

Lake Township Zoning Ordinance
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Article 1.

TITLE & PURPOSE

Section 1.1 TITLE

This ordinance shall be known as the Lake Township Zoning Ordinance.

Section 1.2 AREA OF JURISDICTION

The provisions of this Ordinance shall apply to all lands, public and private, throughout the incorporated areas of Lake Township, Benzie County, Michigan, to the extent permitted by law. The area of jurisdiction is referred to herein as the "Township." This shall include all land, buildings, yards, wetlands, woodlands and shoreline within the Township, including riparian lands and bottomlands of water bodies and shall be concurrent with other governmental entities having jurisdiction thereover. The concurrent jurisdiction of other governmental entities shall not limit the jurisdiction of the Township to regulate lands or activities within the Township, unless specifically exempted by another law.

Section 1.3 AUTHORITY

This Ordinance is ordained and enacted into law pursuant to the provisions and in accordance with the Michigan Zoning Enabling Act, Act 110 of the Public Acts of 2006, as amended (MZE). The continued administration of this Ordinance, amendments to this Ordinance, and all other matters concerning the operation of this Ordinance shall be implemented and accomplished pursuant to the MZE.

Section 1.4 PURPOSE

In accordance with the authority and intent of Michigan Zoning Enabling Act, Public Act 110 of 2006 as amended, the Township desires to provide for the orderly development of the Township, which is essential to the wellbeing of the community. The Township further desires to:

- A. Promote the public health, safety and general welfare;
- B. Encourage the use of lands in accordance with their character and adaptability and to limit the improper use of land and protect water resources;
- C. Control sprawl, guide development, redevelopment, and maintain rural Northern Michigan character;

- D. Control congestion on the public roads;
- E. Facilitate adequate provisions for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation and other public requirements and to conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources and properties;
- F. Consider the character of each district, its suitability for particular uses, the existing property values and natural resources, and that the trend and character of land uses, building and population development are appropriate for community needs.

Section 1.5 RELATIONSHIP TO THE MASTER PLAN

This Ordinance is a tool used by the community to effectuate the recommendations of the Lake Township Master Plan and other planning documents, which serve as a guide to the long-term physical development of the Township.

Section 1.6 VALIDITY AND 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 directly involved in the controversy in which said judgment shall have been rendered.

Section 1.7 CONFLICTING ORDINANCE OR REGULATION

Where this Ordinance or portions thereof, impose different restrictions upon the use of structures or land, or upon height or dimensions of structures, or requires different open spaces or yards than imposed by any other Ordinance, State or Federal law or regulation, deed restrictions, or private covenants, the more restrictive provisions shall govern.

Section 1.8 REPEAL OF PRIOR ORDINANCE

The Lake Township Zoning Ordinance effective July 22, 2010 is hereby repealed with the provision that a situation that was not a lawful, non-conforming situation under the previous Zoning Ordinances does not achieve lawful non-conforming status under this Ordinance and a lot which was not a lot of record under the previous Zoning Ordinances does not achieve the status of a new lot of record herein.

Section 1.9 COMPUTATION OF TIME

Unless otherwise specifically provided, the time within which an act is to be done shall be computed by excluding the first and including the last day. If the last day is a Saturday, Sunday or legal holiday, that day shall be excluded.

Section 1.10 AMENDED MICHIGAN STATUTES

Whenever any provision of this Ordinance refers to or cites any agency, act, or law and the agency, act or law is later amended or superseded, the new agency, act, or law shall apply in place of the old reference.

Section 1.11 EFFECTIVE DATE

Made and passed by the Township Board of Lake Township, Benzie County, Michigan, on XX and effective on XX. This Ordinance shall be in full force and effect from and after XX, with all amendments effective from the dates listed in the “Summary of Amendments” table at the beginning of the Ordinance.

Section 1.12 ADOPTION

We hereby certify that the foregoing ordinance is a true copy of an ordinance as enacted by the Township Board of Trustees on XX.

- A. Public hearing by Planning Commission: XX
- B. Recommendation of Planning Commission to approve the Zoning Ordinance text to the Township Board: XX
- C. Township Board adoption of the Zoning Ordinance text and map: XX
- D. Date the Ordinance text and map originally took effect, prior to any amendments: XX

Mary Pitcher, Supervisor Date

I, Penny Georgevich, Clerk of Lake Township, Benzie County, Michigan, hereby certify that notice of adoption of the foregoing ordinance was published pursuant to the provisions of Michigan Public Act 110 of 2006, as amended, in a newspaper of general circulation in Chikaming Township on XX.

Penny Georgevich, Clerk Date

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Article 2.

GENERAL PROVISIONS

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Section 2.1 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, reconstructed, altered or used for purposes other than in conformity with the provisions of this Ordinance which shall apply to all land use districts in Lake Township.

Section 2.2 APPLICABILITY

Unless otherwise specifically stated, the provisions of this Article shall apply to all lands within the Township and within all zoning districts. As an aid to users, this Ordinance cross-references sections that are or might be applicable to other sections. An incorrect or lack of cross-reference does not relieve a person from complying with all applicable requirements of this Ordinance. The Ordinance must be read and applied “as a whole.”

Section 2.3 VESTED RIGHT

Nothing in this Article should be interpreted or construed to give rise to permanent vested rights in the continuance of any particular use, district, zoning classification, or any permissible activities therein, and they are hereby declared to be subject to subsequent amendment, change, or modification, as may be necessary to the preservation or protection of public health, safety, and welfare.

Section 2.4 REQUIRED WATER SUPPLY & SANITATION FACILITIES

Buildings erected, altered or moved upon any premises and used in whole or in part as either year-round or seasonal dwellings or for recreational, business, commercial or industrial purposes, including religious institutions, schools, and other buildings in which persons customarily congregate, shall have adequate water and sanitary facilities as determined by the County Health Department.

Section 2.5 PROHIBITED USES

No building or structure or part thereof shall be erected, altered or used, or land used, in whole or in part, for any use, process or activity resulting in the emission of odor, fumes, dust, smoke, waste, noise or vibration, light encroachment, accumulation of trash or other unsightly conditions which shall make it obnoxious to the public interest, health or welfare, or is not specifically permitted by the terms of this Ordinance.

All activities, in any zoning district, shall be conducted so as not to create or permit trespass or spillage of dust, glare, sounds, noise, vibrations, fumes, odors, or light onto neighboring properties, adjacent streets or public right of ways.

Section 2.6 DWELLINGS ON MORE THAN ONE LOT

If a structure is to be located on a parcel of land containing 2 or more lots under single ownership, the entire parcel shall be considered a "lot" for purposes of this Ordinance.

Section 2.7 ACCESS TO ROAD / DRIVEWAYS

In any zoning district, every use, building or structure established after the effective date of this Ordinance shall be on a lot or parcel that fronts upon a public road right-of-way, or a private road easement held in common by all property owners abutting and shall be shown on all site plans.

Driveways providing access to structures on any site shall be required to meet all the required setbacks except for the front setback. Driveways in a side setback are allowed if the driveway is shared with the adjoining property owner.

Section 2.8 BARRIER FREE MODIFICATION

Nothing in this Ordinance shall prevent the unlimited modification of a building only as may be necessary to comply with barrier-free requirements and the Americans with Disabilities Act.

Section 2.9 RESTORATION OF UNSAFE BUILDINGS

Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition any part of any building or structure declared unsafe by the Zoning Administrator, County Building Official, or Public Health Inspector.

Section 2.10 RELOCATION OF BUILDINGS

The relocation of a building to a different location in the Township shall be the same as erection of a new building, and all applicable provisions, regulations, and required permitting shall be followed and obtained.

Section 2.11 DEMOLITION OF BUILDINGS

No structure shall be demolished until a demolition permit has been issued by the Zoning Administrator. The demolition shall be completed within a reasonable time period and under conditions prescribed by the Zoning Administrator to protect the public health, safety and welfare. The demolition of structures within the Township shall comply with the following:

- A. An application for a Demolition Permit shall include the reasons for the demolition and the intended use of the property following demolition. If the intended use is not permitted under the property's current zoning, a Demolition Permit shall be withheld until such time as approval for the new use is obtained, unless the property is deemed a hazard or attractive nuisance to the public.
- B. Following demolition of the structure and the removal of all required debris, any excavation or foundation shall be backfilled with clean fill and the site graded to meet existing grades at the property lines and prevent drainage of surface water onto abutting properties or into any water body or wetland.
- C. Following grading, all non-paved areas shall be top dressed with a minimum two (2) inches of topsoil and seeded or planted with appropriate vegetation.

- D. An accessory building remaining on a property following the demolition of the principal structure shall be maintained in good condition.

Section 2.12 TEMPORARY BUILDINGS FOR CONSTRUCTION

Temporary buildings or structures may be utilized during construction for the storage of construction materials and for construction offices during a construction period of an approved project. Temporary buildings shall be removed within thirty (30) days after the completion or abandonment of the work. No temporary building or structure shall be used as a dwelling unit.

Section 2.13 CONSTRUCTION STANDARDS, COMPLETION, AND OCCUPANCY

- A. All structures requiring a building permit shall be designed and constructed to meet any requirements of the Michigan State Construction Code, as amended, and with all applicable regulations adopted thereunder.
- B. Any construction in any district must have all exterior work completed and inspected within 180 days from date a building permit is issued. Any extensions of permits may only be granted through the Township Board.
- C. All uses, including non-conforming uses shall obtain a certificate of occupancy from the Benzie County Construction Codes Department when a certificate is required by the State Construction Code.
- D. All of the requirements and conditions contained in any development approvals applicable to the property, including zoning, site plan, and other Township approval, that have not been met at the time of the issuance of the development approval, shall be required to have been met before the issuance of any certificate of occupancy.

Section 2.14 VOTING PLACE

The provisions of this Ordinance shall not be so construed as to interfere with the temporary use of any property as a voting place in connection with a municipal or other public election.

Section 2.15 STANDARD DIMENSIONAL PROVISIONS

A. YARD PROJECTIONS

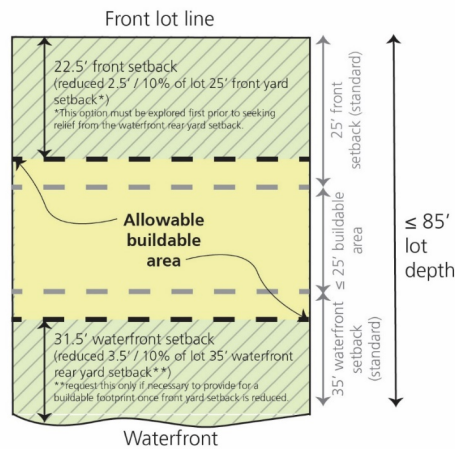
- 7. Architectural features may encroach into required yards as follows:
- 8. Cornices, eaves, sills, fireplaces, flues, ornamental features and other similar features may extend or project into a required yard a distance of not more than twenty-four (24) inches.
- 9. Uncovered and unenclosed ground story decks, patios or terrace less than thirty (30) inches above grade may project into a required yard a maximum of fifty (50%) percent of the required rear or side yard, and ten (10) feet into a required front yard.
- 10. Covered or enclosed porches that extend from the ground floor level of a residential structure may project into a required front yard setback a maximum of five (5) feet.
- 11. No permitted projection shall be allowed to encroach into a public right-of-way.

B. HEIGHT EXCEPTIONS & LIMITATIONS

7. Parapet walls may extend above the maximum height specified in the respective district by up to five (5) feet.
8. Freestanding telecommunications towers may exceed the maximum height specified in the respective district.
9. Architectural features associated with religious institutions shall be exempt from district height limits.
10. Flagpoles, television, amateur radio towers and similar devices, heating, air conditioning and similar equipment, fixtures and devices are exempt from the standard height limit.
11. Chimneys attached to residential dwellings may extend above the maximum height specified in the respective district only to the extent required to meet fire and state construction codes.

C. **LOT & YARD AREA REQUIREMENT EXCEPTIONS.** On any lot of record where the front and rear yard setbacks reduce the buildable area to less than twenty-five (25) feet in depth, the Zoning Administrator is authorized to reduce both the front yard and the rear yard setback requirement by up to ten (10) percent of the depth of the setback to enlarge the buildable area up to twenty-five (25) feet. If the rear yard abuts a lake, stream, wetland or environmentally sensitive area, the rear yard setback may not be reduced, and in such situation, the front yard setback shall not be reduced more than ten (10) percent.

D. **CORNER LOT SETBACKS.** Structures located on corner lots shall observe the minimum required front yard setback from all street rights-of-way.



Example not to scale

Section 2.16 OUTDOOR STORAGE

Storage of materials or goods to be sold at retail or used as services are prohibited except where allowed in Article 3. All allowed outdoor storage must take place in a rear or side yard, screened from view, and be an accessory incidental to the principal use of the parcel. **[Needs analysis—Art 3 does not allow outside storage.]**

Section 2.17 REFUSE RECEPTACLES

All trash and refuse stored outdoors shall be placed in a designated container and shall meet the following standards:

- A. Dumpsters shall only be used for residential structures serving more than four (4) dwelling units on a single lot or for non-residential uses. An exception shall be made for temporary dumpsters used for construction projects that have been approved through a zoning permit or building permit and shall be removed within seven (7) days after the work has been completed.

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Section 2.18 POWER GENERATORS

Back-up power generators are permitted as an accessory structure and shall:

- A. Only serve as a back-up power generation system to be operated under emergency situations when power supply is disrupted and for routine maintenance and system checks;
- B. Be prohibited in any front yard, side setback, and rear setback;
- C. Not be visible from the public right-of-way without adequate screening that exceeds the height of the generator by at least one (1) foot.
- D. Be subject to all applicable Township ordinances, including but not limited to those governing noise.

Section 2.19 SATELLITE DISHES

~~A. The following regulations have been adopted to ensure that satellite dish antennas comply with the health, safety, and aesthetic objectives of the Township. Those objectives include, but are not limited to, the prevention of poorly constructed or poorly installed or otherwise unsafe structures; unsightly or obtrusive structures in front yards; structures out of scale with principal buildings; structures within required side yard or rear yard setbacks obstructing open space and/or creating fire hazards; and the proliferation of more satellite dish antennas than are necessary to service a lot or premises.~~

~~B. Small satellite dish antennas are not subject to regulation by the Township. A small satellite dish antenna is defined as:~~

- ~~7. A satellite dish antenna that is two (2) meters or less in diameter and is located or proposed to be located in any area included in any commercial or mixed-use Zoning Districts; or~~
- ~~8. A satellite dish antenna that is one (1) meter or less in diameter and is located in any area of the Township.~~

~~C. A large satellite dish antenna is defined as any satellite dish antenna which is not a small satellite dish antenna. The following regulations shall apply to all large satellite dish antennas:~~

- ~~7. As a general rule, only one (1) satellite dish antenna shall be permitted per lot or premises. However, two (2) satellite dish antennas shall be permitted per lot or premises if one (1) satellite dish antenna is for television reception only, while the other satellite dish antenna is for amateur (i.e. ham) radio operation only.~~
- ~~8. A satellite dish antenna may not be placed in a front yard. A satellite dish antenna may be placed in a side yard, a rear yard, or on top of a building.~~
- ~~9. Subject to approval of the Zoning Administrator, a satellite dish antenna shall be securely anchored through the use of a concrete pad or other system adequate to secure the satellite dish antenna during high winds.~~
- ~~10. The minimum side yard and rear yard setbacks for satellite dish antennas in various zoning districts shall be the same as those for accessory buildings.~~
- ~~11. A satellite dish antenna shall not exceed fifteen (15) feet in height or twelve (12) feet in diameter.~~
- ~~12. No portion of a satellite dish antenna shall contain any name, message, symbol, or other graphic representation visible from adjoining properties.~~
- ~~13. However, one (1) sign identifying the manufacturer of the satellite dish antenna not larger than five (5) inches by twenty (20) inches shall be permitted, and no more than two (2) safety warning signs no larger than five (5) inches by twenty (20) inches shall be permitted.~~

Deleted: All trash and refuse stored outdoors shall be placed in a designated container and shall meet the following standards: ¶
 Dumpsters shall only be used for residential structures serving more than four (4) dwelling units on a single lot or for non-residential uses. An exception shall be made for temporary dumpsters used for construction projects that have been approved through a zoning permit or building permit and shall be removed within seven (7) days after the work has been completed. ¶

Dumpsters shall be placed on a re-enforced, concrete pad and shall have a concrete approach large enough to accommodate a truck used for emptying the dumpster(s). ¶
 All dumpsters shall be screened on all sides with a masonry wall or of materials that match the front facade of the principal structure and shall include an opaque gate. ¶

[Discussion is needed to decide if this new proposed section is necessary and if the pad and screening requirements are unnecessarily burdensome.] ¶

Commented [JM1]: Are Satellite dishes such a large issue that they can't be combined with accessory structures?

Deleted: Antennas and satellite dishes, wherever possible, shall be located in the rear yard or side yard, but shall conform to the setback requirements, shall be ground mounted, bonded to a grounding rod, and shall be designed to withstand a wind force of seventy-five (75) miles per hour without the use of supporting guy wires. **[This provision is in the current ordinance, so it may need updating particularly with respect to requiring ground mounting.]**

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14. A satellite dish antenna shall be white or some other non-obtrusive color approved in writing by the Zoning Administrator in advance of installation.

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Section 2.20 DAMAGED BUILDINGS

Any building that has been partially destroyed by fire or is in such a state of disrepair as to be uninhabitable and a hazard to the public health and safety shall either be entirely removed or repaired within twelve (12) months from the date of the occurrence of the damage or the effective date of this Ordinance.

Section 2.21 FENCES, WALLS, & SCREENS – GENERAL REQUIREMENTS

A. Applicability. The following standards for fences shall apply in all districts.

B. Height shall be measured from the average finished grade between two (2) fence posts and the top of the fence between said posts and shall conform to the following maximum heights:

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7. Front Yard Fences: 3 feet

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8. Rear & Side Yard Fences: 6 feet

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C. Fences shall be wholly on the property they are intended to serve.

D. The finished side of the fence shall face outward away from the property.

E. Fences shall be made of durable materials such as wood, wood composite, vinyl, or metal.

F. Fences shall not be made of or include barbed wire, razor wire, electrified materials, or any other dangerous material, pallets, slabwood, or chicken wire.

Deleted: in the residential, commercial or mixed use districts

Section 2.22 FIRE HAZARDS

A. Each dwelling unit shall be provided reasonable vehicular access by a driveway which may be negotiated under normal weather conditions by emergency vehicles and an emergency vehicle set up area suitable for accommodating fire-fighting apparatus shall be provided within a reasonable distance of a structure.

Deleted: [These requirements are newly proposed, so discussion needed. Subsection D needs work regarding applicability and content. Also, current ordinance has uniform height limits everywhere, but the proposed ordinance has a separate fence height limit for each district in Art. 3, though all limits are identical. So should we just have the height limit here?]

B. Driveways shall be clear to a width of fifteen (15) feet and an overhead clearance of fifteen (15) feet throughout its length and shall not exceed fifteen (15) percent in grade except by waiver by the fire department.

Section 2.23 HAZARDOUS LIQUID CONTAINMENT

A. Intent. The intent of this section is to establish standards to prevent the release of hazardous liquids into the environment by requiring adequate secondary containment for storage, transfer, and disposal activities. These standards are intended to protect soil, surface water, groundwater, and public sewer systems from spills, leaks, and overfills, and to ensure compliance with applicable state and federal spill prevention, reporting, and emergency planning requirements.

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B. Applicability. Hazardous liquid containment standards shall apply to any business or commercial operation involving the storage, transfer, or disposal of hazardous liquids.

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C. Standards.

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- 7. Secondary containment structures shall be required to protect the environment from accidental spills of all hazardous liquids. Hazardous liquids shall include all “hazardous wastes” as defined by Act 64 of 1979, that are in liquid form.
- 8. Secondary containment structures shall include structures such as but not limited to dikes and berms surrounding transfer and storage areas, enclosed structures and interior storage rooms with sills and no floor drains. All secondary containment structures shall be at least large enough to hold the capacity of the largest drum or tank in the transfer or storage area.
- 9. No floor drains shall be permitted in any areas involving the transfer or disposal of hazardous liquids unless all hazardous liquids are collected and properly treated or disposed of off-site.
- 10. Qualifying chemical containment must be disclosed to the Benzie County Local Emergency Planning Committee (LEPC).
- 11. Hazardous chemicals shall be documented and maintained following EPCRA (Emergency Planning Community Right to Know Act), EPA, or MiEGLE requirements.

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Section 2.24 KEEPING OF LIVESTOCK & ANIMALS

- A. The raising or keeping of small animals such as rabbits, poultry, goats and sheep, for personal use, shall not occur on a lot or parcel of less than one (1) acre. The raising or keeping of livestock such as cattle, horses and hogs, for personal use, shall not occur on a parcel of land less than two and one-half (2 ½) acres in area.
- B. The carrying out of such practices shall not generate any noise, odor, pollution or other environmental impact which will have an adverse effect on adjacent properties.
- C. No storage or unusual accumulation of manure or odor or dust-producing materials shall be permitted within one hundred (100) feet of any property line.
- D. No building or storage of mechanical equipment for agricultural purposes or housing of animals shall be permitted closer than one hundred (100) feet of any property line.

Deleted: [This is from the current ordinance, but what/who does it apply to, and is it really necessary?]

Section 2.25 PRIVATE ROADS

Private roads shall meet the requirements of the Lake Township Private Road Ordinance.

Section 2.26 USE OF OPEN SPACE, STORAGE OF RECREATIONAL VEHICLES AND INOPERABLE VEHICLES

- A. No open yard surrounding a dwelling, or structure used for dwelling purposes, may be used for the location, parking, disposition, storage, deposit, or dismantling in whole or in part of junked vehicles, machinery, secondhand building materials or other discarded, abandoned or rubbish-like materials or structures.
- B. The location, parking or storage of recreational vehicles shall be allowed on a lot used for a dwelling, subject to the following regulations
 - 1. As a temporary condition, and subject to the following conditions:
 - a. The location of the temporary dwelling shall comply with all setback requirements of this Ordinance.
 - b. The use of the temporary dwelling shall not be contrary to the public health, safety or welfare.

Deleted: ing, provided, wherever possible, such location, parking, or storage is not in the front yard nor in the setback areas required for structures in the side and rear yards

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- c. The temporary dwelling shall be connected to a water supply and sewer disposal system approved by the Benzie County Health Department.
 - d. The temporary dwelling shall, at all times, have a clear and unoccupied space of at least seven (7) feet on all sides.
 - e. Use of the temporary dwelling shall be limited to six (6) months for properties where the owner of the property resides on the same parcel or 45 days for non-owner-occupied property, beginning with the issuance of a permit. The permit may be renewed for one (1) additional period of six (6) months for properties where the owner of the property resides on the same parcel or 45 days for non-owner occupied property, upon approval of the Zoning Administrator for good cause shown. Another application for use of a temporary dwelling on the subject site shall not be approved for a period of at least six (6) months.
2. For family camp outings, reunions or similar activities extending of more than seven (7) days in any 30-day period.

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- C. No outdoor storage or parking of vehicles or trucks, over one (1) ton rated capacity, or similar heavy equipment or construction equipment, shall be permitted in a yard or on a lot other than for the temporary parking of trucks or equipment engaged in construction on the site or being used for temporary pickup or delivery purposes.

