proceeded meaningfully toward



completion by the end of this one (1) year period, the site plan approval shall expire. The Zoning Administrator or Commission, whoever granted the site plan approval, may, at its discretion, extend the approved site plan for one (1) additional year, if requested to do so in writing by the applicant and if there is reason to believe that the applicant will commence construction of the permitted use and proceed meaningfully toward completion by the end of the second year, AND provided that the Bingham Township Zoning Ordinance has not been amended in a manner that would affect the Site Plan as approved.

#### **SECTION 16.19 AMENDMENTS TO APPROVED SITE PLAN**

- A. MAJOR CHANGES (amendments): An application may be considered to amend an existing site plan, and shall be processed in the same manner as the original site plan application as described by this Article 16.
  
- B. MINOR CHANGES: By mutual agreement between the Township and applicant, minor non-substantive changes may be made to an existing approved site plan if such change is sought prior to the issuance of an occupancy permit for any structure authorized by the Land Use Permit. Minor changes to an approved site plan shall be permitted only under the following circumstances:
  - 1. The owner of property for which a site plan land use has been approved shall notify the Zoning Administrator of any desired minor change to the approved site plan. Minor changes may only be approved by the Zoning Administrator upon determining that the proposed revision(s) will not alter the minimal dimensional and other design standards of the site plan, and any specified conditions imposed as part of the original site plan approval. Minor changes shall include the following:
    - a. Reduction of the size of any building and/or sign.
    - b. Movement of buildings and/or signs by no more than ten (10) feet provided the movement is within the dimensional setback or building footprint for the appropriate zoning district or as otherwise approved by the Commission or the ZBA for the site plan.
    - c. Landscaping approved on the site plan that is replaced by similar landscaping to an equal or greater extent.
    - d. Changes in floor plans that do not exceed five (5) percent of the total floor area and which do not alter the character of the use or increase the amount of required parking.
    - e. Internal re-arrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design.

- f. Changes related to subsections a through e above, required or requested by state or federal regulatory agencies in order to conform with other laws or regulations; provided the extent of such changes does not alter the basic design and character of the site plan, nor any specified conditions imposed as part of the original approval.
2. All amendments to a site plan approved by the Zoning Administrator shall be in writing. After approval by the Zoning Administrator, the Applicant shall prepare a revised site plan showing the approved amendment. The revised site plan shall contain a list of all approved amendments and a place for the zoning administrator to sign and date all approved amendments.

#### **SECTION 16.20 AS-BUILT SITE PLAN**

- A. For a project which requires a detailed site plan review, an as-built site plan shall be submitted to the Township within 90 days of completion or occupancy, whichever comes first. This site plan shall be prepared to the same standard as the approved site plan. The Zoning Administrator shall use this as-built site plan as a comparison to the approved site plan, and the actual construction on the ground to insure compliance with the conditions, and other requirements of the site plan, Planned Unit Development, special use permit, and requirements of this Ordinance.
- B. If the as-built site plan does not show compliance with the conditions, and other requirements of the site plan, Planned Unit Development, special use permit, and requirements of this Ordinance the deviation shall be considered a violation of this Ordinance and shall be subject to any applicable enforcement remedy.

## ARTICLE 17

### SPECIAL LAND USE PERMITS

*(Amended by Amendment 06-002 effective on April 8, 2016)*

#### **SECTION 17.1 INTENT**

Zoning has traditionally regulated the uses of land and of structures by assigning such uses to one or more land use districts. With the increasing size and complexity of development projects being proposed and carried out, new and more flexible procedures have had to be worked out to meet the needs of the developer and at the same time to more effectively protect the environment and the interests of the community. Article 17 Special Land Use Permits, affords such procedures, as provided in the 1979 amendments to the Township Rural Zoning Act, PA 184 of 1943.

#### **SECTION 17.2 DEFINITION**

A special use is a use having greater than usual impact on the environment, the community and/or the neighboring property holders. Plans for development for a special use are presented at a public hearing, reviewed by the Planning Commission and reviewed by all affected government agencies. The Planning Commission approves or denies a Special Land Use Permit.

#### **SECTION 17.3 INTENT**

It is the intent and purpose of this Article to provide a set of procedures and standards for the granting of special land use permits in each of the districts in which special land uses are identified, at all times maintaining provisions for the protection of the health, safety, convenience and general welfare of the Township's residents. Because of the complexity and unique characteristics of many special uses, this Article shall provide for detailed review giving particular consideration to the welfare of adjacent lots and to the potential impact on the environment and on the community as a whole. In addition to approving a special land use permit, a site plan must also be approved.

#### **SECTION 17.4 PRE-EXISTING USE**

Any existing use actually undertaken, which is permissible by right in the district, shall continue as a permissible use even if that use is later designated a special use. Any expansion of the original permissible use, later designated special, must proceed through the special use process for approval.

#### **SECTION 17.5 REVIEWING AUTHORITY**

All applications for special land use permits shall be considered by the Planning Commission. The Commission shall have a quorum of five (5) members to consider a special land use application, and shall require a majority of the full Commission to approve or deny the special land use permit and site plan. The Commission shall have the authority to grant, to deny, or to grant with conditions such special land use permits, and its determination shall be considered final, and may be appealed only to the Circuit Court of Leelanau County.

### **SECTION 17.6 ELIGIBILITY**

Only those special land uses and activities specifically set forth as eligible for consideration in the particular zoning district in which they are to be located, may be considered for a special land use permit.

### **SECTION 17.7 PREAPPLICATION CONFERENCE**

An applicant may request an informal conference to discuss a proposed site plan, or to assess the feasibility of a project. The request may be put on the agenda of a scheduled meeting of the Commission. If the applicant wishes to avoid premature publicity, he may request a meeting with a committee, upon payment of an established fee. The Chairman of the Commission shall appoint the committee, which shall not include a quorum of the Commission and which may include Board members, a member of the Zoning Board of Appeals, or whomever he/she finds qualified and appropriate.

### **SECTION 17.8 APPLICATION AND FEE**

All applications for a special land use permit shall be submitted to the Planning Commission through the Zoning Administrator on a form available from the Zoning Administrator. The applicant shall provide eleven (11) copies of the application together with all accompanying data. Each application shall be made by the owner(s) of record of the property on which the proposed land use is to exist or be conducted, and shall be accompanied by the payment of a fee as set forth in the schedule established by the Township Board to cover the costs of processing the application and of site plan review. No part of any fee shall be refunded, even in the event of withdrawal of the application.

### **SECTION 17.9 COPIES TO OTHER AGENCIES**

The applicant shall submit a copy of the application and two (2) copies of the site plan to each of the following agencies: County Road Commission, County Drain Commissioner, District Health Department, Leelanau County Soil Erosion Control Officer, Suttons Bay/Bingham Fire Department. Upon delivery of the application and site plans, the applicant shall obtain a receipt from each agency as proof of delivery, or a stamped, signed site plan indicating no comment.

### **SECTION 17.10 NOTIFICATION OF THE DNR**

If the application shows any wetland areas on the site plan or on a required map showing creeks, streams, lakes, ponds, or wetland areas within one thousand five hundred (1,500) feet of the property in question, the Secretary of the Commission shall send the Department of Natural Resources a notice of any meetings and/or hearings, with copies of the application, the site plan, the maps submitted, and any other pertinent material; and the DNR shall be asked to express any concerns they may have. This does not relieve the applicant of any responsibility to obtain a wetlands permit from the DNR.

### **SECTION 17.11 DATA REQUIRED**

- A. All applications for Special Land Use Permits are subject to the requirements of Article 16 Site Plan Review, and the following additional information:

1. A detailed description of the proposed special use for which the permit is requested, and the title of the project.
2. Project completion schedule/development phases.

B. The following additional information shall accompany the application:

1. A site plan drawn at a minimum scale of one inch equals fifty feet (1"=50'), sufficient to show the lot/lots on which the proposed special use is to exist or be conducted, including soils, natural features, vegetation and topography; location of all internal and abutting streets and roads, and parking areas; existing buildings and structures if any, and the proposed location of buildings and structures to be constructed or used as part of the proposed special use; location of on site sources of water, lagoons and other sewerage plans; utility lines and pipes.
2. Site plans for large scale projects may not be feasible for review at a scale of 1" = 50'. In these cases, a site plan drawn at a smaller scale may be submitted with Planning Commission approval.
3. A statement, which may be included in the site plan, setting forth the height of existing and of proposed structures, as well as the total acreage of the property involved.

#### **SECTION 17.12 PROCEDURE UPON RECEIPT OF APPLICATION**

Upon receipt of a special land use application which is supported by the data required above, the application shall be put on the agenda for the earliest Commission meeting practicable, for preliminary consideration. The Zoning Administrator shall see that notices are published and mailed to neighbors. See Section 21.3.3 Notices.

#### **SECTION 17.13 GOVERNING STANDARDS**

In deciding to grant or to deny a special land use application, the Commission shall establish that the following standards shall have been satisfied, together with all other requirements of the Ordinance. The standards enumerated herein are intended to promote the intent and purpose of the Ordinance and to ensure that the land use or activity authorized shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the proposed land use. These standards shall ensure that the proposed land use or activity is consistent with the public health, safety and welfare of the Township.

Each of the proposed special land uses on the proposed location shall:

- A. Be designed, constructed, operated and maintained so that such use will not change the essential character of the district classification in which it is proposed.

- B. Be served adequately by essential public facilities and services, including but not limited to highways, streets, off-street parking, police, fire protection, drainage district, refuse disposal, water and sewage facilities, schools, etc.
- C. Not unduly burden the capacities of public services and facilities affected by the proposed special use, nor result in excessive additional public cost for the creation of facilities and services not otherwise available.
- D. Not adversely affect the natural environment, especially any creek, stream, lake, pond, wetlands area, floodplain or the groundwater.
- E. Not adversely affect farmland, but to the extent practicable preserve it as open space or buffer it with open space.
- F. Demonstrate in the site plan that there exists sufficient protection to ensure that there will be no additional storm water runoff created by the proposed special land use; or that adequate and full measures have been taken to accommodate such storm water runoff on the proposed site location. For purposes of this standard, the storm water runoff shall be that as designated by the ten year rain standard.
- G. Provide that all off-street parking and all loading and unloading areas and outside storage areas, including areas for the storage of trash, which face or are visible from neighboring property or public thoroughfares, shall be screened by a vertical screen consisting of structural or plant materials no less than six (6) feet in height.
- H. All night lighting shall conform to the requirements of Section 3.14 Outdoor Lighting Standards.
- I. Meet all the district requirements for special land uses in the district for which the special land use is proposed.
- J. Be in compliance with the requirements of the district in which it is proposed and with all other standards in this Ordinance, as well as with the requirements of the County Road Commission, County Building Inspector, County Drain Commissioner, District Health Department, Leelanau County Soil Erosion Control Officer, Suttons Bay/Bingham Fire Department, DNR, and other applicable Township, County, State, and Federal statutes.
- K. Be shown on a site plan. If the site plan, along with any required conditions, is approved by the Planning Commission, a Special Land use Permit will be prepared by the Zoning Administrator. The permit will contain any conditions of approval, and will not be valid unless signed by the applicant within ninety (90) days of issuance. No activity in the application shall be allowed until the signed Special Land Use Permit is received by Bingham Township.

*(Annotation: Section added by Amendment 18-003, effective November 2, 2018)*

## **SECTION 17.14 CONDITIONS AND SAFEGUARDS**

Additional conditions and safeguards may be imposed by the Commission if reasonable, and necessary to protect the natural environment or to conserve natural resources or energy, to ensure compatibility with adjacent uses of land, to promote the use of the land in a socially and economically desirable manner, and to ensure that public services and facilities affected by the proposed land use or activity will be capable of accommodating the increased activity.