Section 2.27 VISIBILITY AT INTERSECTION

No fence, wall, hedge, screen, sign, structure, vegetation or planting shall be higher than three (3) feet above street grade on any corner lot or parcel within the triangular area formed by the intersecting street right-of-way lines and straight line joining the two street lines at points which are thirty (30) feet distant from the point of intersection, measured along the street right-of-way lines.

Section 2.28 YARD SALES

Yard sales or garage sales may be permitted; provided such sales are not conducted on the same lot for more than three (3) days (whether consecutive or not) during any ninety-day (90) period. And provided further that such sales are conducted only on a lot upon which a principal use is located.

Section 2.29 ACCESSORY DWELLINGS, STRUCTURES, & USES

A. Accessory Building as Dwelling:

- 7. No building or structure on the same lot with a principal building shall be used for dwelling purposes, except as specifically permitted in Section A (2), below.
- 8. Accessory dwelling units may be permitted attached to the primary dwelling or within a detached accessory structure under the following conditions:
 - a. Accessory dwelling units shall be permitted as a Special Use in the R-1 Residential and as a permitted use in the R-2 Rural Residential Zoning Districts.
 - b. Only one (1) accessory dwelling unit shall be allowed on any parcel with a primary dwelling unit.
 - c. Accessory dwelling units must be on a lot or parcel with a minimum area of 20,000 square feet

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- d. In addition to the parking spaces required for the principal dwelling, two (2) additional off-street parking spaces are required for the accessory dwelling unit which meet the requirements of Article 5.2.
- e. Accessory dwelling units and the parking spaces required for them shall be located on the same side of any public road as the primary dwelling unit.
- f. [Accessory dwelling units shall comply with all front, side, and rear yard setback requirements for principal structures for the zoning district in which it is located](#)
- g. The footprint of the accessory dwelling unit shall not exceed 60% of the primary dwelling unit or 600 sq ft, whichever is less.
- h. [Accessory Dwelling Units shall not be used as a Short-Term Rental.](#)

B. Accessory Use Without a Principal Use:

- 7. No accessory building, structure, or use may be placed on a lot without a foundation first being in place for an associated permitted principal structure, except as below. However, an accessory structure may be constructed on a separate lot(s) provided the separate lot(s) is immediately adjacent to the lot on which the principal use structure is located and both lots are, and will remain, under common ownership.
- 8. Non-Commercial storage buildings used for non-commercial activities shall be allowed in the R-2 district without the presence of a principal use provided they meet all of the applicable requirements of this Ordinance.

C. Accessory Structure Setbacks: Accessory structures shall meet the same setback requirements as a principal structure in the zoning district where it is located.

D. Accessory Structure When Attached to a Principal Building: Accessory buildings or structures structurally attached to a principal building or structure shall be subject to all the regulations of this Ordinance applicable to principal buildings, structures, and uses.

E. Accessory Uses Subject to Additional Requirements:

- 7. Recreational structures or spaces for private or personal, non-commercial use are permitted as an accessory use provided setback, impervious surface and all other requirements of this ordinance are met.
- 8. Swimming pools shall be permitted as an accessory use, in any residential district, subject to the following restrictions:
 - a. Private pools shall meet required yard setbacks.
 - b. There shall be a distance of not less than six (6) feet between the outside pool wall and any building located on the same lot.
 - c. For the protection of the general public, [inground](#) swimming pools shall be completely enclosed by a fence not less than four (4) feet in height capable of excluding children and small animals and containing gates of a self-closing or latching type. Gates shall be capable of being securely locked when the pool is not in use.

F. Prohibited Accessory Buildings, Structures and Uses:

- 7. Transient (shipping) containers are not permitted as an accessory structure or building. No mobile home, tank, junk object, salvage materials, trailer, vehicle, or similar item shall be utilized as an accessory building or storage structure.

8. The limitation in F(1) above shall not be applicable to:
 - a. Temporary offices, tool sheds or similar temporary storage structures, used pursuant to permitted construction, so long as the period of construction does not exceed two (2) years. All such structures shall be removed prior to issuance of a Certificate of Occupancy or the closing out of a permit.
 - b. Underground storage tanks accessory to a permitted use. Said tanks, including the operation of same, shall meet all State and Federal permitting and monitoring requirements.
 - c. Storage/shipping containers, such as PODS (Portable on Demand Storage units), shall be allowed as a temporary use within the Township for a period not to exceed fourteen (14) days. Such containers shall only be for the use of the person utilizing the storage/shipping container for moving of goods and materials. At no time shall any container be placed as a permanent structure within any zoning district. Only one (1) container may be placed at any residentially zoned property or use at a time.

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Commented [JM2]: 14 days seems a little short....maybe make it 30 days.

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Section 2.30 Land Divisions

A. New lots or parcels created, and existing lots or parcels combined shall conform to this Ordinance and the requirements of the Land Division Act, being Act 288 of the Public Acts of 1976, as amended. Lake Township elects to opt out of Section 108 (6) of PA 58 of 2025 and shall not authorize land divisions beyond those otherwise permitted by the Land Division Act.

7. All Land Division applications shall be submitted to the Zoning Administrator for review.

B. Except as provided elsewhere in this Ordinance, no lot, parcel, or tract of land shall hereafter be divided, subdivided, platted or included in a site condominium as a unit which results in the creation of any lot, parcel, tract, or unit of land which is less than the minimum area requirements for a building or structure in the zoning district in which it is located. Nonconforming land may be reserved for a future road right-of-way or similar use development provided such nonconforming use is recorded as a restriction upon the document conveying such nonconforming properties. Further, all land divisions must meet the following criteria:

7. The required lot areas and/or frontage requirements, exclusive of easements and rights-of-way.

8. For parcels less than ten (10) acres, the lot depth shall not be greater than four times the width.

9. A boundary survey, legal description, driveway or private road permit, and application fee as set by the Lake Twp Board of Trustees must be submitted with the application. Provided that in the case of a parcel or tract of land of forty (40) acres or more in area, in which no more than two divisions are proposed, a legal description and scaled drawing may be submitted in place of the boundary survey.

10. Land Divisions that comply with the provisions of this Ordinance and State Law shall be approved by the Zoning Administrator.

11. Properties verified to be in violation of the Land Division Act by the Assessor shall be deemed to be unbuildable until they are in compliance with the requirements of the Land Division Act.

C. Property Line adjustments shall not be classified as a Land Division; however, all Property Line Adjustments must meet the following criteria:

7. Any property line adjustments shall be submitted to the Zoning Administrator for review via a property line adjustment application.

8. A boundary survey and application fee shall be submitted with the application.

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9. All properties included in the property line adjustment shall remain in compliance with the requirements of the Land Division Act and the Zoning District.

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Section 2.31 WATER ACCESS LOTS

No waterfront lot in any zoning district shall be used as an access lot unless the following requirements are met:

7. The minimum lot width requirement for a water access lot shall be a minimum of 50 feet wide throughout the entirety of the depth of the lot.

a. No more than one family may share the minimum sized access lot, whether access is gained by easement, joint or fee common ownership, lease, license, site condominium unit, stock or membership in a corporation or by any other means.

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8. For each additional access lot beneficiary in excess of one, there shall be an additional lot width of 100 feet.

9. If an access lot includes areas of wetlands, as defined by Michigan Law, then 50% of that wetland's shoreline shall be counted as part of the lot width requirement for the purpose of counting the number of access lot beneficiaries.

10. An access lot shall be permitted one dock for each access lot beneficiary permitted by right. No dock shall be located closer than 20 feet to the nearest property line.

Unless the residences having the privilege to use an access lot are within two hundred fifty (250) feet of the access lot, a minimum of two (2) parking spaces shall be provided off of the road right-of-way for each parcel that is more than 250 feet way.

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6. Structures Allowed. A structure is allowed on the access lot provided the following are met:

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a. Setbacks for underlying district are met.

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b. Maximum one hundred fifty (150) gross square footage.

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c. Not used for other than non-commercial waterfront recreational uses and related storage.

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11. Public parks and public recreation areas shall not be subject to the provisions of this Section 2.31

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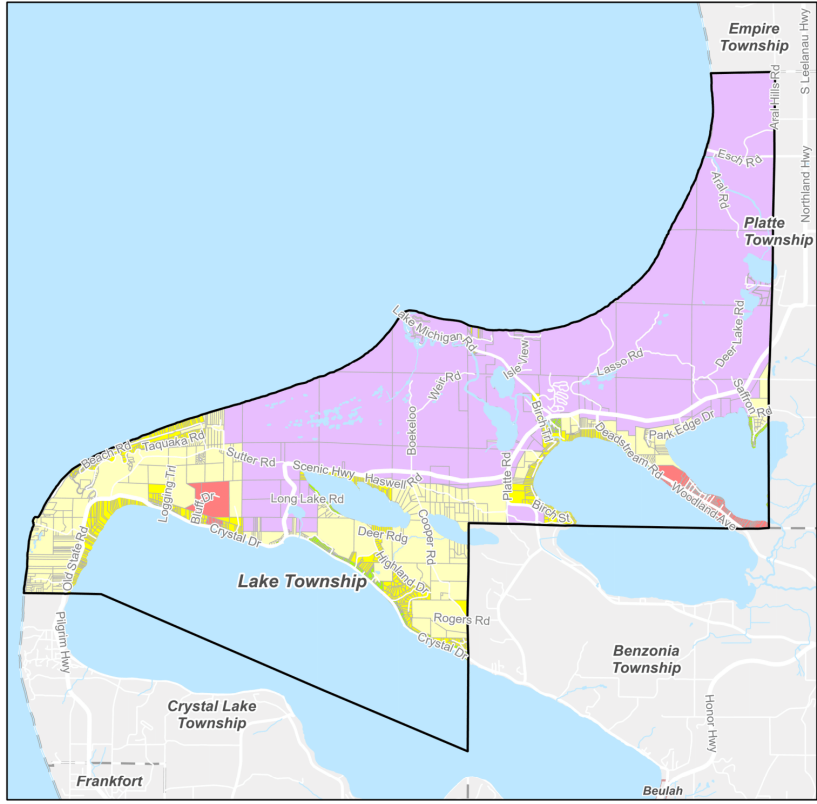
Article 3. ZONING DISTRICTS & MAP

Section 3.1 ZONING DISTRICTS AND MAP



Deleted: [THIS MAP WILL NEED TO BE UPDATED WITH THE PROPOSED DISTRICT CHANGES]¶

... [2]



Zoning Map

Lake Township,
Benzie County, MI
October 31, 2025

- LEGEND**
- C/R, Commercial Resort
 - G, Government
 - L/R, Lakeshore Residential
 - R-1, Residential
 - R-2, Rural Residential



Basemap Source: Michigan Center for
Geographic Information, v. 17a.
Data Source: Benzie County 2025.
McKenna 2025.



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- A. **Zoning Districts Established:** The Township is divided into the following Districts:
- L/R Lakeshore Residential
 - R-1 Residential, Single Family
 - R-2 Residential, Rural
 - C/R Commercial/Resort
 - G Government
- B. **Zoning Map:** The boundaries of the zoning districts established by the Ordinance are shown on a map or series of maps designated the "Official Zoning Map". The Official Zoning Map including all notations, references, data, and other information shown therein, is adopted and made a part of this Ordinance as fully as if it were contained within the pages of this Ordinance.
- C. **Location:** The Official Zoning Map is filled in the office of the Township Clerk.
- D. **Updates:** The Township Board may adopt amendments to the district boundaries designated on the Official Zoning Map upon review and recommendation by the Lake Township Planning Commission.
- E. **Interpretation of Zoning District Boundaries:** The following rules shall apply in determining the boundaries of the zoning districts:
7. Unless otherwise specified, the district boundaries shall be interpreted as following along section lines, customary subdivisions of sections, centerlines of roads, highways or other public rights-of-way, shorelines of waterways, or property lines of legal record at the time of adoption of the zoning district map, or any amendment to it.
 8. Whenever any street, road, alley, place, or other public way is officially vacated by the Township or Benzie County Road Commission, the district adjoining each side thereof shall be automatically extended to the center of such vacation and all area included in the vacation shall thereafter be subject to all appropriate regulations of the extended districts.
 9. Where physical or natural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances where the boundary is not clear, the Zoning Administrator shall provide an opinion of the boundaries.
 10. A determination of the district boundary by the Zoning Administrator may be appealed to the Zoning Board of Appeals for a final determination.

Section 3.2 ZONING DISTRICT REGULATIONS AND USES

- A. **Zoning District Regulations:** The following Sections of this Article regulate the uses, dimensional standards, and principal building form for each zoning district.
- B. **Determination of Use:** If a proposed use is not clearly listed or identified in the Regulated Uses Tables, the Zoning Administrator shall determine whether or not the proposed use is similar enough to fit within the definition of an existing listed use and should be accommodated. The determination of the Zoning Administrator regarding unclassified uses may be appealed to the Zoning Board of Appeals for a final determination. If a proposed use is found not be similar enough to an existing listed use to be accommodated, a request to add the proposed use through an amendment may be requested subject to the procedures and standards in Article 13.
- C. **Interpreting District Regulations:**

Deleted: , landscaping, screening, and off-street parking design...

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7. The standards provided in the following Sections are to be interpreted as the minimal requirements, unless explicitly stated as a maximum.
 8. Types of Approval – For any allowed use, the type of approval required is listed in the tables in this Article.
 - a. “ZA” approval type means the use shall be reviewed and approved by the Zoning Administrator.
 - b. “SPR” approval type means site plan review under Article 7 is required.
 - c. “SUP” approval type means a special land use permit is required under Article 8.
 9. Regulated uses that have additional supplemental use standards are referenced in the tables.
 10. This Ordinance contains additional standards applicable to certain uses, situations and features, including but not limited to standards for landscaping, fencing, off-street parking, and loading zones. Nothing in this Article shall exempt a land use or development from satisfying any additional, applicable standards or design requirements contained within this Ordinance.
- D. **Housing Density.** The tables in this Article establish the maximum housing density in each of the zoning districts. The density limits apply to site condominium developments, planned residential developments, districts where apartments or three or more family dwellings are allowed, or to any other situation where more than two dwelling units are allowed on a single parcel. The allowed number of units shall be calculated by dividing the total square footage of the parcel by the allowed density area, with the result rounded down to the nearest whole number.

Section 3.3 SCHEDULE OF REGULATIONS

SCHEDULE OF REGULATIONS	LR Lake Residential	R1 Residential	R2 Rural Residential	C/R Commercial/Resort
Lot				
Minimum Lot Width	100 feet	100 feet	150 feet	100 feet
Minimum Lot Area	20,000 sq ft	20,000 sq ft	2.5 acres	20,000 sq ft.
Maximum Housing Density	1 unit per 20,000 square feet	1 unit per 20,000 Square Feet	1 unit per 50,000 square Feet	1 unit per 20,000 Square Feet
Maximum Impervious Coverage*	20%	35%	25%	35%**
Principal Structure				
Front Setback	25 feet	25 feet	25 feet	25 feet
Side Setback	10 feet	10 feet	10 feet	10 feet
Rear Setback	15 feet	15 feet	15 feet	15 feet
Water Body or Wetland Setback	35 feet	35 feet	35 feet	35 feet
Ridge Line Setback	50 feet	50 feet	50 feet	50 feet
Maximum Height	28 feet	28 feet	28 feet	28 feet
Minimum Dwelling Size	720 sq ft	720 sq ft	720 sq ft	720 sq ft
Minimum Dwelling Width	20 feet over 50% of the entire structure length	20 feet over 50% of the entire structure length	20 feet over 50% of the entire structure length	20 feet over 50% of the entire structure length
Accessory Structures				
Permitted Locations	Same as Principal	Same as Principal	Same as Principal	Same as Principal
Setbacks	Same as Principal	Same as Principal	Same as Principal	Same as Principal
Maximum Height	Same as Principal	Same as Principal	Same as Principal	Same as Principal
Maximum Ground Floor Area	≤ Principal Structure	≤ Principal Structure	≤ Principal Structure	≤ Principal Structure
NOTES:				
Additional accessory building, density, and development standards located in Articles 2 and 6. All land in the Government District owned by the State, County and Township shall be used in a manner deemed appropriate by the owner agency.				
*For non-contiguous parcels, this maximum percentage shall be applied independently to each contiguous portion using the net area of that contiguous portion.				
** The maximum lot coverage in the CR District is thirty-five percent (35%). The Planning Commission may approve lot coverage up to fifty percent (50%) through site plan review; lot coverage shall not exceed fifty percent (50%) under any circumstance.				

G Government District

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None
40 acres

None

None

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None

None

None

None

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Section 3.4 TABLE OF PERMITTED USES

Key	
ZA	Zoning Administrator Approval Required
SPR	Site Plan Review Required
SUP	Special Use Permit Required
Proposed Changes	-

Use	L/R	R-1	R-2	C/R	Supplemental Standards
Residential					
Dwelling, Single Unit	ZA	ZA	ZA	ZA	-
Dwelling, Two Unit	ZA	ZA	ZA	ZA	-
Dwelling, Multiple Unit	-	-	SUP	SUP	-
Accessory Dwelling Unit	▼	SUP	ZA	▼	Sec. 2.29
Adult Day Care Center	-	-	-	-	-
Adult Family Day Care Home	ZA	ZA	ZA	ZA	-
Adult Group Day Care Home	ZA	ZA	ZA	ZA	-
Adult Foster Care Facility	-	-	-	-	-
Adult Foster Care Home, Family	ZA	ZA	ZA	ZA	Sec. 6.7
Adult Foster Care Home, Small Group	ZA	ZA	ZA	ZA	-
Adult Foster Care Home, Large Group	-	-	SUP	SUP	Sec. 6.7
Adult Foster Care Home, Congregate Facility	-	-	SUP	SUP	-
Adult Foster Care Camp or Adult Camp	-	-	SUP	SUP	-
Accessory Structures	ZA	ZA	ZA	ZA	Sec. 2.29
Accessory Uses	ZA	ZA	ZA	ZA	Sec. 2.29
Nursing Home	SUP	SUP	SUP	SUP	-
Bed & Breakfast Establishment	SPR	SPR	SPR	SPR	Sec. 6.10
Boarding House	-	-	-	SPR	Sec. 6.7
Child Care Organization	-	-	-	-	-
Child Care Center	SUP	SUP	SUP	SUP	-

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Foster Family Home	ZA	ZA	ZA	ZA	-
Foster Family Group Home	ZA	ZA	ZA	ZA	-
Child Care Home, Family	ZA	ZA	ZA	ZA	State Regulations
Child Care Home, Group	SUP	SUP	SUP	SUP	State Regulations
Planned Residential Development	SPR	SPR	SPR	SPR	Sec. 9.1
Site Condominium Development	SPR	SPR	SPR	SPR	Sec. 9.3
Mobile Home Park	-	-	-	SUP	Sec. 9.2
Recreational					
Golf Courses	-	-	SUP	SUP	Sec. 6.9
Campground	-	-	-	SUP	Sec. 6.8
Marinas & Canoe Liveries	-	-	-	SUP	Sec. 6.13
Commercial					
Automobile and Marine Repair and Sales	-	-	-	SUP	-
Automotive Service Stations	-	-	-	SUP	-
Greenhouse, Commercial	-	-	ZA	-	-
Hotel, Motel, Resort (<10 units)	-	-	-	SUP	Sec. 6.11
Personal Service Establishment	-	-	-	SUP	-
Restaurant, Indoor	-	-	-	SUP	-
Restaurant, Outdoor	-	-	-	-	-
Retail Sales Establishment (<5,000 sq.ft.)	-	-	-	SUP	-
Contractors Use	-	-	-	SUP	-
Warehousing, Commercial Storage	-	-	-	SUP	-
Designated Industrial Uses	-	-	-	SUP	-
Outdoor Storage	-	-	-	SUP	-
Public/Utilities					
Institutional Uses	SUP	SUP	SUP	SUP	Sec. 6.12
Solar Energy System, Small Scale	ZA	ZA	ZA	ZA	Sec. 6.17
Solar Energy System, Utility Scale	-	-	-	-	-
Wind Energy Conversion System, Small Scale	ZA	ZA	ZA	ZA	Sec. 6.19

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Wind Energy Conversion System, Utility Scale	-	-	-	-	-
Wireless Communication Tower	-	-	SUP	SUP	Sec. 6.20
Public Use	SUP	SUP	SUP	SUP	Sec. 6.15
Data Centers	-	-	-	SUP	-
Battery Energy Storage Facilities, Small Scale	-	-	-	SUP	-
Battery Energy Storage Facilities, Utility Scale	-	-	-	-	-
Agricultural					
Agricultural Uses	-	-	ZA	-	-
Forestry Uses	-	-	ZA	-	-
Roadside Stands	SPR	SPR	SPR	SPR	Sec. 6.16
<i>See Section 3.7 Government District for permitted uses allowed in this district.</i>					

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Section 3.5 LAKESHORE RESIDENTIAL ZONING DISTRICT (L/R)

A. **Intent & Purpose:** It is the purpose of the L/R District to regulate land uses in the immediate vicinity of the designated lakeshore areas. This district recognizes the high scenic and economic values of lake shore properties, but also the need to preserve and protect the environmental quality of the lakes. Land uses and development standards in this district are intended to allow the reasonable use of the lake shore, but with limits to protect the resource.

B. 

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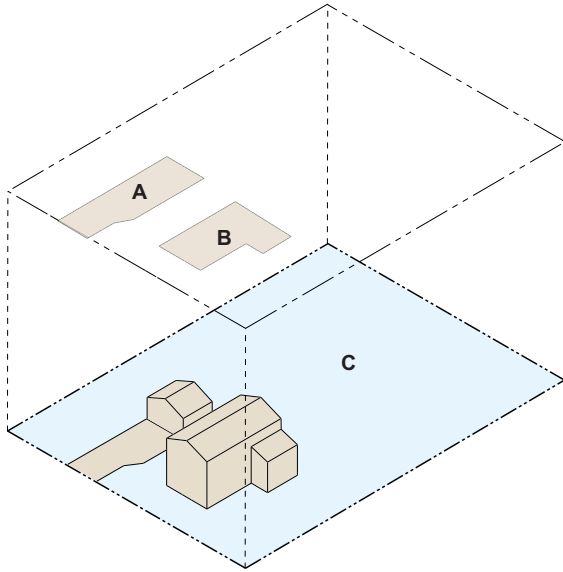
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C. L/R District: Dimensional Standards

L/R: DIMENSIONAL STANDARDS	
Lot	
Minimum Lot Width	100 feet
Minimum Lot Area	20,000 sq ft
Maximum Housing Density	1 unit per 20,000 square feet
Maximum Impervious Coverage	15%
Principal Structure	
Front Setback	25 feet
Side Setback	10 feet
Rear Setback	15 feet
Water Body or Wetland Setback	35 feet
Ridge Line Setback	50 feet
Maximum Height	28 feet
Minimum Dwelling Size	720 sq ft
Minimum Dwelling Width	20 feet over 50% of the entire structure length
Accessory Structures	
Permitted Locations	Same as Principal
Setbacks	Same as Principal
Maximum Height	Same as Principal
Maximum Ground Floor Area	≤ Principal Structure
<i>NOTES: Additional accessory building, density, and development standards located in Articles 2 and 6.</i>	

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$$\text{Impervious Surface Coverage} = \frac{A+B}{C} \times 100\% \leq 15\%$$

Total covered lot area including all pavements and structures divided by total lot area.