Any conditions so imposed shall meet the following requirements:

- A. Be designed to protect natural resources, including but not limited to modification of setback requirements and limitations on the area to be developed.
- B. Be designed to protect the health, safety, welfare, social and economic well-being of those who will be using the proposed special land use or activity under consideration.
- C. Be designed to protect Township residents, and lot owners adjoining the proposed special land use or activity, including but not limited to requirements such as screening, or the erection of natural or artificial barriers, or limitations on the time of day during which construction may occur, or during which special use activities may be carried on.
- D. Be necessary to meet the intent and purposes of this Ordinance, and be related to the standards established for the land use activity under consideration, and be necessary to ensure compliance with those standards.
- E. Be necessary to ensure compliance with any part of the application received and approved by the Commission.
- F. Be recorded as part of the special land use permit.

## **SECTION 17.15 PUBLIC HEARINGS**

Following preliminary consideration, if the Commission is satisfied with the data submitted, or promised, the Commission shall set a date for a public hearing on the special land use application. A notice of the hearing shall be published, and mailed to the applicant and to the adjoining residents and property owners, as was done for the preliminary consideration upon receipt of the application. Subsequent meetings shall require only a published notice. See Section 21.3.3 Notices.

## **SECTION 17.16 VARIANCES**

Where the applicant is dependent upon the grant of any dimensional variances by the Zoning Board of Appeals, said favorable action by the Zoning Board of Appeals is necessary before a special land use permit is granted and site plan approval given. An approved site plan shall include a note referencing the case number and date of all variances granted.

**SECTION 17.17 GRANT OR DENIAL OF THE SPECIAL LAND USE PERMIT**

If, after the public hearing(s) on the application for a special land use permit, the Commission determines that all the agencies listed in Section 17.9 Copies to Other Agencies have responded, that all the standards have been met by the applicant and there are no further conditions or safeguards to be imposed, and that the request is otherwise in compliance with this Ordinance and any other applicable ordinances, and with State and Federal statutes, the Commission shall approve the special land use application, and the site plan. In the event that the Commission determines that the application fails to establish a sufficient basis for granting a special land use permit, the same shall be denied, and the reasons for denial shall be set forth in writing in the determination made by the Commission. Only upon approval of the Commission may a special land use permit be issued by the Zoning Administrator.

**SECTION 17.18 REAPPLICATION**

No application for a special land use permit which has been denied wholly or in part by the Commission shall be resubmitted until the expiration of 120 days from the date of denial, except on grounds of newly discovered evidence or proof of changed conditions. Where the Zoning Board of Appeals has considered a variance pursuant to Section 17.16 Variances the one hundred and twenty (120) days shall be calculated from the date on which the Zoning Board of Appeals took action.

**SECTION 17.19 BINDING EFFECT**

Any special land use permit approved by the Commission pursuant to the provisions of this Ordinance shall be binding between the parties, and said use shall not be substantially modified, altered, expanded or otherwise changed, unless the developer reapplies for a special land use permit and repeats the process outlined in this Article. Further, such conditions shall run with the land, and be binding on the land owner, his successors, heirs, and assigns.

If at any time during the existence of the special land use(s) permitted, the lot(s) and/or structures are used contrary to the conditions and provisions of the permit, said use shall be deemed a zoning violation and the permit shall be considered revoked.

**SECTION 17.20 INSPECTIONS**

The Zoning Administrator shall be responsible for the inspection of all improvements for conformance to the approved site plan. All subgrade improvements, such as utilities, subbase and base installations for streets, drives and parking lots, and similar improvements shall be inspected by the Zoning Administrator or other appropriate official, and approved before covering. But it is the responsibility of the applicant to request such necessary inspections at the appropriate times. The Zoning Administrator shall report periodically to the Commission on progress being made. He shall notify the Commission in writing of any failure on the part of the applicant to meet the requirements of the site plan and special use permit, and report on steps being taken to ensure compliance.

The fee schedule established by the Township Board shall include special fees to cover large and complex projects, reflecting the costs to the Township of such repeated inspections.



## ARTICLE 18

### NONCONFORMITIES

(Annotation: Article amended in its entirety by Amendment 15-004, effective May 8, 2015)

#### SECTION 18.1 INTENT

It is the purpose of this section to permit the continuance of the lawful use of any parcel, structure, or use existing at the effective date of this Ordinance or of any amendments, although such uses of lots or structures may not conform to the provisions of this Ordinance. The protection of private property rights and the continuance of nonconforming situations will be maintained through the provisions of this section.

#### SECTION 18.2 CHANGE OF TENANCY OR OWNERSHIP

There may be a change of tenancy, ownership or management of any existing non-conforming uses of land, buildings or structures, or premises, provided there is no change in the nature or character of such nonconforming uses, other than what is provided for within this Ordinance.

#### SECTION 18.3. NONCONFORMING PARCELS

A nonconforming parcel is that which does not conform to the district's area, width, or depth requirements. Any nonconforming parcel legally created on or before the date of this Ordinance or any applicable amendment, may be used for any purpose authorized within the district in which it is located. All setbacks and dimensional regulations within the Area shall be met, except when a variance is granted pursuant to the procedures and standards of this Ordinance.

#### SECTION 18.4 NONCONFORMING STRUCTURES: REPAIRS AND MAINTENANCE

Nothing in this Ordinance shall prevent the repair, reinforcement, improvement or rehabilitation of nonconforming buildings, structures, or parts thereof existing at the effective date of this Ordinance or any applicable amendments, rendered necessary by wear and tear, deterioration or depreciation; nor prevent compliance with the provisions of the P.A. 230 of 1972, as amended, (being the Stille-Derossett-Hale Single State Construction Code Act, M.C.L. 125.1501 et. seq.), relative to the maintenance of buildings or structures;

#### SECTION 18.5 NONCONFORMING STRUCTURES: REPLACEMENT, ALTERATION OR EXPANSION

- A. Any nonconforming building or structure whose use conforms to the requirements of this Ordinance may be altered or expanded, so long as such alterations or expansions are themselves in conformance with the setbacks of the zoning district in which they exist and with all other requirements of this Ordinance.