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Section 3.6 RESIDENTIAL DISTRICT (R1)

A. **Intent & Purpose.** This district includes standards for the development of low to medium density residential areas. This district includes some existing one-family developments within the Township which have similar lot area and character, as well as areas within which such development appears likely and acceptable.

B. **R1 District:** Table of Allowed Regulated Uses

C. **R1 District:** Dimensional Standards

R1: DIMENSIONAL STANDARDS	
Lot	
Minimum Lot Width	100 feet
Minimum Lot Area	20,000 sq ft
Maximum Density	1 unit per 20,000 Square Feet
Maximum Impervious Coverage	35%
Principal Structure	
Front Setback	25 feet
Side Setback	10 feet
Rear Setback	15 feet
Water Body or Wetland Setback	35 feet
Ridge Line Setback	50 feet
Maximum Height	28 feet
Minimum Dwelling Size	720 sq ft
Minimum Dwelling Width	20 feet over 50% of the entire structure length
Accessory Structures	
Permitted Locations	Same as Principal
Setbacks	Same as Principal
Maximum Height	Same as Principal
Maximum Ground Floor Area	≤ Principal Structure
NOTES: Additional accessory building, density, and development standards located in Articles 2 and 6.	

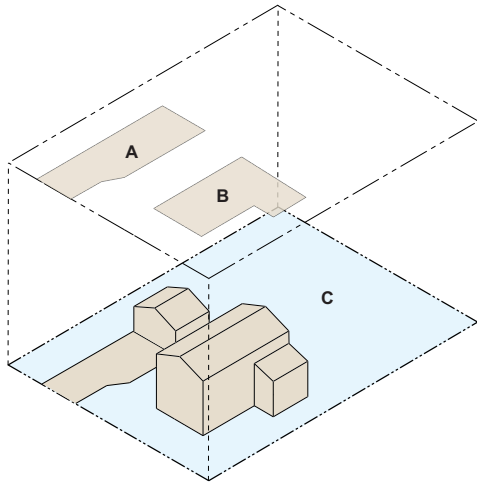
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$$\text{Impervious Surface Coverage} = \frac{A+B}{C} \times 100\% \leq 35\%$$

Total covered lot area including all pavements and structures divided by total lot area.

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Section 3.7 RURAL RESIDENTIAL DISTRICT (R2)

A. **Intent & Purpose.** This district includes standards for the development of properties of a semi-rural character within the Township. Typically, the district contains larger tracts, and can include areas of environmental concern such as wetlands, bluffs, dunes, etc., which limit development and density.

B. **Table of Regulated Uses**

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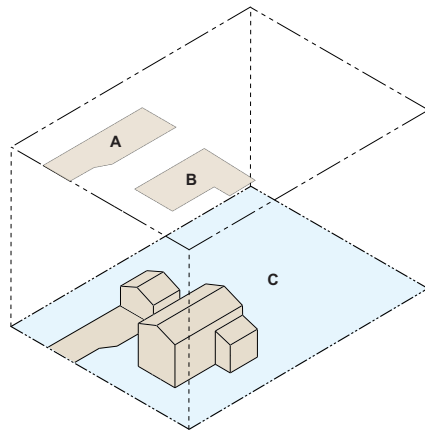
C. Dimensional Standards

R2: DIMENSIONAL STANDARDS	
Lot	
Minimum Lot Width	150 feet
Minimum Lot Area	2.5 acres
Maximum Density	1 unit per 50,000 square Feet
Maximum Impervious Coverage	25%
Principal Structure	
Front Setback	25 feet
Side Setback	10 feet
Rear Setback	15 feet
Water Body or Wetland Setback	35 feet
Ridge Line Setback	50 feet
Maximum Height	28 feet
Minimum Dwelling Size	720 sq ft
Minimum Dwelling Width	20 feet over 50% of the entire structure length
Accessory Structures	
Permitted Locations	<i>Same as Principal</i>
Setbacks	Same as Principal
Maximum Height	Same as Principal
Maximum Ground Floor Area	≤ Principal Structure
NOTES: Additional accessory building, density, and development standards located in Articles 2 and 6.	

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$$\text{Impervious Surface Coverage} = \frac{A+B}{C} \times 100\% \leq 25\%$$

Total covered lot area including all pavements and structures divided by total lot area.

Section 3.8 COMMERCIAL RESORT DISTRICT (C/R)

A. **Intent & Purpose.** It is the purpose of the C/R District to regulate land uses in areas where there has been some level of historical commercial and resort development mixed with primarily residential uses. Certain types of commercial uses can be accommodated while maintaining an overall residential character.

B.


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C. Dimensional Standards

C/R: DIMENSIONAL STANDARDS	
Lot	
Minimum Lot Width	100 feet
Minimum Lot Area	20,000 sq.ft.
Maximum Density	1 unit per 20,000 Square Feet
Maximum Impervious Coverage	None
Principal Structure	
Front Setback	25 feet
Side Setback	10 feet
Rear Setback	15 feet
Water Body or Wetland Setback	35 feet
Ridge Line Setback	50 feet
Maximum Height	28 feet
Minimum Dwelling Size	720 sq ft
Minimum Dwelling Width	20 feet over 50% of the entire structure length
Accessory Structures	
Permitted Locations	Same as Principal
Setbacks	Same as Principal
Maximum Height	Same as Principal
Maximum Ground Floor Area	≤ Principal Structure

NOTES: Additional accessory building, density, and development standards located in Articles 2 and 6.

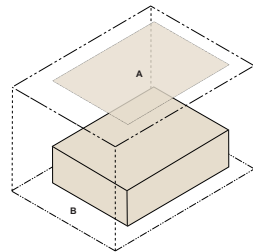
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Impervious Surface Coverage = $\frac{A}{B} \times 100\%$
Total covered lot area including all pavements and structures divided by total lot area.

Section 3.9 GOVERNMENT DISTRICT (G)

A. **Intent & Purpose.** This district recognizes that a significant amount of land in the Township is owned and regulated by the federal government. The Township supports the preservation and protection of the natural features in this district, including forests, beaches, dune formations, and ancient glacial phenomenon, along with the scenic beauty and natural character of the area. This preservation can and should be accomplished while at the same time providing for access and recreational activities in this district.

B. **Permitted Uses.**

7. All permitted uses within the boundaries of the Sleeping Bear Dunes National Lakeshore on property that remains in private, non-government ownership are subject to provisions outlined in individual agreements entered into by the owner of any such property within this district and the National Park Service, as authorized by Public Law 91-479.

8. All land in the Government District owned by the State, County and Township shall be used in a manner deemed appropriate by the owner agency.

9. Any parcel in the Government District transferred to a private, non-government entity shall immediately take on the R-2 zoning designation

C. **Dimensional Standards. Minimum lot size in the Government District shall be 40 acres.**

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Deleted: of the closest neighboring district. In the event the parcel is adjacent or closest to two or more separate zoning districts, the parcel's designation will be subject to a ruling by the Planning Commission which shall designate the parcel to the most restrictive zoning district.

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Article 4. ENVIRONMENTAL AND LAKE PROTECTION STANDARDS

Section 4.1 INTENT, COORDINATION, AND APPLICABILITY

A. **Intent.** Since the welfare and well-being of the citizens of the Township are directly linked and related to the natural environment of the area, the standards and requirements of this Article are intended protect natural resources, guide the proper development of shoreline areas; prevent overcrowding of land and water; minimize pollution and degradation of public waters; preserve the recreational use of lakes and lake environments; protect property values; and, protect the public health, safety and general welfare.

All uses allowable in all zoning districts of this Ordinance shall comply with the standards set forth in this section regulating the development of environmentally sensitive areas. These requirements shall be considered in addition to use restrictions or other applicable regulations for each zoning district including overlay district and shall be considered as a separate portion of the zoning application. It is the intent of these regulations to identify and safeguard those areas of the Township that are considered to be environmental sensitive to development, due to soil types, drainage, vegetation, wildlife habitats or other factors that are subject to being seriously endangered, damaged, or destroyed if allowed to develop in a manner inconsistent with their conservation and preservation. Since the welfare and well-being of the citizens of the Township are directly linked and related to the natural environment of the area, it is recognized by this section that in order to maintain Environmentally Sensitive Areas in their natural condition for the benefit of mankind, it is necessary to protect such area from degradation.

7. Sensitive Areas Terms and Definitions.

- a. Environmentally Sensitive Areas. The protection of areas of environmental concern, such as Wetlands, High Risk Erosion, Dunelands, Floodplains or Steep Slope Areas, must be considered in conjunction with development.
- b. Dune Formation and other sandy soil limitations are sensitive areas because some are unique natural features under protection of the Sand Dunes Protection Act, Part 353, 1994 PA 451.

Commented [AH4]: I feel like the Waterfront Overlay District should appear in the title or in the purpose and intent.

Commented [AH4R2]: I'm overall unclear on which sections in this chapter are applicable to the Waterfront Overlay and all parcels in the Township.

Commented [ES4R3]: It's quite unclear. I think we need to decide whether or not the overlay is necessary or if the standards of this chapter can apply generally.

Commented [JM4R4]: I would suggest that we Propose to make them apply generally since the township development is basically water based.

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Commented [AH5]: This seems like an applicability statement that should apply to all of Chapter 4.

Commented [ES5R2]: Incorporated as part of the intent and applicability section

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- c. Wetlands are defined by degree of soil wetness, generally including those soils classified by the Wetlands Act, Part 303, 1994 PA 451 as being able to support aquatic vegetation regardless of whether it has standing water or not. Any activity shall be prohibited unless a wetlands permit has been obtained from EGLE.
- d. Sensitive Riverine Areas are defined as areas on each side of streams that could be subject to flooding or erosions in Part 301 and 315, 1994 PA 451.
- e. Sensitive Inland Lakes are sensitive areas around the water body, including the watershed, which could be subject to flooding, erosion, or pollution per Part 301, 1994 PA 451.
- f. Flood Plain Areas are low areas adjacent to inland lakes and streams subject to flooding according to the one hundred (100) year flood hazard boundary map as administered by the Federal Emergency Management Agency (FEMA). Part 31, 1994 PA 451.
- g. Steep Slopes when the proposed building site has slopes in excess of eighteen (18) percent, questionable soil stability or evidence of erosion, the Zoning Administrator shall require the applicant to obtain a site analysis, Part 91, 1994 PA 451.
- h. Groundwater Protection – Aquifers are at risk of pollution when recharged by surface waters and therefore must be protected in accordance with PA 98 of 1913 and CPA 282 of 1945.

B. Coordination with Other Requirements

- 1. **County Soil Erosion and Stormwater Control:** All earth changes and stormwater management activities shall comply with the Benzie County Soil Erosion, Sedimentation, and Stormwater Control (SESSC) Ordinance. This Article establishes additional standards for low impact development techniques, long-term stormwater quality protection, and permanent stormwater management facilities.
- 2. **State and Federal Permits:** Compliance with this Article does not exempt applicants from obtaining permits required by the Michigan Department of Environment, Great Lakes, and Energy (EGLE), the U.S. Army Corps of Engineers, or other agencies with jurisdiction.
- 3. **Conflict Resolution:** Where requirements of this Article and other regulations overlap, the more restrictive standard shall apply.

C. The standards of the Waterfront Overlay District shall apply to all properties within:

- 7. Thirty-five (35) feet of the ordinary high water mark of any body of water
- 8. Thirty-five (35) feet of the normal stream bank of natural or built watercourses such as streams, rivers, and channels regardless of navigability
- 9. Thirty-five (35) feet of any natural or man-made wetland

Section 4.2 LOW IMPACT DEVELOPMENT INCENTIVE PROGRAM

A. **Purpose.** Lake Township seeks to protect and enhance the natural environment through Low Impact Development (LID) techniques that manage stormwater, preserve natural features, and reduce environmental impacts. This section establishes standards for commercial development and voluntary incentives for residential property owners that reward enhanced environmental performance with increased development flexibility.

Commented [AH6]: We've added a whole steep slopes section that regulates 15%

Commented [AH6R2]: Is that just for slopes between 15 & 18%, then this kicks in?

Commented [E56R3]: I think maybe this is saying the state sets their threshold slightly higher than the township does?

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B. **Residential Impervious Surface Incentive.** For residential development or redevelopment that will result in disturbance to fifty percent (50%) or more of the lot area, property owners may increase the maximum allowable impervious surface coverage by implementing approved LID techniques as specified throughout this Article.

7. **Incentive Structure.** For each approved LID technique implemented, the maximum allowable impervious surface coverage increases by five percent (5%), up to a maximum total impervious surface coverage of fifty-five percent (55%).

8. **Eligible Techniques.** Approved LID techniques eligible for incentive credit are identified throughout this Article with the abbreviation LID and include:

- a. Enhanced stormwater management techniques (Section 4.8)
- b. Tree preservation beyond minimum requirements (Section 4.9)

9. **Application Requirements.** Property owners seeking incentive credit shall:

- a. Clearly identify all proposed LID techniques on the site plan or zoning permit application
- b. Demonstrate compliance with all applicable setbacks, performance, and safety standards
- c. Demonstrate that LID features will not negatively impact septic systems or wells
- d. Submit a maintenance plan identifying responsible parties and ongoing maintenance requirements

10. **Review and Approval:** The Zoning Administrator shall review applications for LID incentive credit and may consult with the Planning Commission as needed.

C. **Commercial and Industrial LID Requirements:** All new commercial, industrial, and institutional development, and any change of use requiring site plan review, shall incorporate a minimum of three (3) approved LID techniques from those identified throughout this Article with the symbol [LID].

D. **General Compliance Requirements:** All LID techniques implemented under this incentive program must:

- 7. Comply with all applicable provisions of this Article, including shoreline buffers, steep slope protections, clearing restrictions, and stormwater management standards. Implementation of approved LID incentive techniques does not exempt applicants from compliance with any other Section of Article 4.
- 8. Maintain required setbacks from septic systems, wells, and other sensitive features as required by EGLE or the local health department
- 9. Not increase erosion, slope instability, or stormwater impacts on adjacent properties
- 10. Be maintained in perpetuity by the property owner or homeowners association

Section 4.3 GENERAL REQUIREMENTS

A. **Fertilization:** Fertilization of any type is prohibited.

B. **Redirection of Water Resources:** Redirection of a water resource, in part or in whole, may only be conducted under the Michigan Department of Natural Resources (MDNR) or EGLE.

C. **Maximum Slopes:** Slopes created by the grading of the site should generally not exceed a slope ratio of one (1) foot of vertical slope to three (3) feet of horizontal distance. Natural slopes greater than fifteen (15%) percent must be maintained with a vegetative cover or retaining systems to minimize surface runoff.

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Deleted: **Natural Drainage Courses:** Natural drainage courses shall be protected from grading activity.¶

Groundwater Flow Patterns: Where known, groundwater flow patterns shall not be interrupted.¶

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- D. **Building Clustering Encouraged:** Buildings shall be clustered as much as possible to retain open space and surrounding tree cover and to minimize changes in topography.
- E. **Roadway Screening:** Screening along roadways shall make maximum use of berming and landscaping but shall not interfere with site distances.
- F. **Dimensional Requirements.** All lots shall have the following dimensional requirements:
7. Fifty (50) feet minimum front yard width
 8. Fifty (50) feet minimum lot width throughout the entire length of the lot
 9. Fifty (50) foot frontage along water
- G. **Retaining Wall Permit.** No shoreline retaining wall shall be erected without first having obtained a permit from EGLE.
- H. **Application Requirements:**
1. Projects involving more than two (2) families, non-residential, or projects seeking incentive credits shall be subject to the Site Plan Review Process
 2. Prior to construction on any property the following information must be provided with the application:
 - a. Scaled plot plan or aerial image in a scale that is legible and adequately displays the entire extent of the property boundary and the impacted lakeshore, and provides the following information:
 - 1) Documentation of existing and proposed topography, such as elevation points at key locations or topographic contours, and proposed topography.
 - 2) Proposed stormwater drainage around any proposed improvements.
 - 3) Existing vegetation.
 - 4) Proposed areas of cleared vegetation.
 - 5) Proposed new landscaping.
 - 6) Existing and proposed structure footprints, and dimensions for separation distances between these buildings and other structures, and setbacks from the lakeshore, any streams or wetlands, and property lines.
 - b. A sworn statement of compliance with planting requirements, limits of disturbance, and exclusion of phosphate-containing fertilizer, to be re-verified within one year of final inspection or occupancy certificate issuance.
- I. **Construction Guidelines:** For all developments in the Watershed Overlay Districts, the following construction guidelines shall be followed:
7. Whenever feasible, natural vegetation shall be retained and protected. Where inadequate vegetation exists, temporary or permanent vegetation shall be established.
 8. All exposed slopes and graded areas shall be landscaped with ground cover, shrubs, and trees as soon as possible.
 9. The smallest practical area of land shall be exposed at any one time during development.
 10. When land is exposed during development, the exposure shall be kept to the shortest practical period of time and, if possible, shall be scheduled during seasons of minimum precipitation.

Moved up [18]: ~~<#>Structures Allowed. A structure is allowed on the access lot provided the following are met:~~

Moved up [17]: ~~<#>Setbacks for underlying district are met.~~
Maximum one hundred fifty (150) gross square footage.
Not used for other than non-commercial waterfront recreational uses and related storage.
Unless the residences having the privilege to use an access lot, are within two hundred fifty (250) feet of the access lot, a minimum of two (2) parking spaces shall be provided off of the road right-of-way for each parcel that is more than 250 feet way.
No more than two (2) families may share each fifty (50) feet of an access lot, whether access is gained by easement, joint or common fee ownership, lease, license, site condominium unit, stock or membership in a corporation, or by any means.
Projects involving more than two (2) families shall be subject to the Site Plan Review Process.

Moved up [16]: ~~<#>Unless the residences having the privilege to use an access lot, are within two hundred fifty (250) feet of the access lot, a minimum of two (2) parking spaces shall be provided off of the road right-of-way for each parcel that is more than 250 feet way.~~

Deleted: ~~<#>Water Access Lot Design Requirements~~
Structures Allowed. A structure is allowed on the access lot provided the following are met:
Setbacks for underlying district are met.
Maximum one hundred fifty (150) gross square footage.
Not used for other than non-commercial waterfront recreational uses and related storage.
Unless the residences having the privilege to use an access lot, are within two hundred fifty (250) feet of the access lot, a minimum of two (2) parking spaces shall be provided off of the road right-of-way for each parcel. [11]

Deleted: ~~<#>Docks shall not be located in the required side setback and are regulated in the Lake Township Dockage Ordinance.~~

Moved down [15]: ~~<#>Shoreline Protection Strip. To minimize erosion, stabilize waterfronts, protect water quality, keep nutrients from entering waters, maintain water temperature at natural levels, preserve fish and wildlife habitat, to screen artificial structures, protect~~

Commented [AH7]: I don't know what this is. Should it be compliant plantings? Compliance with planting requirements?

Commented [ES7R2]: Great question. I think that's a good guess, I'll change to "compliance with planting requirements"

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11. The permanent final vegetation and all structures shall be installed as soon as practical.
12. Trees are susceptible to all development in their immediate vicinity, and, unless extreme measures are taken during construction to protect them, their life span will inevitably be shortened. The developer must demonstrate how trees will be protected during construction or how to relocate trees if necessary.
 - a. For relocating trees, the root ball must be approximately ten (10) to twelve (12) inches in diameter for every inch of the tree's diameter. Adequate drainage and backfill shall be necessary to complete the relocation. Root protection during construction is essential in saving mature trees.
 - b. Recommended techniques include using a geotextile aeration mat to allow structures to have adequate ventilation, while protecting the roots from excessive compaction and steel-reinforced concrete paving patterned with voids to be filled with gravel or grass that allow drainage, while protecting the tree from root compaction in highly trafficked areas.

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J. **Performance Guarantee:** The Township reserves the right to use a performance guarantee to ensure plantings are completed and vegetation is maintained according to plan within one year of construction.

K. **Native Plantings Required.** A minimum of ninety percent (90%) of all site plantings (by count) shall be native plant species indigenous to northern Michigan, selected from Native Plant Recommendation List maintained by the Northwest Michigan Invasive Species Network.

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1. Turf grass shall be limited to active recreation areas and functional lawn areas.
2. Landscaped areas not used for active recreation shall incorporate native grasses, wildflowers, shrubs, or groundcovers requiring minimal irrigation, fertilization, and mowing.
3. Invasive species identified on the Prohibited Planting List maintained by the Northwest Michigan Invasive Species Network are strictly prohibited.

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Section 4.4 SHORELINE PROTECTION STRIP

A. **Purpose.** To minimize erosion, stabilize waterfronts, protect water quality, keep nutrients from entering waters, maintain water temperature at natural levels, preserve fish and wildlife habitat, to screen artificial structures, protect property values, and also to preserve the scenic values of waterfront areas, a natural vegetation strip shall be maintained on each parcel or lot between the ordinary high water mark or water's edge and a buffer line each point of which is thirty five (35) feet horizontal from and perpendicular to the ordinary high water mark or water's edge of a waterbody or the banks of a waterway.

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B. **General Requirements.**

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7. Existing vegetation shading water surfaces shall be preserved to the maximum extent possible.
8. Existing natural ground cover and native vegetation shall be preserved to the fullest extent feasible, and where removed shall be replaced with native vegetation that is equally effective in retarding runoff, preventing erosion, preserving property values, and protecting community scenic values.
9. Within the shoreline protection strip, twenty (20%) percent of existing trees and shrubs may be selectively pruned or removed to enhance a filtered or corridor view of the water from the principal structure and for reasonable private riparian access to the water. A corridor view shall be established through selective cutting only after the principal structure has been sufficiently constructed to locate windows, decks or other structure features intended to enjoy and utilize a water view. Said pruning and removal activities shall be inspected at the discretion of the Zoning Administrator and ensure that a live root system stays intact to provide for waterfront bank stabilization and erosion control. Tree-topping and clear cutting within the natural vegetation buffer is prohibited.

10. Dead, diseased, unsafe or fallen trees and non-native exotic or noxious plants and shrubs, including poison ivy, poison sumac, purple loosestrife, Phragmites, etc. may be removed at the property owner’s discretion provided that no stumps are removed. Landowners are encouraged to consult with the Zoning Administrator before removing dead, diseased, unsafe or fallen trees from within the natural vegetation buffer. Planting of perennial native species (ground cover, shrubs and trees) in the natural vegetation strip is required.

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11. The restoration of a natural shoreline protection strip conforming to the requirements of this Ordinance shall be a condition of a zoning permit for a new dwelling being issued for a lot or parcel that is included in the Waterfront Overlay District. Any and all fill material placed within the shoreline protection strip shall be removed. Only soils and/or rocks, consistent with the composition of the pre-existing on-site soil and rocks, shall be allowed when necessary for growth of new vegetation. The shoreline protection strip shall be replanted solely with native vegetation as identified by the Northwest Michigan Invasive Species Network “Recommended Planting Guidelines for Municipalities”. Native vegetation shall be required at a rate of one (1) tree and three (3) shrubs per twenty-five (25) lineal feet of shoreline and shall meet the minimum size standards in the table below. The remainder of the natural vegetative strip shall be planted with native wildflowers, vines, grasses, rushes, sedges, and/or ferns.

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PLANTING SIZE STANDARDS	
Native Plant Material	Minimum Size
Deciduous (canopy) Trees	2.5” caliber measured at 4’ above grade
Coniferous (evergreen)	6’ height
Deciduous Shrubs	2’ height
Upright Coniferous	2’ height
Spreading Coniferous	8” spread

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12. It is in violation of the zoning ordinance to alter or disturb the shoreland protection strip except as provided in this section. If altered or disturbed, the following corrective measures are required:

a. Any and all fill material placed within the shoreland protection strip shall be removed. Only soils or rocks, consistent with the composition of the pre-existing on-site soil and rocks, shall be allowed when necessary for growth of new vegetation. Placement of beach sand is prohibited unless it is to maintain an existing beach area.

b. The shoreland protection strip shall be replanted. The replanted area shall consist solely of native vegetation and any replacement trees, similar in size and species to those removed. Any tree greater than 8 inches in diameter (8 inch in diameter measured at 4.5 feet above the ground) which was removed, shall be replaced at a rate of two trees for the first 8 inches in diameter, and one additional tree for each additional 4 inches in diameter of the original tree removed (i.e. if a 20” tree is removed— 5 replacement trees would be required, 2 for the first 8” and 3 for the other [20”-8”] 12 inches of diameter of the removed tree.)

Section 4.5 STEEP SLOPES OVERLAY

A. **Purpose.** The purpose of this section is to provide for the reasonable use of steep slopes while ensuring development will not induce soil erosion, require excessive grading, increase slope instability, or create sewage disposal problems and shall be in conformance with the following objectives:

7. Guard against property damage and personal injury, and minimize the potential for erosion, slope failure, stream siltation, increased runoff, flooding and contamination of surface waters caused by the adverse effects of site preparation and construction on steep slopes.
8. Conserve existing woodlands for air and water quality benefits.
9. Permit land uses by right that are compatible with protection of steep slope areas and encourage the use of steep slope areas for open space and conservation uses.
10. Require development to avoid steep slope areas wherever possible, and require all land use, clearing, grading, and construction to satisfy development standards.
11. Regulate expansion of land use or development that existed on steep slope areas prior to enactment of these requirements.
12. Protect adjoining properties from harmful consequences of development permitted under these requirements.

B. Identification and Establishment of Steep Slope Overlay

7. A steep slope is defined and established as those parcels containing slopes of 15% or greater as delineated on the Steep Slope Map for Lake Township and are located in the Steep Slope Overlay.
8. The boundaries shown on the Steep Slope Map may be supplemented or modified by examination of an on-site survey prepared and sealed by a Registered Professional Engineer or Surveyor and submitted to Lake Township for review.
9. The Steep Slope Overlay District shall be further divided into the following two categories:
 - a. Slopes of 15% but less than 25%. Slopes of fifteen (15) percent or greater slope (e.g., sloping fifteen (15) feet or more vertical per one hundred (100) feet horizontal) when there are five (5) adjacent contour intervals of two (2) feet each such that, in aggregate, they delineate a slope of at least fifteen (15) percent.
 - b. Slopes of 25% or more. Slopes of twenty-five (25) percent or greater slope (e.g., sloping twenty-five (25) feet or more vertical per one hundred (100) feet horizontal) when there are five (5) adjacent contour intervals of two (2) feet each such that, in aggregate, they delineate a slope of at least twenty-five (25) percent.
10. The Zoning Administrator shall decide whether or not the steep slope area has been shown with sufficient accuracy on the applicant's plans.
11. The burden of proving the correct boundary shall be on the applicant, supported by engineering and/or surveying data or mapping, testimony of a soil scientist, or other acceptable evidence.

C. General Provisions

7. The Steep Slope Overlay District shall be an overlay on all zoning districts. For any lot or portion thereof lying within the Steep Slope Overlay District, the regulations of the overlay district shall be in addition to and take precedence over the regulations of the underlying district.
8. These regulations apply to development where a land use permit is required or where any land is disturbed on a parcel located in the Steep Slope Overlay District.
9. All uses, activities and development occurring within any Steep Slope Overlay District shall be undertaken only in strict compliance with the provisions of this Article, with all federal and state laws, and with all other applicable Township ordinances.

10. No new parcel shall be created unless it contains at least one half (1/2) acre of area with slopes less than 25%. If it is infeasible to provide this area in accordance with the setbacks required by the underlying district, the lot area shall be increased as necessary to provide a minimum area equal to one half (1/2) acre of area with slopes less than 25%.
11. All cuts shall be supported by retaining walls or other appropriate retaining structures when depending upon the nature of the soil characteristics, such structures are approved by Benzie County Soil Erosion, Sedimentation, and Stormwater Control (SESSC) and the Township in order to prevent erosion.
12. Any fill placed on the lot shall be properly stabilized and when found necessary depending upon existing slopes and soil types, supported by retaining walls or other appropriate structures as approved by the Benzie County Soil Erosion, Sedimentation, and Stormwater Control (SESSC) and the Township.
13. No retaining wall shall exceed the height permitted in the zoning district and there shall be at least 10 feet between stepped retaining walls. All retaining walls require a certification by a professional engineer that the wall was constructed in accordance with approved plans and applicable building codes. All retaining walls shall be in place prior to any construction of a structure.
14. Any disturbance of steep slopes shall be completed within one construction season, and disturbed areas shall not be left bare and exposed during the winter and spring thaw periods.
15. Permanent vegetative cover shall be planted within three days after completion of grading.
16. Stumps shall not be removed from slopes over 15%. Additional clearing regulations may apply in Section 4.9 of this ordinance.
17. The alignment of roads and driveways shall follow the natural topography and minimize regrading.
18. The maximum grade of a road or driveway shall not exceed ten percent (10%).
19. There shall be a 30-foot setback for all structures, removal of trees, and grading, from top of steep slope that is 25% or greater.

D. Permit Requirements

7. In addition to required documentation submitted for a land use permit, when a property is proposed to be developed that is located within the Steep Slope Overlay, the following additional information shall be submitted:
 - a. A plan by a Registered Professional Engineer or Surveyor which accurately locates the proposed use and development with respect to the Steep Slope Overlay District boundaries, with all pertinent information describing the proposal, and a topographical survey with contour elevations at no greater than 2-foot intervals for the entire parcel.
8. If the area of proposed development is to be located on a steep slope over 15%, the following additional information shall be provided:
 - a. Proposed modifications to the existing topography and vegetative cover, as well as the means of accommodating stormwater runoff.
 - b. Specifications for building construction and materials, including filling, grading, storage of materials, and water supply and sewerage facilities.
 - c. Documentation of any additional engineering and/or conservation techniques designed to alleviate environmental problems that may be created by the proposed activities, in compliance with municipal sedimentation and erosion control regulations.

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Commented [AH8]: I think this is saying that the 1/2 acre has to be located outside of the setbacks for the underlying ZD. If that is the case, we may want to tweak this language.

Commented [ES8R2]: Is it? I understand this as them trying to make sure there's sufficient buildable area that's not a steep slope... so should we say at least one half acre of buildable area?

Commented [JM8R3]: I like the idea of using the word "buildable"

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E. Prohibited Uses on Slopes of 25% or More

7. The following are specifically prohibited on slopes of 25% or more:
 - a. Removal of topsoil.
 - b. Stairs, landings, and decks.
 - c. Structures, roads, driveways, parking areas, construction or other development.
 - d. Clearing of vegetation or grading, including the addition of fill except as permitted by this article.
 - e. On-lot sewage disposal systems.
 - f. Utility transmission lines and above ground utility line structures.

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F. Remediation on Steep Slopes. If work on a steep slope occurs in violation of this ordinance, the property owner shall cause for the steep slope to be replanted and restored to the previous condition prior to the work in violation of the ordinance. Trees, measured at four (4) feet above grade for canopy trees, shall be replaced at the following rate. Trees shall be maintained to retain the soil retention and replaced if dead or diseased.

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Vegetation Removed	Maturation	Planting Required
Canopy Tree 3" or less caliper		1:1
Canopy Tree 3" to 6" caliper		1:2
Canopy Tree 6" to 9" caliper		1:3
Canopy Tree 9" to 12" caliper		1:4
Canopy Tree Greater than 12" caliper		1:5
Evergreen or Flowering Tree 8' of less in height		1:1
Evergreen or Flowering Tree 8' to 12' in height		1:2
Evergreen or Flowering Tree 12' to 16' in height		1:3
Evergreen or Flowering Tree Greater than 16' in height		1:4
Shrub Any Size		1:1

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G. Development on Slopes of Twenty-Five (25) Percent or Greater. Development on slopes of twenty-five (25) percent or greater shall be prohibited unless there are no other reasonable or prudent alternatives. If the property owner believes that no reasonable or prudent alternatives exist, he or she must first obtain a Special Land Use Permit prior to any development on slopes of twenty-five (25) percent or greater. In reviewing the Special Land Use request, Planning Commission must find that the following conditions are met:

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7. That no other reasonable or prudent alternatives exist.
8. That the development will not create excessive soil erosion or sedimentation and that it will not impair the quality of water discharged from the site.
9. That the peak rate of stormwater runoff after development will not exceed the peak rate of stormwater runoff that has occurred prior to the proposed development.

Section 4.6 DEVELOPMENT ON RIDGELINES

A “ridge line” shall be defined as a line at which a critical slope area breaks to a slope of less than eight (8) percent for a distance of at least twenty (20) feet. A “critical slope area” shall be defined as all slopes facing Crystal Lake that have a significant portion of their grade being twelve (12) percent or greater for a distance of at least one hundred (100) feet.

- A. All principal buildings shall be set back at least fifty (50) feet from all ridgelines.
- B. All principal or accessory buildings or structures located within one hundred (100) feet of a ridge line shall not exceed eighteen (18) feet in height.
- C. All accessory structures, such as but not limited to signs, sheds, garages, and satellite dishes, shall be set back fifty (50) feet from all ridgelines.
- D. A principal building setback from the ridge line of only twenty (20) feet may be permitted with Planning Commission approval. When evaluating the request for a waiver from the ridge line setback, the Planning Commission shall determine if any of the following conditions exist:
 - 7. There are no other reasonable or prudent alternatives to achieve the required fifty (50) foot setback.
 - 8. There would be significant environmental consequences if the fifty (50) foot setback was required.
 - 9. The building is not visible from a public road, trail, or water access point.
 - 10. A recent land division is not the cause for the request.
- E. All existing vegetation located within twenty (20) feet on either side of the ridge line shall be maintained as a vegetative buffer in accordance with this section.
- F. Removal of vegetation in the natural vegetative buffer shall comply with the standards of Section 4.8, Vegetation Preservation and Clearing of Land.
- G. Natural shrubbery, trees, or other vegetation shall be preserved as far as practical and, where removed, shall be replaced with other naturally occurring vegetation that is equally effective in retarding runoff, preventing erosion, and preserving natural beauty. A mowed lawn is not a desirable vegetative buffer adjacent to the ridge line.
- H. Native plants, shrubbery, and trees are encouraged when new vegetation is planted.
- I. Existing soil and organic matter shall not be altered or disturbed within the natural vegetative buffer.

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Commented [AH12]: The principal building setback is 100 feet. Do we want to changes this to 100 or increase the variance distance. Neither, both?

Commented [ES12R2]: Do you mean the property line setback? That may be the same as the ridge line in some cases, but probably is not the case a lot of times. So I think retaining 50 is fine?

Deleted: The building is not located within a special or unique viewing area or view shed.

Deleted: be limited to no more than twenty-five (25) percent of the length of this buffer, provided that cutting of this twenty-five (25) percent shall not create a clear-cut opening greater than twenty-five (25) feet wide for every one hundred (100) feet of ridge line.

Commented [AH14]: Should we use the same standards mentioned above?

Commented [AH14R2]: A minimum of ninety percent (90%) of all site plantings (by count) shall be native plant species indigenous to northern Michigan, selected from Native Plant Recommendation List maintained by the Northwest Michigan Invasive Species Network.

Commented [ES14R3]: Can we just remove since we have that native panting standard in our general standards like you mention?

Section 4.7 STORMWATER MANAGEMENT

When any land in the Township is developed or altered in any way which affects stormwater runoff, the owner shall detain such stormwater from runoff onto adjacent properties, including roads and other rights-of-way, in such a manner which shall result in the maximum amount of stormwater runoff not exceeding that which existed prior to the development or improvement of the property.

A. General Standards.

- 7. Stormwater shall not adversely affect neighboring properties or the surface water quality of the Township's lakes and streams.
- 8. All developments shall be designed, constructed, and maintained to protect the water quality of the Township's lakes and streams.
- 9. Impervious surfaces must be engineered and sloped in a manner that will not allow direct drainage into a water resource.
- 10. Drainage of surface runoff from an impervious surface must be directed to storm water management system designed to accommodate storm water runoff from a twenty-five (25) year storm event of three and one-half (3.5) inches of rain in a twenty-four (24) hour period. Storm water management systems must be designed in accordance with the Michigan Nonpoint Source Practices Manual.
- 11. Engineered slopes must be less than fifteen (15%) percent when located within one hundred (100) feet of a water resource. The surface must be maintained with a vegetative cover to minimize surface runoff.
- 12. **Natural Drainage Courses:** Natural drainage courses shall be protected from grading activity.
- 13. **Groundwater Flow Patterns:** Where known, groundwater flow patterns shall not be interrupted.

B. Stormwater Control Requirements. Stormwater control mechanisms shall be required to ensure that the peak rate of stormwater runoff, after development, does not exceed the rate prior to development.

- 7. **Residential Development.** Residential development shall implement one or more of the following stormwater control mechanisms:
 - a. Retention basin
 - b. Detention basin
 - c. Vegetative buffer with drainage swale
 - d. Infiltration trench
 - e. Low impact development technique meeting the standards of subsection 4.8.C.
- 8. **Commercial, Industrial, and Institutional Development.** All new commercial, industrial, and institutional development, and any change of use requiring site plan review, shall incorporate a minimum of two (2) LID stormwater techniques from subsection B, above.

C. LID Incentive Credit, Stormwater Management Techniques. Property owners may earn LID incentive credit as described in Section 4.3 by implementing the following approved stormwater management techniques.

- 7. **Rain Gardens and Bioswales**
 - a. Vegetated stormwater features shall be designed to capture, infiltrate, and filter runoff

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All uses allowable in all zoning districts of this Ordinance shall comply with the standards set forth in this section regulating the development of environmentally sensitive areas. These requirements shall be considered in addition to use restrictions or other applicable regulations for each zoning district including overlay district and shall be considered as a separate portion of the zoning application.¶

Intent. It is the intent of these regulations to identify and safeguard those areas of the Township that are considered to be environmental sensitive to development, due to soil types, drainage, vegetation, wildlife habitats or other factors that are subject to being seriously endangered, damaged, or destroyed if allowed to develop in a manner inconsistent with their conservation and preservation. Since the welfare and well-being of the citizens of the Township are directly linked and related to the natural environment of the area, it is recognized by this section that in order to maintain Environmentally Sensitive Areas in their natural condition for the benefit of mankind, it is necessary to protect such area from degradation.¶

Sensitive Areas Terms and Definitions.¶

Environmentally Sensitive Areas. The protection of areas of environmental concern, such as Wetlands, High Risk Erosion, Dunelands, Floodplains or Steep Slope Areas, must be considered in conjunction with development.¶

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- b. [Shall be sized to capture runoff from contributing drainage area per Michigan Nonpoint Source Practices Manual](#)
- c. [Shall be planted with native species selected from Native Plant Recommendation List maintained by the Northwest Michigan Invasive Species Network.](#)
- d. [Shall maintain minimum setbacks: 10 feet from foundations, 50 feet from wells, 100 feet from septic \(or per EGLE\)](#)
- e. [Shall comply with steep slope requirements \(Section 4.5\) where applicable](#)

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8. [Permeable Pavement](#)

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- a. [The installation of porous asphalt, pervious concrete, or permeable pavers allowing water infiltration](#)
- b. [Appropriate for residential driveways, overflow parking, pedestrian pathways](#)
- c. [Shall include minimum 12-inch aggregate subbase for structural support and storage](#)
- d. [Shall not be installed on slopes exceeding 5% without Township Engineer approval](#)
- e. [Shall maintain setbacks per subsection C. 1.d above](#)
- f. [Property owner responsible for maintenance through vacuuming/pressure washing](#)

9. [Rainwater Collection Systems](#)

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- a. [Cisterns, rain barrels, blue roofs, or stormwater vaults capturing rooftop runoff](#)
- b. [Minimum capacity: 500 gallons \(residential\), 1,000 gallons \(commercial/industrial\)](#)
- c. [Shall include overflow directing water away from foundations toward vegetated areas](#)
- d. [Shall include screens/filters to prevent debris and mosquito breeding](#)

10. [Green Roofs](#)

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- a. [Vegetated roof systems absorbing rainfall and reducing runoff](#)
- b. [Shall be designed by qualified professional meeting structural load requirements](#)
- c. [Shall include minimum 4-inch depth of lightweight growing media](#)
- d. [Native, drought-tolerant species strongly encouraged](#)
- e. [Maintenance plan required](#)

11. [Parking Lot Bioretention Features \(commercial/industrial\)](#)

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- a. [Landscaped islands or bioswales within parking areas](#)
- b. [Ratio: one island per 15 parking spaces](#)
- c. [Designed with depressed elevation and curb cuts to receive runoff](#)
- d. [Minimum 18-inch engineered soil mix, planted with native stormwater-tolerant species](#)
- e. [Each island shall include at least one canopy tree](#)

- D. **Maintenance and Inspection.** All stormwater management features shall be maintained in perpetuity. Commercial and industrial developments shall submit a maintenance plan and recorded maintenance agreement per Section 4.7. Posting of Financial Guarantee.

Section 4.8 VEGETATION PRESERVATION AND CLEARING OF LAND

Land within Lake Township shall not be cleared of trees in any manner, without first obtaining a land use permit.

A. General Requirements

7. **Cutting Standards.** Cutting shall be done in such a manner as to avoid erosion, to preserve rare species of trees or greenery, to preserve scenic qualities, and to preserve desirable screening.
8. **Clear Cutting Prohibition.** Clear cutting of property shall be prohibited unless provided for in a forestry management plan completed by a Certified Arborist.
9. **Ridge Line Vegetation Removal.** Removal of vegetation on a ridge line shall be limited to no more than twenty-five (25) percent of the length of this ridge on the property, provided that cutting of this twenty-five (25) percent shall not create a clear-cut opening greater than twenty-five (25) feet wide for every one hundred (100) feet of ridge line.

B. **Vegetation Retention Standards.** As much of the existing vegetation, including bushes, shrubs, natural ground cover, and trees, shall remain on the site as possible. Lawn areas shall not qualify as natural vegetative cover required in this section. The required amount of vegetative area to remain undisturbed shall be based on the existing slope on the site and shall be clearly indicated on the proposed site plan or sketch plan. The natural vegetative areas shall be located along lot lines, natural drainage courses, wetlands, and steep slopes to the extent possible. In the case of PUDs, PRDs, Site Condos and Open Space Residential Developments, each individual lot need not meet the requirements of the section, provided that the total project does meet the requirements of this section.

Slope-Based Vegetation Retention Requirements:

Existing Slope	Percent of Lot to Remain in Natural Vegetative Cover
12 to 17.99 Percent	30 Percent
18 to 24.99 Percent	40 Percent
25+	50 Percent

C. **LID Incentive Credit, Vegetation Preservation on Steep Slopes.** Property owners may earn LID incentive credit as described in Section 4.3 by preserving existing trees and vegetation on steep slopes of 15% or greater beyond the minimum requirements of Section 4.9.B.

7. **Eligibility:** Credit is granted for voluntary preservation of twenty-five percent (25%) more vegetated area on steep slopes than required by the Slope-Based Retention Requirements Table of Section 4.9.B.
8. **Protection Requirements:** Preserved trees and vegetation must be protected during construction with tree protection fencing installed at the drip line and shown on the site plan.

D. Tree Protection Standards

7. **Marking of Preserved Trees.** All trees intended to remain standing and undamaged shall be clearly marked on the proposed site plan.

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Commented [AH16]: Is this the whole Township, or specifically the Waterfront Overlay District?

Commented [AH16R2]: Should we limit this to commercial parcels or parcels over a certain size?

Commented [ES16R3]: Again, applicability needs to be sorted. I tend to think it should apply universally

Commented [JM16R4]: They have so little commercial that I think it will apply across the Township.

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- 8. Setback from Preserved Trees. In order to protect the trees and the roots of the trees, all structures and roads shall be set back at least ten (10) feet from the trees identified on the site plan to be left standing or undamaged.
- 9. Group Preservation. Wherever feasible, groups or clumps of trees shall be preserved to encourage survival of the root zone.
- E. Application Requirements. The applicant shall submit the following to the Zoning Administrator for review and approval.
 - 7. Application. Application with information provided by the Township
 - 8. Site Plan Information. In addition to the information required on a site plan per Article 7, the following shall be required:
 - a. Prepared by a Michigan licensed landscape architect
 - b. Trees larger than 6 inches in diameter at breast height
 - c. The number of trees to be removed and location on the site
 - d. The number of trees to remain and location on the site
 - e. The acreage of the area to be disturbed and location on the site
- F. Exemptions. Activities exempt from permit:
 - 7. Minor Tree Removal. Removal of trees during a one-year period that includes less than 15,000 sq ft of disturbance to a site.
 - 8. Small Trees Outside Watershed Overlay. Removal of trees less than 6 inches in diameter at breast height outside of Watershed Overlay.
 - 9. Utilities and Rights-of-Way. Removal of trees when associated with the maintenance or access for public utilities and right-of-ways.
 - 10. Dead, Diseased, or Damaged Trees. Removal or trimming of dead, diseased, or damaged trees, where the damage resulted from an accident or non-human cause.
 - 11. Agricultural Operations. Tree removal or transplanting occurring during use of land for agriculture or the operation of a commercial nursery or tree farm.
 - 12. Emergency Actions. Actions made necessary by an emergency, such as a tornado, windstorm, flood, freeze, dangerous and infectious insect infestation or disease, or other disaster, in order to prevent injury or damage to persons or property or to restore order.
 - 13. Governmental Agencies. Tree trimming, removal or transplanting performed by or on behalf of any governmental agencies.

Section 4.9 FORESTRY

- A. Applicability. Forestry and timber harvesting activities shall be permitted only in zoning districts where such uses are allowed by this Ordinance and shall comply with the provisions of this Section. Approval of forestry activities under this Ordinance shall not relieve any person from compliance with state or federal permits, soil erosion and sedimentation control requirements, or other applicable laws and regulations.

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- Commented [AH20R2]: Need more clarity on app ... [23]
- Commented [ES20R3]: Again, applicability decisio ... [24]
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- Commented [ES21R2]: Applicability question
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- Moved up [13]: <#>Development on Ridge Lines ¶
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B. Best Management Practices.

All forestry activities shall be conducted in accordance with the *Forestry Best Management Practices for Soil Erosion and Sedimentation Control*, as published and periodically updated by the Michigan Department of Natural Resources pursuant to Part 91 of the Natural Resources and Environmental Protection Act (NREPA), 1994 PA 451, as amended.

C. Zoning and Development Review.

Forestry activities involving land clearing, access road construction, grading, or other site disturbance shall be subject to applicable zoning review and approval requirements, including land use approval and site plan review, in accordance with Article 3 and Article 7, unless expressly exempted by this Ordinance.

Section 4.10 GRADING AND MINING

For any construction or operation disturbing more than 3,000 cubic yards of soil, the Benzie County Soil Erosion, Sedimentation, and Stormwater Control Ordinance (SESC) shall apply.