- B. Nonconforming structures, with the exception of non-enclosed structures (such as decks), may be expanded in height up to the limits allowed in this ordinance.
- C. Replacement of a nonconforming building or structure is permitted in the size, shape and footprint of the structure being replaced except where abandoned as described in Section 18.7.
- D. No nonconforming building damaged by fire, act of God or other causes to the extent that the damage is total (i.e. the insurance coverage, if it existed, would pay the full amount insured) shall be repaired or rebuilt, except
  - 1. in conformity with the permitted and/or special use provisions of this Ordinance, in conformity with the footprint and size limitation of Section 18.5.C, and
  - 2. reconstruction, repair or restoration of the original use shall be completed within one (1) year following the damage and resumption of use takes place within ninety (90) days of completion. The Zoning Administrator may grant a one (1) year extension after a written request of the property owner is received and if one of the following conditions exist:
    - a. The delay was not avoidable due to weather;
    - b. The delay was a result of a criminal investigation;
    - c. The delay was a result of a dispute between the owner and an insurance company concerning what is covered by insurance, or
    - d. Property held in probate.

**SECTION 18.6 NONCONFORMING USE: REPLACEMENT OR EXPANSION**

- A. Replacement of the same nonconforming use in a building or structure is permitted in the size, shape and footprint of the structure being replaced except where abandoned as described in Section 18.7. In the event the building or structure is destroyed under conditions similar to those under Section 18.5.D, the structure shall only be reconstructed in accordance with Section 18.5.D.2.
- B. A nonconforming use shall not be increased.
- C. Change in use may be permitted by the Planning Commission after holding a Public Hearing, if the proposed change meets the following standards:
  - 1. Will constitute a less intensive nonconforming use than the nonconforming use it is replacing.

2. Existing use was lawful at the time of its inception (i.e. legal nonconforming use);
3. Will not adversely affect surrounding properties;
4. Will not change the character of the district in which it is located;
5. Will not adversely affect the natural environment, especially any creek, stream pond, lake, wetland area, floodplain or groundwater;
6. Shall comply with any conditions imposed by the Commission that are necessary to ensure that the proposed change in use will not prove detrimental to the adjacent properties, the neighborhood, or the community;

**SECTION 18.7 NONCONFORMING USE OR STRUCTURE:  
ABANDONMENT**

If a property owner has intent to abandon a nonconforming use or structure and in fact abandons this nonconforming use or structure for a period of one (1) year or more, then any subsequent use of the property or structure shall conform to the requirements of this Ordinance.

- A. When determining the intent of the property owner to abandon a nonconforming use or structure, the Administrator shall consider the following factors:
  1. Whether utilities, such as water, gas, and electricity to the property have been disconnected;
  2. Whether the property, buildings, and grounds have fallen into disrepair;
  3. Whether signage or other indications of the existence of the nonconforming use have been removed;
  4. Whether equipment or fixtures necessary for the operation of the nonconforming use have been removed;
  5. Whether U.S. mail deliveries have been terminated or forwarded to another address;
  6. Whether the classification of the property for tax purposes has been changed to reflect another use;
  7. Other information or actions that evidence an intention on the part of the property owner to abandon the nonconforming use or structure;
  8. Whether permits have been obtained to reconstruct a nonconforming structure or use.

B. Action to find a nonconforming use was intended to be discontinued by the owner may be delayed if any of the following is ongoing:

1. Property held in Probate;
2. Insurance settlement in dispute; or
3. Criminal investigation.

**ARTICLE 19**

**OPEN**

**ARTICLE 20**

**OPEN**

## ARTICLE 21

### ADMINISTRATION AND ENFORCEMENT

#### SECTION 21.1 ADMINISTRATION

The provisions of this Ordinance shall be administered by the Township Board, and where special land uses are under consideration by the Township Planning Commission.

#### SECTION 21.2 ZONING ADMINISTRATOR

The Zoning Administrator is the administrative and enforcement officer of the Township. He/she shall perform such duties as the Township Board may prescribe, in addition to any duties set forth in this Ordinance.

##### SECTION 21.2.1 APPOINTMENT

The Township Supervisor, with Board approval, shall appoint the Zoning Administrator.

##### SECTION 21.2.2 ELIGIBILITY

To be eligible for appointment, the Zoning Administrator shall be generally informed on good building construction, on good practice in fire protection, and the proper installation of safety, health and sanitary facilities. The Zoning Administrator shall be in good health and physically capable of fulfilling the duties of his position. The Zoning Administrator shall not be a member of the Township Board, the Planning Commission, or the Zoning Board of Appeals. In case the Zoning Administrator is personally interested in the construction of any building or in any land use subject to the provisions of this Ordinance, the Township Board shall designate some other person to examine the plans, inspect such property, and issue the necessary permits, approvals and certificates.

##### SECTION 21.2.3 LIMITATIONS

Under no circumstances is the Zoning Administrator to make changes in this Ordinance or to vary its terms in carrying out his duties.

#### SECTION 21.3 DUTIES OF THE ZONING ADMINISTRATOR

##### SECTION 21.3.1 INFORMATION

The Zoning Administrator shall provide information to the public on matters relating to Township zoning, and make available copies of this Ordinance at a price to cover the cost of printing. He shall make available for public inspection all applications for land use permits, variance requests, and written appeals and complaints received, and furnish copies at cost to anyone requesting them.

## **SECTION 21.3.2 APPLICATIONS**

The Zoning Administrator shall accept and process applications for land use permits, requests for re-zoning, requests for dimensional variances, and appeals from administrative decisions and actions, as set forth in this Ordinance.

## **SECTION 21.3.3 NOTICES**

*(Annotation: Amended by Ordinance No. 01-112111, effective December 9, 2011)*

- A. **Public Notification:** All applications requiring a public hearing or public notice shall comply with the Michigan Zoning Enabling Act, PA 110 of 2006 (as amended) and the other provisions of this section with regard to public notification.
  
- B. **Responsibility:** When the provisions of this Ordinance or the Michigan Zoning Enabling Act require that notice be published, the Zoning Administrator shall be responsible for preparing the content of the notice, having it published in a newspaper of general circulation in Bingham Township and deposited during normal business hours for delivery with the U.S. Postal Service or other public or private delivery service, or personally delivered.
  