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Article 5. SITE DEVELOPMENT STANDARDS

Section 5.1 GREENBELTS

Prior to the commencement of construction of any structure or building of a commercial nature where such property abuts, adjoins, or is adjacent to a residential zone, a greenbelt shall be established. However, where permitted elsewhere in this Ordinance, an opaque wall or fence may be built in lieu of a greenbelt. A greenbelt shall be a minimum width of twenty (20) feet; shall be completed within six (6) months from the date of final inspection; shall thereafter be maintained with permanent plant material indigenous to this area; at least four (4) feet in height if evergreens, ten (10) feet in height if deciduous and supplemented with interspersed shrubbery at least two (2) feet in height so a sight screening effect can be expected within three (3) years. Landscaping shall be native to the region as determined by the Zoning Administrator.

Section 5.2 PARKING & LOADING REGULATIONS

[This section appears to need some improvement. The distinction between residential and other uses is not consistent or clear. For example, backing out of residential property is common but would be precluded under this proposal. It is not clear the table is needed given the lack of commercial property in the township. The number of spaces required doesn't seem to cover all situations.]

A. General Parking Requirements

7. There shall be provided in all Districts at the time of erection or enlargement of any main building or structure, automobile off-street parking space with adequate access to all spaces.
8. On properties with residential uses, parking shall be located on-site. Parking areas shall be designed and located to minimize the need for pedestrians to cross public roads to access parked vehicles. Spaces inside an accessory structure or garage shall not be included in determining if the required number of spaces are present.

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9. Off-street parking areas shall be designed to the following minimum standards:

PARKING SPACE DIMENSIONAL STANDARDS			
Parking Angle	Stall Width	Stall Depth	Min.-Max. Aisle Width*
Parking Angle	8 feet	22 feet	12 – 16 feet (one-way); 20 – 24 feet (two-way)
Parallel	8.5 feet	19 feet	12 – 16 feet (one-way)
45°	8.5 feet	20 feet	16 – 20 feet (one-way)
60°	8.5 feet	18 feet	20 – 24 feet (two-way)
90°	8 feet	17 feet	18 – 22 feet (two-way)
* Aisle widths indicated as two-way shall be reduced by half for one-way only travel.			

10. Parking surfaces shall be durable and dustless materials such as asphalt, concrete, brick, stone, pavers, or other permeable materials acceptable to the Zoning Administrator Gravel shall not be an allowable material under this standard except for 1- and 2- family dwellings.
11. Adequate ingress and egress shall be provided by clearly defined driveways. Backing into public street rights-of-way shall be prohibited.
12. Access to off-street parking areas for non-residential uses shall not be permitted across lots that are residential in use or in a residential zoning district.
13. Maintenance: All parking areas shall be maintained in good condition and kept free of debris and garbage.
- B. **Spaces Required.** The proper number of parking spaces for any given use shall be based upon considerations of the maximum number of motor vehicles that can be expected on the premises at the same time during an average day. The minimum parking spaces required shall be:

Use	Minimum Required Parking Spaces
Residential	-
<u>Dwelling, Single Unit</u>	<u>2</u>
<u>Dwelling, Two Unit</u>	<u>1 per unit</u>
<u>Dwelling, Multiple Unit</u>	<u>2 per unit</u>
<u>Accessory Dwelling Unit</u>	<u>1</u>
Adult Day Care Center	-
<u>Adult Family Day Care Home</u>	<u>2</u>
<u>Adult Group Day Care Home</u>	<u>1 per resident</u>
Adult Foster Care Facility	-
<u>Adult Foster Care Home, Family</u>	<u>2</u>
<u>Adult Foster Care Home, Small Group</u>	<u>2</u>
<u>Adult Foster Care Home, Large Group</u>	<u>1 per resident</u>
<u>Adult Foster Care Home, Congregate Facility</u>	<u>1 per resident</u>
<u>Adult Foster Care Camp or Adult Camp</u>	<u>1 per resident</u>
<u>Bed and Breakfast Establishment</u>	<u>1 per bedroom</u>
<u>Boarding House</u>	<u>1 per bedroom</u>
Child Care Organization	-

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 Commercial- 1 space per 200 sq ft of useable floor area, retail space

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Child Care Center	4 per classroom
Foster Family Home	2
Foster Family Group Home	2
Child Care Home, Family	2
Child Care Home, Group	2
Recreational	-
Golf Course	(Note 1)
Campground	(Note 1)
Marinas & Canoe Liveries	(Note 1)
Commercial	-
Greenhouse, Commercial	1 per 1,000 sq. ft.
Hotel, Motel, Resort (<10 units)	1.3 per bedroom
Personal Service Establishment (<5,000 sq. ft.)	1 per 300 sq. ft.
Restaurant, Indoor	1 per 250 sq. ft.
Restaurant, Outdoor	1 per 250 sq. ft.
Retail Sales Establishment (<5,000 sq. ft.)	1 per 300 sq. ft.
Contractors Use	(Note 1)
Warehousing, Commercial Storage	1 per 1,000 sq. ft.
Designated Industrial Uses	(Note 1)
Outdoor Storage	None
Public/Utilities	-
Battery Energy Storage Facilities, Small or Utility	None
Data Centers	based on the office component of the center
Institutional Uses	(Note 1)
Solar Energy System, Small or Utility	None
Wind Energy Conversion System, Small or Utility	None
Wireless Communication Tower	one
Agricultural	-
Agricultural Uses	(Note 1)
Forestry Uses	None
Roadside Stands	5
Notes	
<p>1. For these uses, the applicant shall submit a parking standard for approval by the Planning Commission based on specifics of the proposed use. If approved by the Planning Commission, the proposed standard shall be used to calculate the minimum number of spaces.</p>	
<p>2. For those uses not specifically mentioned, the requirements for off-street parking of a similar use shall apply, as determined by Planning Commission</p>	
<p>3. Nothing in this Ordinance shall be deemed to prevent voluntary establishment of off-street parking facilities to serve an existing use of land or buildings, or to prevent provision of additional parking facilities beyond what is required by the Ordinance, provided all such parking is in conformance with the regulations herein. Except for</p>	

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single-family detached residential uses, any person proposing the provision of greater than 125% of the minimum required off-street parking as specified in this Article shall demonstrate to the Planning Commission sufficient justification for the additional parking.

4. When calculations for determining the required number of parking spaces results in a fractional space, any fraction of less than one half (1/2) may be disregarded, while a fraction of one half (1/2) or more shall be counted as one space.

Section 5.3 EXTERIOR LIGHTING

[The Planning Commission discussed whether the lighting ordinance should continue to be included in the zoning ordinance or if it would be more appropriate to have a separate non-zoning (police power) ordinance since some of what the lighting provisions are intended to address is nuisance related and there may be no reason lighting should be grandfathered. A final decision is needed.]

- A. **Intent & Purpose.** The purpose of this article is to provide for outdoor lighting that will:
7. Minimize problems associated with improperly designed and installed outdoor lighting including glare, light trespass, and sky glow, by limiting outdoor lighting that is misdirected or excessive.
 8. Conserve energy and resources to the greatest extent possible.
 9. Decrease light pollution and curtail and reverse the degradation of the nighttime visual environment and the night sky.
 10. Promote and protect general health, safety and welfare and security of the public in Lake Township while not unreasonably interfering with the use and enjoyment of property within the Township.
- B. **Exemptions.** The following uses and activities shall be exempt from the standards of this Section, provided they do not create glare perceptible to persons operating motor vehicles in the public rights-of-way:
7. **New Technology:** The Zoning Administrator may grant exceptions to the material, light source, or method of installation standards in this Section in consideration of any new state-of-the-art technology, so long as the exception still meets all other applicable standards of this Section.
 8. **Residential Lighting:** Low intensity residential decorative lighting, such as porch lights or low-level façade and landscape lighting, provided any such lights are directed toward the residential building or land.
 9. **Holiday Decorations:** Provided the decorative exterior lighting shall not include searchlights, floodlights, or stroboscopic lights.
 10. **Flag Lighting:** Luminaires used for the illumination of the flag of the United States of America.
 11. **Temporary Lighting:** Associated with an approved temporary event permitted by the Township.
 12. **Statutory Authority:** Circumstances where federal or state laws, rules or regulations take precedence over the provisions of this Section, or where fire, police, emergency, or repair personnel need light for temporary or emergency situations, or lighting that is only activated at the time of power outages.
- C. **Shielding & Filtration**
7. All nonexempt exterior lighting shall be hooded and/or louvered to prevent light from spilling over onto neighboring properties and rights-of-way.

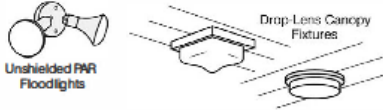
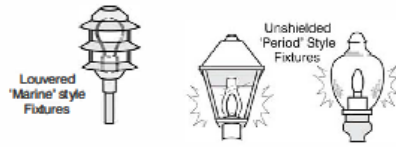
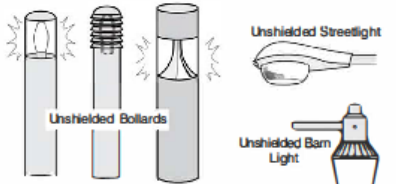
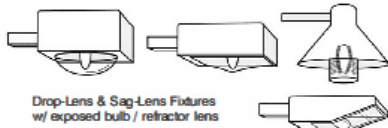
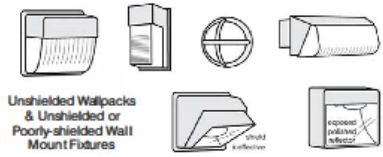
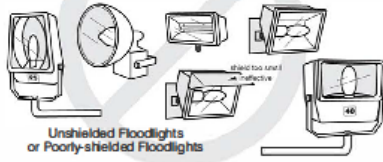
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8. All lighting fixtures shall have one hundred (100%) percent cut-off shielding that prevents light from being emitted above a horizontal plane from the lowest direct light emitting part of the luminaire.
 9. Light sources shall be located as to minimize the hazards of glare, and all poles or standards used to support outdoor light fixtures shall be coated with a material that minimizes glare from the light source.
- D. **Notification.** Zoning permit applications shall include a question inquiring whether the project includes any outdoor lighting. If the project includes any outdoor lighting equivalent to 150 watts incandescent or more, a lighting plan is required with a zoning application.

Examples of Acceptable / Unacceptable Lighting Fixtures

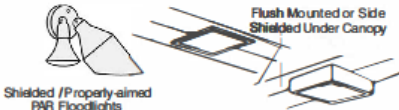
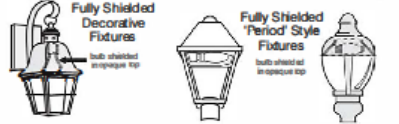
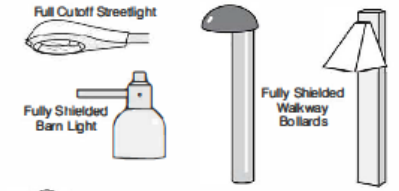
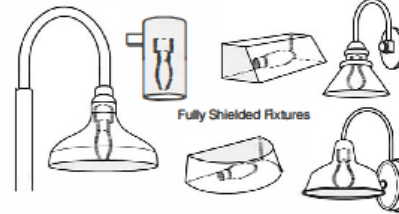
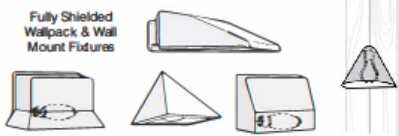
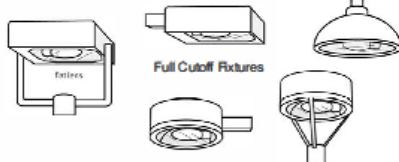
Unacceptable

Fixtures that produce glare and light trespass



Acceptable

Fixtures that shield the light source to minimize glare and light trespass and to facilitate better vision at night



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Section 5.4 SIGNS

- A. **Intent & Purpose.** It is the policy of this Ordinance to discourage and restrict the use of roadside signs as nuisances detrimental to the public safety and unsightly, but it is recognized that the reasonable requirements of business carried on in the Township require a limited number of signs.
- B. **General Requirements and Limits.** The following provisions permitting the erection and maintenance of roadside signs will be construed in the light of the purpose and intent stated in Subsection 5.4(A):
7. One identification sign of not more than twenty-four (24) square feet may be erected on the premises as a part of any business or activity actively conducted thereon in any district, except that signs relating to home occupations or businesses shall be not more than six (6) square feet.
 8. No business or person may erect in the Township a flashing lighted sign that blinks on and off, rotates, flashes or otherwise draws attention to the sign by means of the movement of an artificial light source.
 9. Attractively designed groups of directional signs not more than four (4) square feet in area may be placed on property regardless of zone, at highway intersections. Such groups of signs shall be subject to the approval of the Zoning Administrator and the County Road Commission.
 10. No sign shall be located in a public or private right of way.
- C. **Permit Required.** Except as otherwise provided in parts E and F, no sign may be constructed, erected, moved, enlarged, illuminated or substantially altered unless a Land Use Permit has been issued in accordance with the provisions of this Ordinance. Mere repainting or changing the message of a sign shall not in and of itself be considered a substantial alteration.
- D. **Signs Excluded from Permit Requirement.** The following signs are permitted without a Land Use Permit but shall conform to the requirements set forth herein as well as all other applicable requirements of this Section.
7. One (1) sign not exceeding eight (8) square feet in sign face area that is customarily associated with residential use and that is not of a commercial nature, such as signs giving property identification names or numbers or names of occupants, signs such as 4-H Clubs group memberships or centennial farm signs.
 8. Signs not exceeding four (4) square feet in sign face on mailboxes or newspaper tubes, and signs posted on private property relating to private parking or warning the public against trespassing or danger from animals.
 9. Signs erected by or on behalf of/or pursuant to the authorization of a governmental body, including legal notices, identification, and information signs, including historical markers, traffic, directional, and regulatory signs.
 10. Official signs of a non-commercial nature erected by public utilities.
 11. Flags, or insignia of any governmental or non-profit organization when not displayed in connection with a commercial promotion or as an advertising service.
 12. Integral decorative or architectural features of buildings or works of art, so long as such features or works of art do not contain letters, trademarks, moving parts, or lights.
 13. Signs directing and guiding traffic on private property that do not exceed four (4) square feet each and that bear no advertising matter.
 14. Informational signs not exceeding one (1) square foot in sign face.
 15. A total of two (2) banners, one (1) banner and one (1) commercial advertising flag, or two (2) commercial advertising flags, each such banner or commercial advertising flag not to exceed twenty-four (24) square feet in sign face, used to attract attention to a community activity or event (Also see part F).

16. Street name signs located in accord with County Road Commission standards at street intersections, not to exceed one (1) square foot in sign face.

E. **Temporary Signs.** Temporary signs are allowed with the following conditions:

7. Maximum of a total of six (6) square feet of temporary signage may be displayed on a parcel at one time

8. Signs shall be located on private property, outside of the road right-of-way

9. A permit is not required **[the current ordinance has a list of specific types of signs that are included in this exemption; should that list be retained? For example, political signs are exempt but must be removed within 2 days after the election.]**

F. **Determining the Number of Signs.**

7. For the purpose of determining the number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related, and composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements, each element shall be considered a single sign.

8. A two-sided or multi-sided sign shall be regarded as one (1) sign so long as:

a. With respect to a V-type sign, the two (2) sides are at no point separated by a distance that exceed five (5) feet; and

b. With respect to double faced (back-to-back) signs, the distance between the backs of each face of the sign does not exceed three (3) feet

Article 6. SUPPLEMENTAL USE STANDARDS

Section 6.1 INTENT & PURPOSE

Those uses permitted by right and uses allowed by special use permit enumerated in any zoning district, if included below, shall be subject to the following conditions and requirements. The uses listed in this Article are only allowed in districts where listed in Article 3.

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Section 6.2 AGRICULTURAL OPERATIONS

No grazing of livestock shall be permitted within fifty (50) feet of the ordinary high-water mark, bank of stream, or wetland.

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Agricultural uses must meet the currently adopted Generally Accepted Agricultural Management Practices, as adopted by [the Michigan Commission of Agriculture and Rural Development under the Michigan Right to Farm Act, P.A. 93 of 1981](#). *[insert accurate reference, and is there more we can add here to restrict, limit or require land use approval for ag operations without violating the right-to-farm law].*

Commented [RC22]: Based on my reading of the Right to Farm Act, requiring adherence to GAAMPS is the only legally ironclad restriction a zoning ordinance can set forth.

Section 6.3 AUTOMOBILE AND MARINE REPAIR AND SALES

Outdoor display of individual pieces of equipment may be allowed in areas so designed in the site plan as approved provided the display area has been designed and constructed as part of the overall site improvements.

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- A. Display areas shall be suitably landscaped.
- B. Such landscaping shall include shrubs and trees in sufficient quantity to mitigate any adverse impact of the outdoor display.
- C. Servicing and repairs shall be conducted only within a totally enclosed building.

[Since repair shops are not an allowed use, is this section needed?]

Section 6.4 AUTOMOTIVE SERVICE STATIONS

- A. All repairs or servicing shall be conducted only within a completely enclosed building.
- B. Screening or fencing shall be as required by the Planning Commission.

[Since service stations are not an allowed use, is this section needed?]

Section 6.5 ADULT FOSTER CARE FACILITIES

- A. Adult Foster Care Facilities must be licensed by the State of Michigan and comply with all applicable state requirements.
- B. Adult Foster Care Family Homes are limited to 6 or fewer adults and the licensee shall be a member of the household and an occupant of the residence. Adult Foster Care Family Homes must obtain a land use permit from the Zoning Administrator as required in Article 12.4.
- C. Adult Foster Care Small Group Homes have an approved capacity to receive 12 or fewer adults and must be approved by the Site Plan Review procedures in Article 7.
- D. Adult Foster Care Large Group Homes have an approved capacity to receive between 13 and 20 fewer adults and must be approved by the Special Use approval process in Article 8.

[This section has been refined compared to earlier versions of the proposed ordinance. This section divides foster care homes into the three categories recognized by the State, and has a different level of review for each. We need to make sure this is consistent with what is allowed by state law, which largely preempts any local regulation but allows us to have some control.]

Section 6.6 BATTERY ENERGY STORAGE SYSTEMS, SMALL-SCALE

- A. Intent. The purpose of this section is to permit and regulate small-scale battery energy storage systems as accessory uses in a manner that supports renewable energy generation, protects public safety, and minimizes impacts on adjacent properties, while remaining consistent with applicable state law.
- B. Definitions.
 - 7. Battery Energy Storage System. One or more devices, assembled, capable of storing energy to supply electrical energy at a future time, not to include a stand-alone 12-volt car battery, an electric motor vehicle, or small store-bought batteries designed and used purely for household electronic items.
 - 8. Battery Energy Storage System, Small-Scale. A Battery Energy Storage System (BESS) that is intended primarily to serve the electricity needs of the applicant property but may, at times, discharge into the electric grid.
- C. General Requirements.
 - 7. A building permit shall be required for all on-site battery energy storage systems.
 - 8. On-Site battery energy storage with an aggregate energy capacity of more than 1 megawatt are subject to additional regulations in the applicable fire code, and required documentation shall be submitted along with the building/electrical permit applications.

Moved down [2]: <#>CAMPGROUNDS & TRAVEL TRAILER PARKS¶

To provide for travel trailer parks, campgrounds, etc., normally operated on a seasonal basis, for the accommodation of tents, travel trailers, self-propelled homes or vehicles designed primarily for temporary living or sleeping.¶

Sites shall be a minimum of ten (10) acres.¶ Developments shall comply with the provisions of Act 368 of the Public Acts of 1978, as amended. [check current citation]¶

Management headquarters, recreational facilities, toilets, showers, laundry facilities and other uses and structures customarily incidental to the operation of a travel trailer park are permitted as accessory uses in the districts in which trailer parks are allowed, PROVIDED that:¶

Such establishments and the parking area primarily related to their operations shall not occupy more than ten percent (10%) of the area of the park.¶

Such establishments shall be restricted in their use to the occupants of the park.¶

Such establishments shall present no visible evidence of their commercial character which would attract customers other than occupants of the park.¶

No space shall be so located that any part intended for occupancy is within one hundred (100) feet of a residential district.¶

In addition to meeting the above requirements, the travel trailer site plan shall be subject to the review and approval of the health department.¶

Storage areas for unoccupied travel trailers, motor homes and similar units may be allowed as an accessory use.¶

Deleted: <#>BOARDING HOUSES¶

All residences shall meet all state and local health and safety codes.¶

No more than three (3) individuals shall be accommodated in any single residence.¶

Such uses shall be carried out in an inconspicuous manner so that the nature of activities related to the residence do not differ significantly from activities related to normal residential uses in the districts.¶

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D. Standards.

- 7. **Coverage.** Lot coverage shall not exceed the otherwise permissible percentage of lot coverage for buildings in the applicable district.
- 8. **Setbacks.** All battery energy storage system structures and related structural apparatus not physically attached to a building shall satisfy the setback requirements in the applicable district.

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Section 6.7 CAMPGROUNDS & TRAVEL TRAILER PARKS

A. Intent. To provide for travel trailer parks, campgrounds, etc., normally operated on a seasonal basis, for the accommodation of tents, travel trailers, self-propelled homes or vehicles designed primarily for temporary living or sleeping.

B. Sites shall be a minimum of ten (10) acres.

C. Developments shall comply with the provisions of Act 368 of the Public Acts of 1978, as amended. **[check current citation]**

D. Management headquarters, recreational facilities, toilets, showers, laundry facilities and other uses and structures customarily incidental to the operation of a travel trailer park are permitted as accessory uses in the districts in which trailer parks are allowed, PROVIDED that:

- 7. Such establishments and the parking area primarily related to their operations shall not occupy more than ten percent (10%) of the area of the park.
- 8. Such establishments shall be restricted in their use to the occupants of the park.
- 9. Such establishments shall present no visible evidence of their commercial character which would attract customers other than occupants of the park.
- 10. No space shall be so located that any part intended for occupancy is within one hundred (100) feet of a residential district.
- 11. In addition to meeting the above requirements, the travel trailer site plan shall be subject to the review and approval of the health department.
- 12. Storage areas for unoccupied travel trailers, motor homes and similar units may be allowed as an accessory use.

Moved up [1]: <#>FORESTRY ¶
Forestry uses shall be subject to the currently adopted Forestry Best Management Practices, as adopted by Michigan DNR. **[needs better citation, also this needs to be linked to land use/site plan approval for such activities]**¶

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Section 6.8 CHILD CARE HOME, FAMILY

- A. Location.** Such facilities shall be located in the permanent residence of the operator.
- B. Fencing.** The perimeter of any yard used for play or instruction shall be enclosed by a fence that is a minimum of four (4) feet in height to prevent children from departing or entering the yard without permission of an adult employee or the operator.
- C. Hours of Operation.** Such facilities shall operate no more than 16 hours per day. There shall be no outdoor activity, noise or lighting beyond the boundaries of the site between the hours of 10:00 p.m. and 6:00 a.m.

D. State Licensing. All family child care homes shall be licensed and operated in compliance with the Michigan Child Care Licensing Act, 1973 PA 116, as amended, and the rules promulgated thereunder. Nothing in this Ordinance shall be construed to regulate the provision of child care services, staffing ratios, programming, or safety standards, which are governed exclusively by state law.

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Section 6.9 DATA CENTERS

A. Definitions.

7. **Cryptocurrency Data Mining Facility.** A facility dedicated to operating data processing equipment for commercial cryptocurrency mining and the process by which cryptocurrency transactions are verified and added to digital ledgers.
8. **Data Center.** A structure that houses information technology infrastructure and equipment for building, running, and delivering applications, and the storage of digital data. This includes Artificial Intelligence (“AI”) Data Centers.

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B. General Provisions.

7. Cryptocurrency Data Mining Facilities and Data Centers are permitted in the Township only as a special land use with special approval in the C/R Commercial Resort Zoning District.
8. The Township may enforce any remedy or enforcement, including but not limited to, the removal of any Cryptocurrency Data Mining Facilities and Data Centers pursuant to the Zoning Ordinance or as otherwise authorized by law if the Cryptocurrency Data Mining Facility or Data Center does not comply with this Section.
9. Public Utility Service Requirement. Cryptocurrency Data Mining Facilities and Data Centers shall be served exclusively by public water and public sanitary sewer systems. Use of private wells or on-site wastewater treatment systems is prohibited for such facilities.
10. Approval of a Cryptocurrency Data Mining Facility or Data Center shall not obligate the Township to provide, extend, upgrade, or fund any public utilities or infrastructure. Any extension, expansion, or improvement of public utilities or related infrastructure required to serve the facility shall be planned, designed, constructed, and fully funded by the applicant, subject to Township, county, and state review and approval. The cost or feasibility of such improvements shall not be grounds for waiving or modifying this requirement.

C. **Special Approval Application Requirements.** An applicant for special approval of a Cryptocurrency Data Mining Facility or Data Center must provide the Township with all of the following:

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7. An application fee in an amount set by resolution of the Township Board.
8. A list of all parcel numbers that the Cryptocurrency Data Mining Facility or Data Center will use; documentation establishing ownership of each parcel; and any lease agreements, easements, or purchase agreements for the subject parcels.
9. An operations agreement setting forth the parameters of the operation, the name and contact information of the operator, the applicant’s inspection protocol, emergency procedures, and general safety documentation.
10. Current photographs of the subject property.

11. A site plan that includes all proposed structures and the location of all equipment, as well as all setbacks, the location of property lines, signage, fences, greenbelts and screening, drain tiles, easements, floodplains, bodies of water, proposed access routes, and road right of ways. The site plan must be drawn to scale and must indicate how the Cryptocurrency Data Mining Facility or Data Center will be connected to the power grid.
 12. A written plan for maintaining the subject property, including a plan for maintaining and inspecting drain tiles and addressing stormwater management, which is subject to the Township's review and approval.
 13. A decommissioning and land reclamation plan describing the actions to be taken following the abandonment or discontinuation of the Cryptocurrency Data Mining Facility or Data Center, including evidence of proposed commitments with property owners to ensure proper final reclamation, repairs to roads, and other steps necessary to fully remove the Cryptocurrency Data Mining Facility or Data Center and restore the subject parcels, which is subject to the Township's review and approval.
 14. Financial security that meets the requirements of this Section, which is subject to the Township's review and approval.
 15. A plan for resolving complaints from the public or other property owners concerning the construction and operation of the Cryptocurrency Data Mining Facility or Data Center, which is subject to the Township's review and approval.
 16. A plan for managing any hazardous waste, which is subject to the Township's review and approval.
 17. A fire protection plan, which identifies the fire risks associated with the Cryptocurrency Data Mining Facility or Data Center; describes the fire suppression system that will be implemented; describes what measures will be used to reduce the risk of fires re-igniting (i.e., implementing a "fire watch"); identifies the water sources that will be available for the local fire department to protect adjacent properties; identifies a system for continuous monitoring, early detection sensors, and appropriate venting; and explains all other measures that will be implemented to prevent, detect, control, and suppress fires and explosions.
 18. A transportation plan for construction and operation phases, including any applicable agreements with the County Road Commission and Michigan Department of Transportation, which is subject to the Township's review and approval.
 19. An attestation that the applicant will indemnify and hold the Township harmless from any costs or liability arising from the approval, installation, construction, maintenance, use, repair, or removal of the Cryptocurrency Data Mining Facility or Data Center, which is subject to the Township's review and approval.
 20. Proof of environmental compliance, including compliance with Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act; (MCL 324.3101 et. seq.; Part 91, Soil Erosion and Sedimentation Control (MCL 324.9101 et. seq.) and any corresponding County ordinances; Part 301, Inland Lakes and Streams, (MCL 324.30101 et. seq.); Part 303, Wetlands (MCL 324.30301 et. seq.); Part 365, Endangered Species Protection (MCL 324.36501 et. seq.); and any other applicable laws and rules in force at the time the Township considers the application.
 21. Any additional information or documentation requested by the Planning Commission, Township Board, or other Township representative.
- D. **System and Location Requirements.** In addition to the requirements of the Township for a site plan, the site plan must include all of the following:
7. Equipment. All equipment used in any Cryptocurrency Data Mining Facility or Data Center must be housed in a metered, electrically grounded, and pre-engineered or prefabricated metal-encased structure with a fire rating designed to resist an internal electrical fire for at least 30 minutes.

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8. Structures. All principal and accessory structures used for cryptocurrency mining operations and/or data centers, shall be arranged, designed, and constructed to be harmonious and compatible with the site and with the surrounding properties. If prefabricated, pre-engineered, or modular structures are installed, the following standards are required:
 - a. All structures shall have concrete foundations.
 - b. All exterior facades shall have muted earth tone colors that will blend the facility into the natural setting and existing environment, and shall not be defective, decayed or corroded.
 - c. If intermodal shipping containers are utilized such installation shall comply with current National Electrical Code standards.
9. Lighting. The lighting of the Cryptocurrency Data Mining Facility or Data Center is limited to the minimum light necessary for safe operation. Illumination from any lighting must not extend beyond the perimeter of the lot(s) used for the Cryptocurrency Data Mining Facility or Data Center. The Cryptocurrency Data Mining Facility or Data Center must not produce any glare that is visible to neighboring lots or persons traveling on public or private roads.
10. Security Fencing. Security fencing must be installed around all electrical equipment related to the Cryptocurrency Data Mining Facility or Data Center. Such fencing must be a minimum seven (7) feet tall and must use materials, colors, textures, screening and landscaping, that will blend the facility into the natural setting and existing environment.
11. Noise. The noise generated by the Cryptocurrency Data Mining Facility or Data Center must not exceed 45 dBA Lmax, as measured at the property line of any adjacent parcel.
12. Signage. The Cryptocurrency Data Mining Facility or Data Center shall provide a 24-hour emergency contact signage visible at the access entrance. Signs shall include company name if applicable, owner/representative name, telephone number, and corresponding local power company and telephone number.
13. Underground Transmission. All power transmission or other lines, wires, or conduits from a Cryptocurrency Data Mining Facility or Data Center to any building or other structure must be located underground at a depth that complies with current National Electrical Code standards, except for power switchyards or the area within a substation.
14. Drain Tile Inspections. The Cryptocurrency Data Mining Facility or Data Center must be maintained in working condition at all times while in operation. The applicant or operator must inspect all drain tiles at least once every three years using a robotic camera, with the first inspection occurring before the Cryptocurrency Data Mining Facility or Data Center is in operation. The applicant or operator must submit proof of the inspection to the Township. The owner or operator must repair any damage or failure of the drain tile within sixty (60) days after discovery and submit proof of the repair to the Township. The Township is entitled, but not required, to have a representative present at each inspection or to conduct an independent inspection.
15. Fire Protection.

- a. Before any construction of the Cryptocurrency Data Mining Facility or Data Center begins, the Township's fire department (or the fire department with which the Township contracts for fire service) will review the fire protection plan submitted with the application. The fire chief will determine whether the fire protection plan adequately protects the Township's residents and property and whether there is sufficient water supply to comply with the fire protection plan and to respond to fire or explosion incidents. If the fire chief determines that the plan is adequate, then the fire chief will notify the Township or his or her designee of that determination. If the fire chief determines that the plan is inadequate, then the fire chief may propose modifications to the plan, which the applicant or operator of the Cryptocurrency Data Mining Facility or Data Center must implement. The fire chief's decision may be appealed to the Township Board, and the Township Board will hear the appeal at an open meeting. The Township Board may affirm, reverse, or modify the fire chief's determination. The Township Board's decision is final, subject to any appellate rights available under applicable law.
 - b. The applicant or operator may amend the fire protection plan from time-to-time in light of changing technology or other factors. Any proposed amendment must be submitted to the fire department for review and approval under subsection (a).
 - c. The Cryptocurrency Data Mining Facility or Data Center must comply with the fire protection plan as approved by the fire chief (or as approved by the Township Board in the event of an appeal).
 - d. The Cryptocurrency Data Mining Facility or Data Center must contain an internal fire suppression system that shall be reviewed and tested once every twelve (12) months by a third-party contractor approved by the fire chief.
16. Applicant must provide all Township Fire Department contractors with the appropriate equipment and training to address fires in the Cryptocurrency Data Mining Facility or Data Center.
 17. Insurance. The applicant or operator will maintain property/casualty insurance and general commercial liability insurance in an amount of at least \$5 million per occurrence. The Township shall be listed as an additional insured on the policy at all times.
 18. Permits. All required county, state, and federal permits must be obtained before the Cryptocurrency Data Mining Facility or Data Center begins operating. A building permit is required for construction of a Cryptocurrency Data Mining Facility or Data Center regardless of whether the applicant or operator is otherwise exempt under state law.
 19. Decommissioning. If a Cryptocurrency Data Mining Facility or Data Center is abandoned or otherwise nonoperational for a period of one year, the property owner or the operator must notify the Township and must remove the system within six (6) months after the date of abandonment. Removal requires receipt of a demolition permit from the Building Official and full restoration of the site to the satisfaction of the Zoning Administrator. The site must be filled and covered with top soil and restored to a state compatible with the surrounding vegetation. The requirements of this subsection also apply to a Cryptocurrency Data Mining Facility or Data Center that is never fully completed or operational if construction has been halted for a period of one (1) year.
 20. Financial Security. To ensure proper decommissioning of a Cryptocurrency Data Mining Facility or Data Center upon abandonment, the applicant must post financial security in the form of a security bond or escrow payment in an amount equal to 125% of the total estimated cost of decommissioning, code enforcement, and reclamation, which cost estimate must be approved by the Township. The operator and the Township will review the amount of the financial security every two (2) years to ensure that the amount remains adequate. This financial security must be posted within fifteen (15) business days after approval of the special use application.

- 21. Extraordinary Events. If the Cryptocurrency Data Mining Facility or Data Center experiences a failure, fire, leakage of hazardous materials, personal injury, or other extraordinary or catastrophic event, the applicant or operator must notify the Township within 24 hours.
- 22. Annual Report. The applicant or operator must submit a report on or before January 1 of each year that includes all of the following:
 - a. Current proof of insurance;
 - b. Verification of financial security; and
 - c. A summary of all complaints, complaint resolutions, and extraordinary events.
- 23. Inspections. The Township may inspect a Cryptocurrency Data Mining Facility or Data Center at any time by providing 24-hour advance notice to the applicant or operator.
- 24. Transferability. A conditional land use permit for a Cryptocurrency Data Mining Facility or Data Center is transferable to a new owner. The new owner must register their name and business address with the Township and must comply with this Ordinance and all approvals and conditions issued by the Township.
- 25. Remedies. If an applicant or operator fails to comply with this Ordinance, the Township, may pursue any remedy or enforcement, including but not limited to the removal of any Cryptocurrency Data Mining Facility or Data Center pursuant to the Zoning Ordinance or as otherwise authorized by law. Additionally, the Township may pursue any legal or equitable action to abate a violation and recover any and all costs, including the Township’s actual attorney fees and costs.

Section 6.10 GOLF COURSES

Golf courses and Country Clubs, other than miniature golf courses, shall be subject to the following conditions:

- A. Access. The site shall Have direct or indirect access via a paved public road meeting county road commission standards.
- B. Residential Buffer.
 - 7. All principal or accessory buildings, including in-ground swimming pools and parking areas, shall be one hundred (100) feet from any property zoned residential.
 - 8. A landscaped buffer zone shall be provided between the parking and principal building area and any adjacent residential development in accordance with Section 5.1.
- C. Vegetation Preservation.
 - 7. Minimum Retention of Natural Vegetation. To reduce water demand, excessive soil erosion and heavy nutrient run-off, golf courses shall retain and preserve native vegetation in compliance with Section 4.8 Clearing and Grading of Land.
 - 8. Natural Vegetation Buffer. A fifty foot (50') minimum natural vegetation strip between turf areas and natural water bodies, watercourses or wetlands must be maintained. The natural vegetation strip shall not be chemically treated on a regular basis.
 - 9. Fertilizer Use Prohibited in the Watershed Overlay.
 - a. The use of synthetic fertilizer, pesticides and herbicides on golf courses within the watershed overlay districts is prohibited.

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b. This prohibition does not apply for the limited use of synthetic herbicides for the control of invasive or noxious plant species. Phosphorous free fertilizers, consistent with guidance from the Michigan Department of Agriculture and Rural Development (MDARD), and pesticides, herbicides, and fertilizers that are approved for organic production (Organic Materials Review Institute – or OMRI – approved) are allowed.

D. Impact on water supply. A hydrological study shall be completed and submitted to document the impact of the golf course watering system on groundwater supply. This study shall inventory and analyze well logs from surrounding properties, giving consideration to the depth of the wells and quality of water. The study shall further estimate the quantity of water that will be used on a daily basis during the peak watering periods and shall evaluate the impact of watering operations on surrounding wells.

Section 6.11 GREENHOUSE, COMMERCIAL

- A. Maximum Size. The gross floor area of all greenhouse structures on a lot shall not exceed 30,000 square feet or the percent of the maximum lot area in the applicable zoning district.
- B. Parking. Commercial greenhouses shall comply with the off-street parking requirements of Section 5.2.
- C. Accessory Retail. Retail sales conducted on site shall be clearly incidental and subordinate to greenhouse operations and shall not exceed 5,000 square feet.

Section 6.12 HOME BUSINESSES, HOME OCCUPATIONS, AND BED & BREAKFAST ESTABLISHMENTS

- A. **Intent.** The Township recognizes that many residents desire or must work at home, but the Township also recognizes the right of all residents to be free from actual or potential nuisances which may be caused by non-residential activities conducted in a residential zone. The intent of this section is to provide standards to ensure Home Occupations, Home Based Businesses, and Bed & Breakfast Establishments are compatible with other allowed uses in residential zones, and thus to maintain and preserve the residential character of the surrounding zone.
- B. **General Requirements.** The following regulations shall apply to all Home Occupations, Home Businesses and Bed & Breakfast establishments:
 - 7. The Business, Occupation or Bed & Breakfast establishment shall be incidental and subordinate to the principal use of the lot or parcel for residential purposes.
 - 8. The use shall not detract from the residential nature or character of the premises or surrounding zone and shall be compatible with surrounding properties and dwelling units.
 - 9. The Business, Occupation or Bed & Breakfast establishment shall not result in the creation of conditions that would constitute a nuisance to neighboring properties, surrounding zoning districts, or the Townships as a whole, including, but not limited to noise, traffic, lighting or parking. Any machinery, mechanical devices, or equipment employed in the conduct of a Business or Occupation shall not generate noise, vibration, radiation, odor, glare, smoke, steam, electrical interference at a volume greater than 60 decibels at the property boundary, or create other conditions not typically associated with the use of the lot or parcel for residential purposes.
 - 10. There shall be no exterior evidence of the Home Business other than an unlighted nameplate not to exceed four (4) square feet in area.

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11. This section is intended to provide reasonable flexibility, but a land use permit shall not be granted if the essential character of a lot or structure within a residential district, in terms of use or appearance, will be changed significantly.

C. **Home Occupations:** A home occupation is any activity of a professional, service or business character that is clearly secondary and incidental to the use of the dwelling for residential purposes. Home occupations shall meet all the following requirements:

7. Home Occupations shall only be allowed in residential zoning districts (LR, R1, and R2).

8. Home Occupations are to be primarily limited service and professional activities including without limitation: dressmaking/tailoring, music, art, and dance instruction (limited to no more than six (6) students at a time), author, artist, musician, clerk, internet marketing, bookkeeper, income tax preparation, photography instruction and studio, and beauty salon.

9. Home Occupations shall be operated in their entirety within the dwelling or within an attached or detached garage or accessory building.

10. Home Occupations shall be conducted only by the person or persons occupying the premises as their residence.

11. Additions to a dwelling or accessory structure for the purpose of conducting a Home Occupation shall be of an architectural style that is compatible with the architecture of the dwelling or accessory building and shall be designed so that the addition can be used for residential purposes if the home occupation is discontinued.

12. Traffic and delivery or pickup of goods shall not exceed that normally created by residential use.

13. The outdoor storage of goods and/or materials associated with the home occupation is prohibited.

14. No mechanical equipment shall be installed except such as would be normally used for purely domestic or household purposes.

15. Adequate off-street parking shall be provided for patrons and clients.

16. Hours of operation shall be limited from 8 a.m. – 8 p.m. every day of the week.

17. No process, chemicals, or hazardous materials shall be used or stored on sites which are contrary to any applicable State or Federal laws.

D. **Home Based Business:** A Home Based Business is an activity established for economic gain conducted on a residential premises or using a residential premises as a base of operations for conducting the business off site. Examples of Home Based Business include construction contractors, well drilling, independent trucking, small-scale heavy equipment operator, or landscaping services. A Home Based Business shall meet all of the following requirements:

7. Home Based Business shall only be allowed in residential zoning districts (LR, R1, and R2).

8. A Home Based Business shall occupy not more than one building. The floor area of such buildings shall not exceed twenty-four hundred (2400) square feet.

9. A maximum of two (2) nonresident employees are permitted on the premises at one time.

10. The outdoor storage of vehicles, goods, and/or materials of any kind is prohibited unless screened from view by a tight-board wood fence, landscaped buffer, landscaped berm, etc. which shall retain the residential character of the neighborhood.

11. To ensure that the Home Based Business is compatible with surrounding residential use, a "not-to-exceed" number of vehicles that may be parked at any given time during business operations shall be established by the Planning Commission during the review and approval process.
12. Hours of operation shall be approved by the Planning Commission.
13. Adequate off-street parking shall be provided for patrons, clients and off- site employees. [A parking plan which explains the manner in which off-street parking needs will be addressed must be provided to the Planning Commission for approval.](#)

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- E. ~~8.~~ No process, chemicals, or hazardous materials shall be used or stored on sites which are contrary to any applicable State or Federal laws. **Bed & Breakfast Establishments:** It is the intent of this subsection to establish reasonable standards for Bed and Breakfast Establishments to assure that the property is suitable for transient lodging facilities, both the use and character of the lot is compatible with others in the same district, adjacent and nearby private lands shall not be subject to increased trespass and the impact of the establishment is no greater than that of a private home with houseguests. The following requirements for Bed and Breakfast Establishments together with any other applicable requirements of this Ordinance shall be complied with:

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7. The rooms utilized for sleeping shall be a part of the primary residential use and not specifically constructed for rental purposes.
8. The residence shall have at least two (2) exits to the outdoors.
9. The rental sleeping rooms shall have a minimum size of one hundred (100) square feet for each two (2) occupants with an additional thirty (3) square feet for each occupant to a maximum of four (4) occupants per room.
10. Proof of evaluation of the well and septic system by the health department shall be supplied by owner/occupant.
11. The Zoning Administrator or Planning Commission shall require that a floor plan drawn to an architectural scale of not less than one-eighth inch (1/8") = one (1) foot be on file with the fire department.
12. In the event that noise generation may be disturbing to neighbors, or that the location of the establishment is an area where trespass onto adjacent properties is likely to occur, then the Zoning Administrator or Township Planning Commission may require that fencing and/or planting buffer be constructed and maintained.
13. Rental of snowmobiles, ATV's or similar vehicles, boats and other marine equipment, in conjunction with the operation of the establishment shall be prohibited.

F. Home Occupations and Home-Based Businesses Involving Food Preparation

- ~~7.~~ [Cottage Food Industry Law allows a person to prepare some food items in their home kitchen for sale directly to consumer. The products may not be sold to retail stores, restaurants, over the internet, by mail order, or to wholesalers, brokers, or other food distributors who resell foods. All Home Occupations and Home Based Businesses involving food preparation will be subject to those requirements set forth in the State of Michigan's Cottage Food Law, PA 113 of 2010.](#)

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G. Inspections, Revisions, Termination, and Extensions:

7. Any Home Occupation, Home Based Business, or Bed and Breakfast establishment may be subject to periodic review by the Zoning Administrator.

8. In the event that a Home Business is not being conducted in a manner consistent with a residential use or Home Business; and/or is not in compliance with this Ordinance the Zoning Administrator shall have the authority to initiate enforcement action against the owner/operator of the Home Business in accordance with this Ordinance.

Section 6.13 HOTELS, MOTELS, & RESORTS

[These provisions are from the current ordinance but only apply to facilities with more than 10 units. The proposed ordinance does not allow facilities with more than 10 units but does allow them with less than 10 units. Do we retain these limits for the facilities with less than 10 units? Apply different requirements? Have no special requirements?]

It is the purpose of this section to establish reasonable requirements for transient lodging facilities. It is intended that these regulations will provide for such facilities in the Township that are appropriate in scale and location so as to not create undue traffic congestion, noise or other interference with the predominantly rural and residential character of the Township.

- A. Each guest unit shall contain not less than two hundred fifty (250) square feet of floor area.
- B. Site Screening: The site may be enclosed by open structure wood or wire fences along any yard line but shall not exceed six (6) feet in height. Shrubs and/or trees may be used to screen alone or in combination with structural screens. No screening shall in any way impair safe vertical or horizontal site distance for any moving vehicle. Screening at least four (4) feet high shall be erected to prevent headlight glare from shining on adjacent property.
- C. Uses such as swimming pools and other outdoor recreational uses, meeting rooms, restaurants, taverns or bars, and a caretaker or proprietor's residence may be permitted provided that these uses are located on the same site as the principal use to which they are accessory. Appropriate permits shall have been obtained from regulating county or state agencies.
- D. Proof of acceptability of the well and septic system by the Health Department shall be supplied by owner.
- E. A floor plan drawn to a scale of not less than 1/8" = 1', shall be on file with the appropriate fire department.

Section 6.14 INSTITUTIONAL STRUCTURES

- A. The following institutional structures are allowed, subject to Special Use approval under Article 8:
 7. **Religious Institutions:** Churches or similar places of worship, convents, parsonages, and parish houses or other housing for clergy.
 8. **Educational and Social Institutions:** Public or private schools, auditoriums and other places of assembly, and centers for social activities.
 9. **Human Care Institutions:** Hospitals, sanitariums, nursing and convalescent homes, and homes for the aged.
 10. **Animal Care Institutions** **[The current ordinance allows vet offices, labs, and pet boarding. We took kennels out of the generally allowed uses, so should this stay in?]**
- B. Institutional uses must:
 7. Have entrance and exit drives directly onto a county road or state highway.
 8. Have lighting designed to be unobtrusive to neighboring properties.

9. Be designed to be compatible and appropriate in scale and character with existing or planned surroundings.
10. Shall be setback one hundred (100) foot from adjacent residential uses.