- C. **Content:** All mail, personal and newspaper notices for public hearings shall:
  - 1. **Describe the nature of the request:** Identify whether the request is for a rezoning, text amendment, special land use, planned unit development, variance, appeal, ordinance interpretation or other purpose.
  
  - 2. **Location:** Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the subject property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used such as a tax parcel identification number, identifying the nearest cross street, or including a map showing the location of the property. No street addresses must be listed when eleven (11) or more adjacent properties are proposed for a zoning amendment, or rezoning, or when the request is for an ordinance interpretation not involving a specific property.
  
  - 3. **When and where the request will be considered:** Indicate the date, time and place of the public hearing(s).
  
  - 4. **Written comments:** Include a statement describing when and where written comments will be received concerning the request. Include a statement that the public may appear at the public hearing in person or by counsel.
  
  - 5. **Handicap access:** Information concerning how handicap access will be accommodated if the meeting facility is not handicap accessible.



#### D. Personal and Mailed Notice

1. General: When the provisions of this Ordinance or state law require that personal or mailed notice be provided, notice shall be provided to:
  - a. The owners of property for which approval is being considered, and the applicant, if different than the owner(s) of the property.
  - b. Except for a zoning amendment, or rezoning, requests involving eleven (11) or more adjacent properties or an ordinance interpretation request that does not involve a specific property; to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property subject to the request, regardless of whether the property or occupant is located within the boundaries of the Bingham Township. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one (1) occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice shall be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.
  - c. Other persons which have requested to receive notice.
2. Notice by mail/affidavit: Notice shall be deemed given by its deposit with the U.S. Postal Service, or other public or private delivery service, or personally delivered during normal business hours.
3. The Zoning Administrator shall prepare a list of property owners and registrants to whom notice was mailed, as well as of anyone to whom personal notice was delivered.

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

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

#### **SECTION 21.3.4    INSPECTIONS**

The Zoning Administrator shall conduct inspections and collect such investigative data as is deemed necessary to carry out his duties in the enforcement of this Ordinance, and to assist the Planning Commission and the Zoning Board of Appeals in carrying out their duties. No person shall refuse to permit the Zoning Administrator to inspect any premises at reasonable times, nor shall any person molest or resist the Zoning Administrator in the discharge of his duties.

#### **SECTION 21.3.5 RECORD KEEPING**

The Zoning Administrator shall maintain records of the administration and enforcement of this Ordinance, including but not limited to the following:

- A. The Ordinance and all amendments adopted, and an updated Zoning Map. A copy of the updated Map shall be posted in the Bingham Schoolhouse.
- B. A file of all parcels of land incurring zoning activity. Parcels shall be identified and filed by property tax number. Each parcel file shall include:
  - 1. All applications for land use permits and their denial or approval and subsequent history.
  - 2. Variance requests and appeals and action taken by the Zoning Board of Appeals.
  - 3. Citations for violation of this Ordinance and the action taken.
  - 4. Affidavits of notices mailed.
- C. Annual and monthly written reports to the Board, with a copy to the Planning Commission.

#### **SECTION 21.3.6 ENFORCEMENT**

The Zoning Administrator shall initiate appropriate action to prevent, restrain, correct, or abate any illegal act or violation of this Ordinance.

#### **SECTION 21.4 LAND USE PERMITS**

##### **SECTION 21.4.1 TOWNSHIP LAND USE PERMITS:**

Any individual, partnership, corporation, association, officer, department, board, or bureau of the State, County, or Township, planning to move or erect a building or structure, or alter any existing structure or mobile home to the extent of more than one hundred (100) square feet of floor area, or replace a mobile home as a dwelling by another mobile home, or to establish a new use for any lot, shall obtain an approved land use permit prior to such action from the Zoning Administrator. Application for this permit shall be made with the Zoning Administrator on a form/application provided by the Township. Erecting a sign may also require a permit. (See Section 3.13 Signs) Septic systems are excepted, and do not require a land use permit. Lot and boundary line fences are fully excepted. *Amended BTPC9-20-95*

## **SECTION 21.4.2 REGULAR LAND USE PERMITS**

*(Amended by Ordinance No. 1 of 2008, effective August 7, 2008)*

- A. Applications for permits for land uses not classified in the Ordinance as special land uses, nor as land uses permitted only after a public hearing, shall be submitted to the Zoning Administrator for his approval. Four (4) copies shall be provided, including plot plans and supporting material, for the Zoning Administrator, the Township file, the Assessor, and one to be returned to the applicant, signed by the Zoning Administrator and indicating approval or disapproval. The permit, having been signed by the Zoning Administrator and by the applicant, shall constitute an agreement between the applicant and the Township that all the requirements of the permit and of this Ordinance will be met.
- B. Applications shall include:
1. Proof of ownership of the property in question.
  2. The property tax number or a legal description of the property.
  3. A plot plan acceptable to the Zoning Administrator, showing:
    - a. The length and width of the lot.
    - b. Dimensional size and location of all structures to be erected.
  4. A Health Department permit, if the proposed development requires a well or sewage disposal system.
  5. A driveway permit from the Leelanau County Road Commission if applicable.
  6. Any other information deemed necessary by the Zoning Administrator to determine compliance with this Ordinance, and to provide for its enforcement.
- C. Regular Land Use Permits shall be valid for a period of one (1) year from the date the permit is issued. Permits may be extended for an additional one (1) year by the Zoning Administrator upon request from the Permit Holder.

The Regular land Use Permit shall become invalid if the authorized work is not complete within one (1) year after issuance of the permit, unless extended by the Zoning Administrator.

## **SECTION 21.4.3 SPECIAL LAND USE PERMITS**

Applications for Special Land Use Permits shall be submitted to the Planning Commission through the Zoning Administrator. See Article 17 Special Land Use Permits and Article 16 Site Plan Review.