Section 6.15 MARINAS & CANOE LIVERIES

- A. All sites shall be located on a major thoroughfare and all ingress and egress to the site shall be from said thoroughfare.
- B. All points of entrance or exit for motor vehicles shall be located no closer than one hundred (100) feet from the intersection of any two (2) streets or highways.
- C. Whenever any use permitted herein abuts property within any Residential District, a transition strip at least one hundred (100) feet in width shall be provided between all operations and structures, and the residential property. Plant materials, grass and structural screens or fences of an approved type shall be placed within said transition strip.
- D. A minimum yard of one hundred (100) feet shall separate all uses and operations permitted herein, from any public street or highway used for access or exit purposes.

Section 6.16 MOBILE HOMES

- A. It is the purpose of this Section to establish reasonable requirements for mobile homes located outside of licensed mobile home parks and to establish reasonable zoning and site-related standards to ensure that such dwellings are compatible with surrounding residential development. These standards are intended to address placement on the site, exterior appearance, and relationship to neighboring properties, while deferring all construction, safety, and performance requirements to applicable state and federal regulations.
7. A mobile home must also comply with the minimum dimensional requirements established in Section 3.3 Schedule of Regulations.
8. Zoning in which mobile homes are permitted: Mobile Homes shall be permitted in all residential zoning districts subject to the provisions and requirements hereafter set forth.
9. Qualifying Conditions:
 - a. Each mobile home shall bear a label required by Section 3232.362(c) (2) of the Federal Mobile Home Procedural and Enforcement Regulations.
 - b. Each mobile home shall be installed pursuant to the manufacturer’s setup instructions and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission.
 - c. Within ten (10) days following installation, all towing mechanisms shall be removed from each mobile home or concealed or disguised from view. A permanent perimeter enclosure of durable materials shall be provided to fully enclose and obscure the undercarriage and chassis from view.
 - d. Each mobile home shall be constructed, certified, and installed in compliance with the Mobile Home Construction and Safety Standards promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280 and 24 CFR 3282, as amended.
 - e. Exterior Finish; Light Reflection: Any materials that are generally acceptable for other types of housing permitted on the site may be used for exterior finish.

- f. [Each mobile home shall be aesthetically compatible in design and appearance with other residences, particularly with regard to siding materials, roofing materials, and perimeter enclosure.](#)

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Section 6.17 OUTDOOR SALES & DISPLAYS

The outdoor display of goods for retail sale shall be allowed as an accessory use to an approved or permitted principal use where goods are commonly sold subject to the following standards:

- A. All outdoor displays shall be located within ten (10) feet of the principal structure.
- B. Outdoor display areas located elsewhere on the property shall only be allowed if part of an approved site plan and must be screened from residential uses or districts.
- C. Outdoor displays shall not inhibit safe pedestrian circulation and shall not reduce the unobstructed width of any sidewalk below four (4) feet.
- D. Outdoor displays shall not inhibit vehicle circulation onto or within the site and shall not be located within any off-street parking area. Clear lines of site for pedestrians and vehicles shall not be obstructed by outdoor displays.
- E. Outdoor displays shall not be located within any public rights-of-way unless authorized by the applicable road agency.

Section 6.18 *[This section is not in the current ordinance, and it is not clear why it was added to the proposed version. Is it necessary or appropriate given the small number of retail businesses?]* PUBLIC USES & FACILITIES: CRITICAL, ESSENTIAL, & SUPPORTING

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- A. The following public uses and facilities shall be allowed in any zoning district, subject to Special Use approval under Article 8.
 - 7. Critical uses or facilities such as, but not limited to fire station, ambulance services, police station, etc., and associated facilities.
 - 8. Essential uses and facilities including the erection, construction, alteration, or maintenance by public utilities or municipal or governmental agencies of underground or overhead gas, electrical, steam, communications, supply, or disposal systems including poles, wires, mains, drains, sewers, pipes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith, which are necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies for the public health, safety, or general welfare.
 - 9. Supporting uses or facilities such as a township hall, library, park, athletic fields, public recreational facility, open space, civic center, community center, official government offices, authority office, or post office, and associated facilities.
- B. All structures associated with a public use shall be subject to applicable setbacks for the district in which they are located. Public buildings and their local supporting service uses, shall be permitted provided the arrangement of property uses shall minimize the impact on scenic views, and if feasible, the site design shall mitigate negative impacts related to building size, noise, lighting, and traffic.

- C. Telecommunication towers, alternative tower structures, antennas, wind turbine generators, and anemometer towers are regulated and permitted by other sections of this Ordinance and shall not be regulated or permitted as essential uses, public utilities, or private utilities.

Section 6.19 RESTAURANTS

- A. **Access.** Public access to the site shall be located at least seventy-five (75) feet from any intersection (as measured from the nearest right-of-way line to the edge of said access).
- B. **Public Safety and Agency Review.** All restaurants shall comply with applicable Fire Department, County Health Department, and State licensing requirements.
- C. **Outdoor Seating and Entertainment.** Where outdoor seating is provided, the establishment shall comply with Section 6.17 Outdoor Seating and Entertainment.

Section 6.20 RETAIL ESTABLISHMENTS

- A. **Access.** Public access to the site shall be located at least seventy-five (75) feet from any intersection (as measured from the nearest right-of-way line to the edge of said access).

Section 6.21 ROADSIDE STANDS

Roadside stands are structures for the display for the sale of agricultural products, without space for customers within the structure itself. Roadside stands are allowed in the zoning districts specified in Article 3, subject to Site Plan approval under Article 7. Roadside stands shall comply with all currently adopted Generally Accepted Agricultural

Management Practices (GAAMPs) [add more complete citation]. Roadside stands must be located as far as necessary off of the traveled portion of any public road and have sufficient parking area to ensure customers' vehicles will not hinder normal traffic on the public road or otherwise create a safety hazard.

Section 6.22 SOLAR ENERGY SYSTEMS, SMALL-SCALE

- A. **Intent.** The purpose of this section is to permit and regulate small-scale solar energy systems as accessory uses in a manner that supports renewable energy generation, protects public safety, and minimizes impacts on adjacent properties, while remaining consistent with applicable state law.
- B. **Definitions.**
 - Solar Energy Systems, Small-Scale.** A Solar Energy System used exclusively for private purposes and not utilized for any commercial resale of any energy, except for the sale of surplus electrical energy back to the electrical grid.
 - Building-Integrated Solar Energy System, Small-Scale.** A solar energy system that is an integral part of a principal or accessory building or structure (rather than a separate mechanical device), replacing or substituting for an architectural or structural component of the building or structure. Building-integrated systems include, but are not limited to, photovoltaic or water heating solar energy systems that are contained within roofing materials, windows, and skylights.
 - Roof-Mounted Solar Energy System, Small-Scale.** A solar energy system mounted on racking that is attached to or ballasted on the roof of a building or structure. Solar panels may be attached to the roof or the building wall, but not both.

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Personal solar installations shall be permitted subject to the following regulations:¶

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10. **Ground-Mounted Solar Energy System, Small-Scale.** A ground-mounted solar energy system with the purpose primarily of generating electricity for the principal use or building on the site.

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11. **Solar Array.** A photovoltaic panel, solar thermal collector, or collection of panels or collectors in a solar energy system that collects solar radiation.

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12. **Solar Carport.** A solar energy system of any size that is installed on a structure that is accessory to a parking area and which may include electric vehicle supply equipment or energy storage facilities. Solar panels affixed on the roof of an existing carport structure are considered a Roof-Mounted SES.

13. **Solar Energy System (SES).** A photovoltaic system for generating electricity, including all above- and below-ground equipment or components required for the system to operate properly and to be secured to a roof surface, structure, or the ground. This does not include any operations or maintenance buildings, temporary construction offices, substation(s), or other transmission facilities between the SES and the point of interconnection to the electric grid.

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C. **General Requirements.**

Deleted: Glare: Solar panels shall be placed and arranged such that reflected solar radiation or glare shall not be directed onto adjacent buildings, properties or roadways.

7. All Small-Scale SES must conform to the provisions of this Ordinance and all County, State, and Federal regulations and safety requirements as well as applicable industry standards.

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8. All Small-Scale SES shall be located or placed so that concentrated solar glare shall not be directed toward or onto nearby properties or roadways at any time of the day.

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D. **Non-Conformities.** Any SES installed on a nonconforming building, structure, or use shall not be considered an expansion of the nonconformity.

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E. **Application.** All SES applications must include a plot plan. Applications for Small-Scale SES must include horizontal and vertical elevation drawings that show the location, setbacks to property lines, primary and accessory structures, height, tilt features (if applicable), and dimensions of the SES.

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F. **Building Permit.** A building permit shall be required for installation of all Small-Scale SES. A permit to operate such system shall be issued by the zoning administrator.

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G. **Exemptions.** An SES used to power a single device or specific piece of equipment such as a lawn ornament, lights, weather station, thermometer, clock, well pump, or other similar singular device is exempt from the standards of Subsection H, below. However, all standards in Section 3.3 Schedule of Regulation still apply.

Deleted: Land Use Permit/ Building Permit: Solar energy systems shall conform to applicable industry standards. A land use permit shall be obtained for a solar energy system and comply with the building, electrical codes and all other state law and local ordinances.

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H. **Standards.**

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7. **Building-Integrated SES, Small Scale.**

a. Solar panels integrated as the surface layer of the roof structure may be located on any part of the roof.

b. Building Integrated SES, Small Scale, shall be subject to the same regulations as the building in terms of height and setbacks.

Deleted: Solar panels may be attached to the roof or the building wall, but not both. Roof mounted panels shall include solar panels integrated as the surface layer of the roof structure with no additional apparent change in relief or projection (the preferred installation), or separate flush-mounted solar panels attached to the roof surface.

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8. **Roof-Mounted SES, Small Scale.**

a. Roof-Mounted SES are permitted in all zoning districts where buildings or structures are allowed, and are considered part of the building or structure to which they are attached.

b. Roof-Mounted SES shall not exceed 5 feet above the finished roof, unless satisfied by subsection 3, below.

c. Roof-Mounted SES installed on a sloped roof surface shall not project vertically above the peak of the roof to which it is attached.

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Separate flush-mounted solar panel

9. Wall-Mounted SES, Small Scale.

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a. Wall-Mounted SES are permitted in all zoning districts where buildings or structures are allowed and are considered a part of the building or structure to which they are attached.

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10. Ground-Mounted SES, Small Scale.

a. Ground-Mounted SES are permitted as an accessory structure in all zoning districts where buildings or structures are allowed.

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Flush-mounted solar panels on the building wall may only be attached to one (1) side or rear building façade and shall not face a street or roadway.

b. Height. Ground-Mounted SES shall not exceed a height of six (6) feet.

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c. Setbacks. Ground-Mounted SES shall meet the accessory structure setback requirements of the district they are located in. Setback distance is measured from the property line to the closest point of the SES at minimum tilt.

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d. Lot Coverage. The area of the solar array in all districts shall not exceed 2% of the square footage of the lot or parcel or three hundred sixty (360) square feet, whichever is less, unless it is sited over required parking (i.e., solar carport), in which case there is no maximum lot coverage for Ground-Mounted SES. An Ground-Mounted SES shall not be included when calculating the maximum square footage of buildings or structures allowed on site or maximum impervious surface area limits if the ground under the array is pervious.

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Free-standing solar panels

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e. Visibility.

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The surface area covered by a free-standing system shall not exceed two percent (2%) of the lot or three hundred sixty (360) square feet, whichever is less. Area overed shall be included in the lot coverage calculations for the lot.

- 1) All power transmission lines shall be underground.
- 2) Ground-Mounted SES in all districts shall be located in the side or rear yard to minimize visual impacts from the public right-of-way(s).
- 3) Accessory Ground-Mounted SES may be placed in the front yard with administrative approval, where the applicant can demonstrate that placement of the SES in the rear or side yard will:
 - i. Decrease the efficiency of the SES due to topography, accessory structures, or vegetative shading from the subject lot or adjoining lots;
 - ii. Interfere with septic system, accessory structures, or accessory uses; or
 - iii. Require the SES to be placed on the waterfront side of the building housing the primary use
- 4) Free-standing solar panels shall not be visible from adjacent property and shall be screened by landscaping where necessary.

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Section 6.23 SWIMMING POOLS

Whenever a swimming pool is to be provided, said pool shall comply with Section 2.22(E) of this Ordinance and be constructed and operated in accord with Public Act 368 of the Public Acts of 1978, as amended.

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Section 6.24 WAREHOUSING, COMMERCIAL STORAGE

[This section is carried over from the current ordinance, under which warehouses were allowed in the C/R district. But we dropped that as an allowed use, so this section is probably not necessary.]

- A. Activities shall be carried on in completely enclosed buildings unless located at least three- hundred (300) feet of any residential use.
- B. All outdoor storage shall be effectively screened by a solid, uniformly finished wall or fence with solid entrance and exit gates, such fence or wall shall be at least eight (8) feet in height, but in no case shall the fence be lower than the enclosed storage.
- C. Such storage shall not be deemed to include the parking of licensed motor vehicles under one (1) ton rated capacity.
- D. Noise emanating from a use in this district shall not exceed the level of ordinary conversation at the boundaries of the lot. Noise may equal but shall not exceed average street traffic noise. Uses in this district shall conform to the following standards.
 - 7. Shall emit no obnoxious, toxic or corrosive fumes or gases which are harmful to the public health, safety or general welfare, except for those produced by internal combustion engines under designed operating conditions.
 - 8. Shall emit no smoke, odorous gases, or other odorous matter in such quantities as to be offensive at or beyond any boundary of the use of the parcel.
 - 9. Shall not discharge into the air dust or other particulate matter.
- E. Yards shall conform to the following standards:
 - 7. Except for landscape improvements and necessary drives and walks, the front yard shall remain clear and shall not be used for parking, loading, or accessory structures.
 - 8. Side and rear yards, except for a strip along the lot boundary ten (10) feet in width, may be used for parking and loading but not for storage.

Section 6.25 WIND ENERGY CONVERSION SYSTEMS, SMALL-SCALE

A. **Intent.** The purpose of this section is to permit and regulate wind energy conversion systems as accessory uses in a manner that supports renewable energy generation, protects public safety, and minimizes impacts on adjacent properties, while remaining consistent with applicable state law.

B. Definitions.

- 7. **Wind Energy Conversion System, Small-Scale.** A land use for generating electric power from wind accessory to a principal use and primarily serving the needs of the consumer on-site or an adjacent property.
- 8. **Horizontal Axis Wind Turbine.** A wind turbine in which the rotor shaft is oriented horizontally and the blades rotate in a plane perpendicular to the wind.
- 9. **Vertical Axis Wind Turbine.** A wind turbine in which the rotor shaft is oriented vertically and does not require alignment into the wind for operation.
- 10. **dB(A).** Sound pressure level measured in decibels using the A-weighted scale.

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Deleted: [This section is from the current ordinance. The Planning Commission has had limited discussion of this section, but more discussion and decisions are needed. Updating this to current best or standard practice is needed. Also, this has not been properly integrated with the state preemption of utility scale facilities—we want to ensure we have provisions exercising maximum control. Lastly, the definitions and terminology need to be clarified and made consistent.]

Household wind energy conversion systems (WECS) are allowed in all zoning district subject to obtaining a land use permit. A household WECS supplies electricity to a single parcel with a design output of less than 30KW per day. A household WECS must meet the following requirements:

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C. **General Requirements.**

7. All Small-Scale WECS towers shall comply with all applicable state construction and electrical codes and local building permit requirements. An interconnected on-site WECS shall comply with Michigan Public Service Commission and Federal Energy Regulatory Commission standards. Off-grid systems are exempt from this requirement.

8. Only wind turbines that are UL certified and systems that are certified by a program recognized by the American Wind Energy Association will be allowed.

D. **Non-Conformities.** Any WECS installed on a nonconforming building, structure, or use shall not be considered an expansion of the nonconformity.

E. **Application.** All WECS applications must include a plot plan. Applications for Small-Scale WECS must include horizontal and vertical elevation drawings that show the location, setbacks to property lines, primary and accessory structures, height, dimensions, and manufacturers maximum predicted sound level of the WECS.

F. **Building Permit.** A building permit shall be required for installation of all Small-Scale WECS. A permit to operate such system shall be issued, and that permit shall be renewed every five years.

G. **Exemptions.** Any Small-Scale WECS systems meeting the following conditions shall be exempt from the standards of subsection H, below.

7. Used to power a single device or specific piece of equipment such as a lawn ornament, lights, weather station, thermometer, clock, well pump, or other similar singular device;

8. Mounted to existing structures (such as a roof or pole) that extends 8 feet or less above the highest point of the structure.

H. **Standards.**

7. **Number.** One (1) WECS tower shall be allowed per parcel.

8. **Placement.**

a. Shall not be located in the front yard setback.

b. Setback from any property line shall be 110 % of the total height of the system.

c. No part of the structure, including guy wire anchors, may extend closer than the setback prescribed for each zoning district.

9. **Height.**

a. Total height for Small-Scale WECS shall not exceed 120 feet.

b. The minimum vertical blade tip clearance from grade shall be 20 feet for a horizontal axis wind turbine. Vertical axis wind turbines are exempt from this ground clearance provision, but sufficient clearance should be maintained for the safety of people, animals, machinery, or others that may traverse under or near the vertical turbine.

10. **Noise.** The audible sound from a Small-Scale WECS shall not exceed 50 dB(A) as measured at the property line closest to the WECS.

11. **Appearance.** Color shall be a neutral non-reflective industry standard.

12. **Lighting.** Installing fixtures to specifically light Small-Scale WECS shall be prohibited.

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Shall not be located in the front yard setback. ¶
Setback from any property line shall be 110 % of the total height of the system. ¶

Noise emanating shall not exceed 50 dB(A) measured at the property line. ¶

Color shall be a neutral non-reflective industry standard. ¶
Applicant shall provide written documentation that the system will not interfere with radio and television transmission and reception, and other communication systems. ¶

Lighting shall not be allowed. ¶

Towers with heights up to 100 feet may use guy wires, towers taller than 100 feet shall be free standing. If guy wires are used to stabilize the tower, they shall be covered with a suitable material from the ground to a height of six feet so as to be noticeable. ¶

Only wind turbines that are UL certified and systems that are certified by a program recognized by the American Wind Energy Association will be allowed.

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13. Safety and Construction.

- a. Towers with heights up to 100 feet may use guy wires, towers taller than 100 feet shall be free standing. If guy wires are used to stabilize the tower, they shall be covered with a suitable material from the ground to a height of six feet so as to be noticeable.
- b. Small-Scale WECS shall have automatic braking, governing, or a feathering system to prevent uncontrolled rotation or over speeding. All wind towers shall have lightning protection. If a tower is supported by guy wires, the wires shall be clearly visible to a height of at least six feet above the guy wire anchors.

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Only wind turbines that are UL certified and systems that are certified by a program recognized by the American Wind Energy Association will be allowed. ¶

Section 6.26 WIRELESS COMMUNICATION TOWERS

[This section is from the current ordinance. The Planning Commission has had little or no discussion of this section, so more discussion and decisions are needed. Updating this to current best or standard practice is needed. An earlier proposed version of this section contained several new provisions related to co-location of new installations. It was not clear how they were intended to fit in with the existing ordinance, so they were deleted in this draft, but should be considered for inclusion.]

- A. **Intent.** The purpose of this Section is to establish general guidelines for the siting of wireless communications towers and antennas. The goals of the Section are to:
 - 7. Protect other land uses, especially residential uses, from potential adverse impacts of towers and antennas.
 - 8. Minimize the total number of towers throughout the community.
 - 9. Strongly encourage the joint use of new and existing tower sites as a primary option.
 - 10. Encourage users of towers and antennas to locate them, to the extent possible, to preserve the fragile aesthetics of the tourism based economy of the Township.
 - 11. Encourage users of towers and antennas to configure them in a way to minimize adverse visual impact through careful design, siting, landscaping, alternative structures and innovative camouflaging techniques.
 - 12. Enhance the ability of the providers of telecommunication services to provide such services quickly, effectively and efficiently.
 - 13. Consider the public health and safety of communication towers.
 - 14. Avoid potential damage to adjacent properties from tower failure.
- B. **General Requirements**
 - 7. This section does not apply to an activity or use that is regulated by the small wireless communications facilities deployment act, 2018 PA 365, MCL 460.1301 to 460.1339.
 - 8. The terms “colocate”, “equipment compound”, “wireless communications equipment”, and “wireless communications support structure” as used herein shall have the definitions assigned to them by the Michigan Zoning Enabling Act, PA 110 of 2006, as amended.
 - 9. Towers and antennas may be considered either a principal or accessory use, but are not allowed in the L/R or R-1 zoning districts.
 - 10. Antennas shall be placed on existing structures whenever possible.
 - 11. Shall be limited to the lowest possible height which still allows reasonable coverage of an area.

12. Shall be a neutral color and shall not be lighted unless otherwise required by the FAA or FCC.
13. Towers shall comply with engineering standards for structural integrity.
14. Towers shall not be considered “Essential Services” or public or private utilities but shall instead be regulated by this Section.
15. No signs or advertising shall be allowed on a tower.
16. Antennas and metal towers shall be grounded for protection against direct strike by lightning.
17. Towers shall be set back from any adjoining lot line a distance of at least equal to the height of the tower.
18. No new tower shall be permitted unless the applicant demonstrates, to a reasonable satisfaction, that no existing tower or structure is available because of engineering requirements, structural strength, height, or electromagnetic interference.
19. Towers shall be enclosed by security fencing not less than six (6) feet in height and be equipped with an anti-climbing device.
20. Tower facilities shall be landscaped with a buffer strip of plant materials at least ten (10) feet wide and of sufficient height to effectively screen the compound. If evergreens are utilized that will attain a height of eight (8) feet or more at maturity, they must be at least three (3) feet in height when planted.

C. Application for Permit; Exemptions-Uses

7. Towers less than seventy (70) feet in height, owned and operated by a federally licensed amateur radio station operator, or used exclusively for receiving only antennas are exempt from this Ordinance.
8. Antennas located on public property under lease or license with a governmental agency shall be exempt from a permit under this Section.
9. The Zoning Administrator may issue a Land Use Permit for a tower or antenna, after an administrative review:
 - a. For an antenna to be attached to an existing structure, provided the antenna does not extend more than thirty (30) feet above the highest point of the structure.
 - b. For the replacement of a lattice tower or guy tower with a monopole tower.
 - c. For one extension of a tower, not to exceed thirty (30) feet, to facilitate the co-location of an additional antenna, but not to exceed a total height of one hundred ninety nine (199) feet.
10. All other tower and antenna installations shall require Special Land use approval in compliance with Article 8.

D. Inventory of Existing Sites. Each applicant for a tower and/or antenna permit shall provide the Zoning Administrator with an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are either within the Township, or within one (1) mile of the Township limits, including specific information about the location, height, design, occupancy and capacity of each tower. The Zoning Administrator may share such information with other applicants, however, the Zoning Administrator is not, by sharing such information, in any way representing that such sites are available or suitable.

E. Buildings and Equipment Storage. Cabinet or storage structure shall contain no more than two hundred (200) square feet of gross floor area or be more than nine (9) feet in height. Where antennas are co- located on a single tower, the size of the structure may be increased by fifty (50) percent of the basic size for each additional antenna.