#### **SECTION 21.4.4 LAND USE PERMITS CONDITIONAL UPON A HEARING**

Where a land use is permitted with conditions, and one of those conditions is a hearing conducted by the Commission, which then approves or disapproves the application, the application must be submitted to the Commission through the Zoning Administrator. Eleven (11) copies shall be provided, including plot plans as described in Section 21.4.2 Regular Land Use Permits, for the seven Commissioners, the Zoning Administrator, the Township file, the Assessor, and one to be returned to the applicant with an indication of approval or disapproval, signed by the Chairman of the Planning Commission.

The permit, having been signed by the Commission Chairman and by the applicant, shall constitute an agreement between the applicant and the Township that all the requirements of the permit and of this Ordinance will be met.

Applications shall include:

- A. Proof of ownership of the property in question.
- B. The property number and a legal description of the property.
- C. A plot plan drawn to scale, with a minimum of one inch to represent fifty feet (1":50'), showing:
  1. The boundaries of the lot, its width and depth.
  2. Existing and intended uses, including location, size and height, and number of stories, of all structures existing or to be erected, with setbacks noted.
  3. Location of water supply and septic systems.
  4. Any change in the contour of the parcel.
  5. Driveway and parking areas.
  6. The centerline(s) of any road(s) or unimproved road(s).
  7. Location of any easements.

The Commission may require the property to be located by a registered surveyor, in cases where property boundaries are not clearly indicated by corner markers or other means.

- D. A Health Department permit, if the proposed development requires a well or sewage disposal system.
- E. A driveway permit from the Leelanau County Road Commission if applicable.
- F. Any other information deemed necessary by the Commission to determine compliance with the Ordinance, and to provide for its enforcement.

#### **SECTION 21.4.5 TEMPORARY USE PERMITS**

The Zoning Administrator is authorized to issue a temporary land use permit for temporary uses, as follows:

- A. Carnival, Circus, or Fair, for a period not to exceed seven (7) days.
- B. Open Lot Sale of Christmas Trees, for a period not to exceed forty-five (45) days.
- C. Real Estate Sales Office, for a period not to exceed one (1) year, provided no cooking or sleeping accommodations are maintained in the structure.
- D. Contractor's Office and Equipment Sheds, for a period not to exceed one (1) year, provided that such office be placed on the property to which it is appurtenant.

#### **SECTION 21.5 FAILURE TO PASS INSPECTION**

##### **SECTION 21.5.1 WARNING**

Should the Zoning Administrator determine that the building or structure is not located according to the site and construction plans filed, or is in violation of any provisions of this Ordinance, or of any other applicable law, he shall so notify, in writing, the holder of the permit. Further construction shall be stayed until correction of the defects set forth has been accomplished, and upon notice and request for re-inspection by the applicant, inspections have been completed and written approval given.

##### **SECTION 21.5.2 CANCELLATION OF PERMIT**

*(Amended by Ordinance No. 1 of 2008, effective August 7, 2008)*

- A. Should the holder of a land use permit fail to comply with the requirements of the Zoning Administrator at any inspection stage, the Zoning Administrator shall cause notice of cancellation of the permit to be securely and conspicuously posted upon or affixed to the land use not conforming to the Ordinance requirements. Such posting shall be considered as serving notice of cancellation to the permit holder. No further activity in such use shall be undertaken or permitted until such time as the requirements of this Ordinance have been met. Failure of the permit holder to properly notify the Zoning Administrator of the time for an inspection shall automatically cancel the permit, requiring issuance of a new permit before the land use may proceed.

- B. The Zoning Administrator may suspend or revoke a permit issued in error or on the basis of incorrect information supplied by the applicant or his agent, or which is in violation of any of the ordinances or regulations of the Township

## **SECTION 21.6 VIOLATIONS**

### **SECTION 21.6.1 REPORTS OF VIOLATION**

Violations observed by residents of the Township may be reported to the Zoning Administrator to be investigated. This need not be in writing. The Zoning Administrator should keep the names of such residents confidential.

### **SECTION 21.6.2 NOTICES OF VIOLATION**

Whenever the Zoning Administrator determines that a violation of this Ordinance exists, he shall issue a notice of violation. Such notice shall be directed to each owner or party in interest in whose name the property appears on the last local tax assessment records.

### **SECTION 21.6.3 SERVING OF NOTICE**

All notices shall be in writing and shall be served upon the person to whom they are directed personally or, in lieu of personal service, may be mailed by regular mail, addressed to such owner or party in interest at the address shown on the tax records. An affidavit of mailing should be kept on file.

### **SECTION 21.6.4 CORRECTION OF VIOLATIONS**

All violations shall be corrected within thirty (30) days following the date of issuance of written notice to correct.

### **SECTION 21.6.5 PROSECUTION OF UNCORRECTED VIOLATIONS**

If steps have not been taken to correct the violation(s), they shall be remanded for prosecution to the Township's attorney, who may institute injunction, mandamus, abatement, or any other appropriate action or proceedings to prevent, enjoin, abate, or remove any unlawful erection, maintenance, or use.

## **SECTION 21.7 CIVIL AND CRIMINAL PENALTIES**

### **SECTION 21.7.1 CIVIL LAW**

Any building, structure or use constructed, altered, moved or maintained in violation of the provisions of this Ordinance is hereby declared to be a nuisance per se.

### **SECTION 21.7.2 PENALTIES**

*(Annotation: Section AMENDED by Amendment 13-003, effective June 7, 2013)*

Any person, firm, association, corporation or other entity which shall violate any provision of this Ordinance in any particular, or who fails to comply with any of the regulatory measures or conditions imposed by the Board of Appeals or the Planning Commission pursuant to this Ordinance

or otherwise pursuant to Michigan law shall be deemed to be responsible for a municipal civil infraction as defined by Michigan statute which shall be punishable by a civil fine for each violation in accordance with the schedule set forth herein, along with costs which may include all expenses, direct and indirect, to which the township has been put in connection with the municipal infraction. Costs of not less than \$9.00 or more than \$500 shall be ordered. A violator of this Ordinance shall also be subject to such additional sanctions and judicial orders as are authorized under Michigan law. Each day that a violation continues to exist shall constitute a separate violation of this Ordinance. Provisions of this Ordinance may also be enforced by suit for injunctive relief.

Civil Fines for Municipal Infractions

Unless otherwise provided elsewhere within this Ordinance for specific violations, Civil Fines for municipal civil infractions shall be assessed in accordance with the following schedule:

	<u>Fine</u>
1st violation	\$100.00
2nd violation within 3-year period	\$250.00
3rd violation within 3-year period	\$500.00
4th or subsequent violation within 3-year period	\$1000.00

**SECTION 21.7.3 APPEARANCE TICKETS AND MUNICIPAL CIVIL INFRACTION CITATIONS**

(Annotation: Section added by Amendment 13-003, effective June 7, 2013)

The Bingham Township Supervisor, the Bingham Township Zoning Administrator and the Bingham Township Attorney, are hereby authorized to investigate violations of this ordinance, and to issue and serve appearance tickets and citations, including municipal civil infraction citations, pursuant to MCL 764.9c, MCL 600.8701 and MCL 600.8707, on all persons in violation of this Zoning Ordinance. Such appearance tickets and/or citations shall be issued and served in accordance with applicable Michigan law.

**SECTION 21.8 FEES**

All fees for inspections and land use permits, zoning amendments and variances, shall be collected by the Zoning Administrator, and turned over to the Township's general fund. A schedule of fees shall be established by resolution of the Township Board, and shall be in an amount adequate to defray the cost of inspections and supervision, including necessary paperwork, and the publication of notices.

## ARTICLE 22

### ZONING BOARD OF APPEALS

*(Annotation: Article updated by Ordinance 01-112111, effective December 9, 2011)*

#### SECTION 22.1 ESTABLISHMENT

A Zoning Board of Appeals is hereby retained in accordance with P.A. 110 of 2006, the “Zoning Act”, as amended.

#### SECTION 22.1.1 MEMBERSHIP

There shall be five (5) members on the Zoning Board of Appeals, appointed by the Township Board as follows:

- A. The first member of the Zoning Board of Appeals shall be a member of the Planning Commission.
- B. The remaining members of the Zoning Board of Appeals shall be selected from electors of the Township. The membership must be representative of the population and interests present in the Township. One member may be a member of the Township Board, but may not serve as chairman of the Zoning Board of Appeals.
- C. The Township Board may choose to appoint an Alternate to the Zoning Board of Appeals to serve when a member is absent or has a conflict of interest.
- D. The Zoning Board of Appeals shall not conduct business unless a majority of the members are present.

#### SECTION 22.1.2 TERMS OF OFFICE

The term of each member of the Zoning Board of Appeals is three (3) years. The terms shall be staggered. The term of the member of the Planning Commission or Township Board shall not extend beyond their term. A successor must be appointed to any vacancy within one (1) month. Vacancies for unexpired terms shall be filled for the remainder of the term.

#### SECTION 22.1.3 COMPENSATION

Members of the Zoning Board of Appeals may be paid a reasonable per diem as agreed to by the Township Board, and be reimbursed for expenses actually incurred in the discharge of duties.

#### SECTION 22.2 RULES OF PROCEDURE, MAJORITY VOTE, MEETINGS AND RECORDS

##### SECTION 22.2.1 RULES OF PROCEDURE

The Zoning Board of Appeals shall adopt rules and regulations to govern its procedures, and shall elect a Chairman.



### **SECTION 22.2.2 MAJORITY VOTE**

The concurring vote of a majority of the members of the Zoning Board of Appeals shall be necessary to revise any order, requirement, decision or interpretation of the Zoning Administrator; to decide in favor of an applicant any matter upon which they are required to pass under this Ordinance; or to effect any variance in this Ordinance.

### **SECTION 22.2.3 MEETINGS**

Meetings of the Zoning Board of Appeals shall be held at the call of the Chairman, and at such other times as the Zoning Board of Appeals may specify in its rules of procedure. All meetings shall be open to the public.

### **SECTION 22.2.4 RECORDS**

Minutes shall be kept of each meeting, and the Zoning Board of Appeals shall record into the minutes all of its official actions, all findings, conditions, facts, and other relevant factors, including the vote of each member upon each question (or if absent or failing to vote, an indication of such fact). All records shall be open to the public. All minutes shall be filed with the Township Clerk.

### **SECTION 22.3 DUTIES AND POWERS**

The Zoning Board of Appeals shall perform its duties and exercise its powers so that the objectives of this Ordinance shall be attained, the public health, safety and welfare secured, and substantial justice done. The Zoning Board of Appeals is empowered to act upon the following matters:

#### **SECTION 22.3.1 INTERPRETATION**

- A. The Zoning Board of Appeals, upon request, shall interpret unclear language in the Ordinance.
- B. It shall determine the precise location of boundary lines between zoning districts, where uncertainty exists, including interpretation of the zoning map.

#### **SECTION 22.3.2 ADMINISTRATIVE REVIEW/APPEALS**

- A. A demand for a zoning appeal is received by the zoning administrator. Appeals can be filed by:
  1. a person aggrieved, or
  2. an officer, department, board, or bureau of the state or local unit of government.
- B. The Zoning Board of Appeals shall hear and decide appeals from, any administrative orders, requirements, decision or determinations made by an administrative official or body charged with enforcement of the zoning ordinance.
- C. The Zoning Board of Appeals shall have the authority to hear appeals regarding all

decisions concerning site plan review.

### **SECTION 22.3.3 VARIANCES**

The Zoning Board of Appeals may grant dimensional variances from the strict and literal enforcement of the provisions of this Ordinance. Practical difficulties unique to the property in question must be demonstrated before a variance is granted.

A. STANDARDS FOR VARIANCE. Listed below are the five standards to be applied:

1. That the need for the requested variance is due to unique circumstances or physical conditions of the property involved, such as narrowness, shallowness, shape, water, or topography as compared with other properties in the zoning district. The need for variance shall not be due to the applicant's personal or economic difficulty.
2. That the need for the requested variance is not the result of actions of the property owner or previous property owners (self-created).
3. That strict compliance with regulations governing area, setback, frontage, height, bulk, density or other dimensional requirements will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome.
4. That the requested variance is necessary to do substantial justice to the applicant as well as to other property owners in the district.
5. That the requested variance will not cause an adverse act on surrounding property, property values, or the use and enjoyment of property in the neighborhood or zoning district.

B. LESSER VARIANCE. The Zoning Board of Appeals may grant a lesser variance than that applied for if it would give substantial relief to the owner of the property and be more consistent with justice to other property owners.

C. CONDITIONS. The Zoning Board of Appeals may grant a variance with conditions necessary to comply with the intent of this Ordinance.

### **SECTION 22.3.4 NO USE VARIANCES**

Under no circumstances shall the Zoning Board of Appeals grant a variance to allow any use expressly or by implication prohibited by the terms of this Ordinance in the zoning district in which the variance is to be located.

### **SECTION 22.4 PROCEDURE FOR APPEALS, INTERPRETATIONS AND VARIANCE REQUESTS**

#### **SECTION 22.4.1 FILING**

- A. Any appeal of a decision shall be made within sixty (60) days from the date of the decision.
- B. Upon receipt of a request for an appeal, interpretation or variance, the Zoning administrator will review the request to insure it is complete that the fee is paid.
  - 1. If the application is not complete, the Zoning administrator shall return the application to the applicant with a letter that specifies the additional material required.
  - 2. If the application is complete, the Zoning administrator and chairman of the Zoning Board of Appeals shall establish a date to hold a hearing on the appeal.
- C. Ten (10) copies of all appeals and requests for variances shall be filed in writing through the Zoning Administrator, who shall transmit copies to the members of the Zoning Board of Appeals.
- D. A site plan of the subject property in question, showing all the salient features of the proposed project, shall accompany the appeal or variance request being filed. It shall be drawn to scale sufficient to illustrate the requested variance, showing structures and lot lines in question and other pertinent features.
- E. The notices of hearing shall be given in accordance with Section 21.3.3. Notices.
- F. Upon the hearing, any party or parties may appear in person or by agent or by attorney.

#### **SECTION 22.4.2 DECISIONS**

- A. APPEALS. The Zoning Board of Appeals shall hold a hearing within a reasonable amount of time after an appeal is filed. Upon hearing such an appeal, the Zoning Board of Appeals 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 Zoning Board of Appeals shall render its decision in writing, with grounds for its decision stated,

An appeal shall stay all proceedings in furtherance of the action appealed, unless the Zoning Administrator certifies to the Zoning Board of Appeals that a stay would in his opinion cause imminent peril to life or property, in which case the proceedings should not be stayed, other than by a restraining order by the courts.

- B. VARIANCES. The Zoning Board of Appeals shall hold a hearing within a reasonable amount of time after a variance request is filed. The Zoning Board of Appeals shall render its decision in writing, with grounds for its decision stated.

- C. RE-APPLICATION. No application for a variance which has been denied shall be resubmitted within ninety (90) days from the last date of denial.

#### **SECTION 22.4.3 NOTICES**

Notices of meetings of the Zoning Board of Appeals shall be given as described in Section 21.3.3 Notices, in Article 21 Administration and Enforcement.

#### **SECTION 22.4.4 CONDUCT OF MEETINGS**

- A. Copies of variance requests and appeals under consideration, and of the accompanying site plans, should be made available to the public.
  
- B. The Zoning Board of Appeals' hearing process is subject to the requirements of the Michigan Open Meetings Act (P.A. 267 of 1976, as amended).

#### **SECTION 22.4.5 JUDICIAL REVIEW**

The decision of the Zoning Board of Appeals shall be final. However, any party aggrieved by the decision may appeal to the Leelanau Circuit Court pursuant to the timing deadlines and any other requirements of the Zoning Act.

## ARTICLE 23

### AMENDMENTS

#### **SECTION 23.1 REQUEST AND PROCEDURES**Error! Bookmark not defined.

Any person affected by this Ordinance may submit a request in writing to the Secretary of the Planning Commission asking that consideration be given to a specific amendment to this Ordinance in the particulars set forth in the request. Upon receipt of such request, the Township Planning Commission shall, as soon as reasonably possible, but no later than sixty (60) days thereafter, schedule a meeting to consider such petition. The person submitting such petition shall be notified of the time and place of such meeting not later than ten (10) days prior thereto. The Planning Commission may either adopt or grant the request or deny the same in accordance with the law.

#### **SECTION 23.2 RESUBMITTAL**

No application for a rezoning which has been denied by the Township Board 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.

#### **SECTION 23.3 REZONING STANDARDS**

*(Annotation: Section added by Amendment 18-002, effective November 2, 2018)*

In reviewing an application for the rezoning of land, whether the application is made with or without an offer of conditions, factors that should be considered by the Planning Commission and the Township Board include, but are not limited to, the following:

- A. The proposed rezoning is consistent with the surrounding uses.
- B. There is no adverse physical impact on the surrounding properties.
- C. There is no adverse effect on property values in the adjacent area.
- D. There have been changes in land use or other conditions in the immediate area or in the community which justify the rezoning.
- E. Rezoning will not create a deterrent to the improvement or development of the adjacent properties in accordance with existing regulations.
- F. Rezoning will not grant a special privilege to an individual property owner when contrasted with other property owners in the area or the general public.
- G. There are substantial reasons why the property cannot be used in accordance with its present zoning classification.

- H. The rezoning is not in conflict with the planned use for the property as reflected in the master plan.
- I. If rezoned, the site will be served by adequate public facilities.
- J. There are no sites nearby that are already properly zoned and that can be used for the intended purposes.

## ARTICLE 24

### SEVERABILITY, VESTED RIGHT, AND EFFECTIVE DATE

#### SECTION 24.1 SEVERABILITY

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

#### SECTION 24.2 EFFECTIVE DATE

*(Annotation: Amended by Ordinance No. 01-121911, effective January 6, 2012)*

The provisions of this Ordinance are hereby given immediate effect pursuant to the provisions of P.A. 184 of 1943, as amended, (being the Township Zoning Act, M.C.L. 125.271 et seq.) and P.A. 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3101 et seq.).