7. **Separation – Residential Structures.** No tower greater in height than seventy (70) feet may be located nearer to a single family or multifamily structure or platted residentially zoned parcel than two hundred (200) feet or three hundred (300) percent of its height, whichever is greater. No tower greater in height than seventy (70) feet may be located nearer to vacant unplanted residential lands than one hundred (100) feet or one hundred (100) percent of its height, whichever is greater.
- F. **Removal of Abandoned Towers and Antennas.** Any tower or antenna that is not operated for a continuous period of twelve (12) months shall be considered abandoned and shall be removed within ninety (90) days after notice from the Township. Failure of the owner to remove the abandoned tower or antenna within the said ninety (90) days shall be grounds to remove the tower or antenna at the owner’s expense. Any tower or antenna damaged or destroyed may be repaired or rebuilt without having to first obtain a Special Use Permit, provided the type, height and location is the same as the original tower or antenna.
 7. No tower greater in height than seventy (70) feet may be located nearer to vacant unplanted residential lands than one hundred (100) feet or one hundred (100) percent of its height, whichever is greater.
- G. **Separation – Other Towers.** Except as otherwise provided in this Section, towers shall be separated from each other according to the following:
 7. Lattice and guy towers more than seventy (70) feet in height shall be located at least five thousand (5,000) feet from any other lattice or guyed tower more than seventy (70) feet in height, and at least fifteen hundred (1,500) feet from any monopole more than seventy (70) feet in height and vice versa.
 8. Monopoles more than seventy (70) feet in height shall be located at least seven hundred fifty (750) feet from another monopole more than seventy (70) feet in height.

Article 7.

SITE PLAN REVIEW

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Section 7.1 INTENT & PURPOSE

This Article governs the processes and standards for conducting site plan reviews when required under this Ordinance. This Article specifies the application requirements, the documents and/or drawings required, and the procedures that must be followed to ensure that a proposed land use or development activity complies with this Ordinance, other local ordinances, and state and federal statutes and regulations. Furthermore, its purpose is to ensure that development taking place within the Township is properly designed, safe, efficient, environmentally

sound, and designed in such manner as to protect adjacent properties and the environment from substantial adverse impacts.

Section 7.2 SITE PLAN REVIEW REQUIRED

Required site plans give the Planning Commission an opportunity to review development proposals in a consistent manner. The use of the site plan ensures that the physical and use changes in the property occurs as it was planned and represented by the developer, and approved by the Planning Commission. Site plan review shall be required for the following uses and circumstances:

- A. All new uses and/or structures except one-family or two-family residential units, associated accessory structures to one-family or two-family residential units, and agricultural buildings.
- B. Expansion or renovation of an existing use (structure or lot), other than one-family or two-family residential use, which increases the existing floor space more than twenty-five (25) percent.
- C. Other uses as required by this Ordinance.

Section 7.3 STANDARDS FOR SITE PLAN APPROVAL

The following criteria shall be used as a basis upon which site plans will be reviewed and approved:

- A. **Adequacy of Information:** The site plan shall include all required information in sufficiently complete and understandable form to provide an accurate description of the proposed uses and structures.
- B. **Site Design Characteristics:** All elements of the site shall be harmoniously and efficiently designed in relation to the topography, size, and type of land, and the character of the adjacent properties and the proposed use. The site shall be developed so as not to impede the reasonable and orderly development or improvement of surrounding properties for uses permitted on such property.
- C. **Site Appearance:** Landscaping, earth berms, fencing, signs, walls, structures and other site features shall be designed and located on the site so that the proposed development is aesthetically pleasing and harmonious with nearby existing or future developments.
- D. **Compliance with District Requirements:** The site plan shall comply with the district requirements for minimum floor space, height of building, lot size, open space, density and all other requirements set forth in the Article 3, unless otherwise provided in these regulations.
- E. **Privacy:** The site design shall provide reasonable visual and sound privacy. Fences, walls, barriers, and landscaping shall be used, as appropriate, for the protection and enhancement of property and the safety and privacy of occupants and uses.
- F. **Emergency Vehicle Access:** All buildings or groups of buildings shall be so arranged as to permit convenient and direct emergency vehicle access.
- G. **Circulation:** Every structure or dwelling unit shall be provided with adequate means of ingress and egress via public streets and walkways. The site plan shall provide a pedestrian circulation system that is insulated as completely as is reasonably possible from the vehicular circulation system. The arrangement of public and common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets or pedestrian ways in the vicinity of the site. The width of streets and drives shall be appropriate for the volume of traffic they will carry. All streets shall be developed in accordance with any adopted Township private road standards, or if a public road, the County Road Commission specifications.
- H. **Parking:** Any off-street parking facility shall meet all applicable design standards of this Ordinance.

- I. **Drainage:** Appropriate measures shall be taken to ensure that the removal or drainage of surface water will not adversely affect adjoining properties or water bodies or the capacity of the public drainage system. Provisions shall be made for a feasible storm drainage system, the construction of storm water collection, storage and transportation facilities, and the prevention of erosion. Surface water on all paved areas shall be collected at intervals so that it will not obstruct vehicular or pedestrian traffic and will not create nuisance ponding in paved areas. Final grades may be required to conform to existing and future grades of adjacent properties. Drainage plans shall be subject to review and approval by the Zoning Administrator or an engineer or consultant retained by the township at the applicant's expense.
- J. **Grading:** All elements of the site plan shall be designed so that there is a limited amount of change in the overall natural contours of the site and shall minimize reshaping in favor of designing the project to respect existing features of the site in relation to topography, the size and type of the lot, the character of adjoining property and the type and size of buildings. The site shall be so developed as not to impede the normal and orderly development of surrounding property for uses permitted in this Ordinance by limiting topographic modifications that result in a smooth natural appearing slope as opposed to abrupt changes in grade between the project and adjacent areas.
- K. **Soil Erosion and Sedimentation:** The proposed development shall include measures to prevent soil erosion and sedimentation during and upon completion of construction, in accordance with current Benzie County Construction Code standards.
- L. **Exterior Lighting:** Exterior lighting shall be designed so that it is deflected away from adjoining properties, directed downward, visual glare is minimized, and so that it does not impede vision of drivers along adjacent streets.
- M. **Public Services:** Adequate services and utilities shall be available or provided and shall be designed with sufficient capacity and durability to properly serve the development.
- N. **Screening:** Off-street parking, loading and unloading areas, outside refuse storage areas, and other storage areas that are visible from adjacent homes or from public rights-of-way, shall be effectively screened at an adequate height. All walls must be solid and constructed of durable material and cannot be located in required setbacks.
- O. **Danger from Fire and Hazards:** The level of vulnerability to injury or loss from incidents involving fire and hazardous materials or processes shall not exceed the capability of the Township to respond to such incidents to prevent injury and loss of life and property. In making such an evaluation, the Township shall consider the location, type, characteristics, quantities, and use of materials or processes in relation to the personnel, training, equipment and materials, and emergency response plans and capabilities of the Township. Sites that include significant storage of flammable or hazardous materials or waste, fuels, salt, or chemicals shall be designed to prevent spills and discharges of polluting materials to the surface of the ground, groundwater, and public sewer system.
- P. **Health and Safety Concerns:** Any use in any zoning district shall comply with applicable federal, state, county, and local health and pollution laws and regulations with respect to noise, dust, smoke and other air pollutants, vibration, glare, heat, fire and explosive hazards, gases, electromagnetic radiation, radioactive materials, and toxic and hazardous materials.
- Q. **Phases:** All development phases shall be designed in logical sequence to ensure that each phase will independently function in a safe, convenient and efficient manner without being dependent upon subsequent improvements in a later phase or on other sites.
- R. **Conformance:** Site plans shall conform to all applicable requirements of state and federal statutes and the Lake Township Master Plan, and approval shall be conditioned on the applicant receiving necessary state and federal permits before the actual zoning permit authorizing the site plan is granted.

Section 7.4 SITE PLAN APPLICATION REQUIREMENTS

An application for site plan review shall be submitted on a form provided by the Township with the required items presented in the table below. Required items shall be demonstrated on the site plan drawings, written narrative/submitted documentation, or both as indicated in the table.

SITE PLAN APPLICATION REQUIREMENTS			
Site Plan Item	Description	Shown on Site Plan	Written Narrative/ Submissions
	The date, north arrow, and scale. Scale shall be as follows: < 3 acres: One (1) inch = fifty (50) feet > 3 acres: One (1) inch = one hundred (100) feet	✓	
	A boundary survey of the property, to include all dimensions, setbacks, gross and net acreage, and legal description.	✓	
	The location and width of all abutting rights-of-way.	✓	
	The existing zoning district in which the site is located and the zoning of adjacent parcels.	✓	
	The location of all existing and proposed structures and uses on the site, including proposed drives, walkways, signs, exterior lighting, parking (showing the dimensions of a typical parking area), loading and unloading areas, common use areas and recreational areas and facilities.	✓	
	Description of all existing and proposed structures referenced in item 5.		✓
	The location and identification of all existing structures within a two hundred (200) foot radius of the site.	✓	
	The location and description of the environmental characteristics of the site prior to development such as topography, soils, vegetative cover, mature specimen trees, drainage, streams, wetlands, shorelands, or any other unusual environmental features.	✓	✓
	Natural features that will be retained, removed, and/or modified including vegetation, hillsides, drainage, streams, wetlands, shorelands, and wildlife habitat.	✓	
	The description of the areas to be changed shall include their effect on the site and adjacent properties. An aerial photo may be used to delineate areas of change.		✓
	A landscaping plan with all existing and proposed landscaping, walls and/or fences.	✓	
	A grading plan showing the topography of the existing and finished site, including ground floor elevations, shown by contours or spot elevations. Contours shall be shown at height intervals of two (2) feet or less.	✓	
	A stormwater management plan showing all existing above and below grade drainage facilities, and proposed plans incorporating low impact development water quality technologies and other best management practices.	✓	✓
	Location, type and size of all above and below grade utilities.	✓	
	Type, direction, and intensity of outside lighting shown on a photometric plan in compliance with exterior lighting standards.	✓	
	Location of any cross-access management easements, if required.	✓	

SITE PLAN APPLICATION REQUIREMENTS			
Site Plan Item	Description	Shown on Site Plan	Written Narrative/ Submissions
	Location of pedestrian and non-motorized facilities, if required.	✓	
	An indication of how the proposed use conforms to existing and potential development patterns and any adverse effects.		✓
	The method to be used to control any increase in effluent discharge to the air or any increase in noise level emanating from the site. Consideration of any nuisance that would be created within the site or external to the site whether by reason of dust, noise, fumes, vibration, smoke or lights.		✓
	Plans to control soil erosion and sedimentation, including during construction.	✓	✓
	The method to be used to serve the development with water.		✓
	The method to be used for sewage treatment.		✓
	The number of units proposed, by type, including a typical floor plan for each unit, dimensions, and area in square feet.	✓	
	Elevations for all building facades.	✓	
	The number of people to be housed, employed, visitors or patrons, anticipated vehicular and pedestrian traffic counts, and hours of operation.		✓
	Phasing of the project, including ultimate development proposals.	✓	
	General description of deed restrictions and/or cross-access management easements, if any or required.		✓
	The name and address of the property owner.	✓	✓
	Name(s) and address(es) of person(s) responsible for preparation of site plan drawings and supporting documentation.	✓	✓
	Sealed/stamped drawings from a licensed architect, engineer, or landscaped architect.	✓	

- A. Upon the recommendation of the Zoning Administrator, the Planning Commission may waive any of the above required items based upon a finding that it is not applicable.
- B. The Planning Commission, Zoning Administrator, or other party authorized by the Township may request any additional information it deems necessary in the review of a submitted site plan.
- C. The Planning Commission, Zoning Administrator, or other party authorized by the Township may require:
 - 7. The establishment of an escrow fund under Section 12.6 to pay for reasonable staff or consultant costs required for proper review of the application, and/or
 - 8. The posting of a financial guarantee under Section 12.7.
- D. Evidence must also be submitted which shows the plan has been submitted for review to all affected jurisdictions, including but not limited to Benzie County Road Commission, Benzie County Drain Commissioner, local fire and emergency services providers, Health Department, Michigan Department of Transportation (MDOT), Michigan Department of Energy, Great Lakes, and Environment (EGLE), and Michigan Department of Natural Resources (DNR), where applicable. If an applicable review is not submitted, statement of a date certain for submission or the reason why their review is not applicable must be provided.

- E. All site plan drawings and application shall be submitted in quantities requested by the Zoning Administrator on sheets twenty-four (24) inches by thirty-six (36) inches or eleven (11) inches by seventeen (17) inches, and in digital PDF format.

Section 7.5 SITE PLAN APPLICATION REVIEW PROCEDURES

- A. **Pre-Application Conceptual Review:** An applicant shall be required to attend a pre-application conceptual review with the Zoning Administrator to discuss in general the substantive requirements for the application prior to formal submittal of a site plan review application. The purpose is to gather feedback on the proposed land use and potential requirements by the Township. Feedback provided by the Zoning Administrator and/or Township designee under a pre-application conceptual review is non-binding, subject to change, and is not to be construed as a guarantee for approval. A pre-application conceptual review does not include a completeness or technical review by the Zoning Administrator.
- B. **Completeness Review:** All required application materials shall be presented to the Zoning Administrator's office by the property owner or their designated agent. The Zoning Administrator shall review the application for completeness to determine if the application has been properly submitted and the applicant has corrected all deficiencies. Completeness reviews are solely for the purpose of determining whether the preliminary information required for submission of the application is sufficient to allow further processing and shall not constitute a decision as to whether an application complies with the provisions of this Ordinance. Once deemed complete, the application will be placed on the next regularly scheduled Planning Commission meeting.
- C. **Technical Review:** An application determined to be complete will undergo a technical review by the Zoning Administrator to determine compliance with applicable standards. This review may include distributing the plan to other local agencies or departments with jurisdiction for comment on any problems the plans might pose and shall result in a report submitted to the Planning Commission with the site plan review application. Once the technical review is complete, the application will be placed on the agenda for consideration at the next regularly scheduled Planning Commission meeting.
- D. **Zoning Board of Appeals:** When a site plan review is dependent on a variance by the Zoning Board of Appeals, the granting of the variance(s) shall be necessary before a determination is made on the site plan review.

Section 7.6 LAND USE PERMITS

A. **General Requirement:** No person shall erect or place any building or structure, having more than one hundred (100) square feet of floor area, nor shall any person make an addition of more than one hundred (100) square feet of enclosed floor space to any existing building, or change or establish a new use for any land within any zoning district without first obtaining a land use permit. Application shall be made to the Zoning Administrator for such permit, on forms to be supplied by him or her, together with a non-refundable application fee. The Zoning Administrator shall have the power to require proof of ability to comply with all of the requirements of this Ordinance pertaining to said use and may require a site plan review as specified in Article 7, and further he/she may also require proof of ability to meet all public health standards and applicable State and County laws, regulations and ordinances.

B. **Land Use Permit Application Requirements**

- 7. The application shall be signed by the owner of the premises or his agent and shall certify that all provisions of this Ordinance and other applicable laws and requirements are to be complied with.
- 8. The application shall be accompanied by a site plan, if required, or a sketch to scale in duplicate showing the location and dimensions of the premises including the boundary lines of all parcels of land under separate ownership contained therein.

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- a. The size, dimensions, location on the premises, and height of all buildings, structures or other impervious surfaces in existence, to be erected and/or altered.
- b. The width and alignment of all abutting streets, highways, alleys, easements and public open spaces.
- c. The front yard dimensions of the nearest building on both sides of the proposed building or structure.
- d. The location and dimensions of sewage disposal facilities both on adjoining land or lots and those to be erected on the lot under consideration.
- e. And the location of all wells on adjoining lands or lots and those to be erected on the lot under consideration.
- f. The property owner shall physically stake on the ground the location of where buildings will be located. The Zoning Administrator shall inspect the site prior to construction to be sure that the actual locations of the proposed buildings on the ground are the same as the locations of the buildings as drawn on the site map.
- g. All outside agency permits shall be submitted with the application for a land use permit. Outside agency permits include, but shall not be limited to, soil erosion, health department, road commission, wetland, MDOT. If an outside agency permit is not required, the agency shall provide written documentation that a permit is not required. The Zoning Administrator shall determine if additional agency reviews are necessary depending on the site and intensity of proposed use.
- h. Such other information as may be required to determine compliance with the Ordinance.

C. **Land Use Permit Fees.** For each Land Use Permit, a fee shall be paid to the Zoning Administrator, or designee, who shall turn over the funds to the Treasurer. No land use permit shall be valid until the required fees have been paid. No separate fee shall be required for accessory buildings or structures when application thereof is made at the same time as the principal building or structure.

Section 7.7 SITE PLAN APPLICATION DETERMINATIONS

The Zoning Administrator or Planning Commission shall review the application and decide to approve the application, require any conditions it may find necessary, or deny the application.

- A. **Approval:** The site plan shall be approved upon determination that it complies with the standards of this Ordinance, other Township planning documents, other applicable ordinances, and state and federal statutes.
- B. **Conditional Approval:** The Zoning Administrator or Planning Commission may approve a site plan, subject to any conditions, to address necessary modifications, obtain variances, or for approvals from other agencies. Conditions imposed shall meet each of the following objectives:
 - 7. Be designed to protect natural resources, the health, safety, and welfare, as well as the social and economic well-being, of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community.
 - 8. Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
 - 9. Be 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 ensure compliance with those standards.

- C. **Denial:** If the Zoning Administrator or Planning Commission determines that a proposed site plan does not meet the standards of this Ordinance or otherwise will tend to be injurious to the public health, safety, welfare, or orderly development of the Township, it shall deny the application by a written decision which clearly sets forth the reason for such denial.

Section 7.8 RECORD OF ACTIONS

The Township shall keep a record of decisions on all site plans on file in the Clerk's Office. The record shall include the following information:

- A. **Minutes:** All minutes from any meeting where the site plan was considered.
- B. **Finding of Fact:** The decision on a site plan review shall include findings of fact relative to the land use under consideration and shall specify the basis for the decision and any conditions imposed.
- C. **Final Site Plans:** One (1) electronic pdf version and two (2) full size print sets (24" x 36") of the final site plans stamped by a licensed architect, landscape architect, or civil engineer.
 - 7. Approved site plans shall include any required revisions and the date of the revisions. The print sets shall be marked "Approved" and signed and dated by the applicant and Planning Commission Chair if approved by the Planning Commission, or the Zoning Administrator if administratively approved.
 - 8. Denied site plans shall be marked "Denied" and signed and dated by Planning Commission Chair if denied by the Planning Commission, or the Zoning Administrator if administratively denied.
- D. **Development Agreement:** An approved site plan shall include a site plan development agreement outlining the approved use, any applicable conditions, and procedural process. The development agreement shall be signed and notarized by the applicant and Planning Commission Chair.

Section 7.9 EXPIRATION & REVOCATION

- A. **Expiration:** A site plan review approved under this Article shall be valid for a period of one (1) year from the date of approval. If the applicant fails to submit an application for a zoning permit to the Township for the approved site plan review in that time period, then the site plan review approval shall automatically expire. **[should this be a requirement to start meaningful construction within a year?]** The applicant may request an extension of the permit by submitting a written request for consideration to the Planning Commission before the expiration date. The Planning Commission may grant one (1) extension for a period of up to one (1) year.
- B. **Revocation:** If a violation of any of the conditions or standards imposed on an approved site plan review is found to exist following inspection, the Zoning Administrator shall notify the owner of the premises, the applicant of the site plan review, and the Planning Commission that such violation exists and that the site plan review approval will be revoked within fifteen (15) days of such notification if not corrected. If said violation is not corrected within fifteen (15) days, the Planning Commission may revoke the permit. Furthermore, such a violation is hereby declared a violation of this Ordinance, subject to all the remedies and penalties provided for within this Ordinance.
- C. **Expiration of Application:** During any application review, if an applicant has failed to proceed meaningfully towards application completion or application decision for a period of one-hundred and twenty (120) consecutive calendar days, then the application shall be considered abandoned and expire. If the applicant would like to proceed following the one-hundred and twenty (120) days, a new application, documentation, and fee shall be required. This shall be processed as a new application.

Section 7.10 AMENDMENTS & MODIFICATIONS

A previously approved site plan may be modified subject to the following procedures:

- A. **Insignificant Deviations:** The Zoning Administrator may authorize insignificant deviations in an approved site plan if the resulting use will still meet all applicable standards and requirements of this Ordinance, and any conditions imposed. A deviation is insignificant if the Zoning Administrator determines it will result in no discernible changes to or impact on neighboring properties, the public, or those intended to occupy or use the proposed development and will not noticeably change or relocate the proposed improvements.
- B. **Minor Amendments:** The Planning Commission, upon receipt of an application, may permit minor amendments to an approved site plan if the resulting use will still meet all applicable standards and requirements of this Ordinance, and any conditions imposed unless otherwise requested to be modified, and do not substantially affect the character or intensity of the use, vehicular or pedestrian circulation, drainage patterns, demand for public services, or vulnerability to hazards. Minor amendments are those modifications the Zoning Administrator determines will have no substantial impact on neighboring properties, the public, or those intended to occupy or use the proposed development, but exceed the extent to which can be approved as an insignificant deviation.
- C. **Major Amendments:** All other requests for amendments to an approved site plan shall be processed in the same manner as a new application. The Planning Commission may impose new conditions on the approval of an amendment request if such conditions are warranted as described in this Article. The holder of the original site plan approval may reject such additional conditions by withdrawing the request for an amendment and proceeding under the existing site plan approval.

Section 7.11 FEES & PERFORMANCE GUARANTEES

Fees and performance guarantees associated with the review and approval of a site plan review application shall be required as specified in Article 12.

Article 8.

SPECIAL LAND USES

Section 8.1 INTENT & PURPOSE

This Article establishes the review procedures and standards for conducting special land use reviews when required under this Ordinance. Special land uses provide an opportunity to use a lot or parcel for an activity which, under certain circumstances, might be detrimental to other permitted land uses, or which contain unique features. Allowed special land uses are listed in Article 3 for each zoning district.

Section 8.2 GENERAL STANDARDS

Each application for a special use permit shall be reviewed on an individual basis for conformity and compliance with the standards of this Ordinance, specifically including those for site plan review in Article 7 and the additional standards below:

[Since the standards in Article 7 for site plan review apply to special uses as well, it is not clear if these additional standards are necessary. They seem to cover the same criteria. Consultant's input needed.]

- A. Will be in accordance with the general objectives, intent, and purposes of this Ordinance.
- B. Will be designed, constructed, operated, maintained, and managed so as to be appropriate in appearance with the existing or intended character of the general vicinity.
- C. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, and refuse disposal, or those persons or agencies responsible for the establishment of the proposed use shall be able to adequately provide any such service.
- D. Will not be hazardous or disturbing to existing or future neighboring uses.
- E. Will not create excessive additional requirements at public expense for public facilities and services.
- F. Will be in accordance with all required conditions of the district in which it will be located.
- G. Will not be detrimental to existing and/or other permitted land uses in the applicable zoning district.

Section 8.3 SPECIAL USE PERMIT APPLICATION REQUIREMENTS

An application for special use permit approval shall include a complete site plan application with required accompanying documentation satisfying the requirements of Article 7 and the application shall include a statement addressing all of the standards for approval.

Section 8.4 SPECIAL USE PERMIT APPLICATION REVIEW PROCEDURES

The procedures for a special use permit application review shall follow those for a site plan review in Article 7 with the following modifications. The Planning Commission shall:

- A. Review the application to determine if it satisfies the standards for special use permits, and all other applicable standards of this Ordinance. Administrative review shall not be an option for special use permit applications.
- B. Hold a public hearing to consider the proposed special use permit application in accordance with the procedures for a public hearing in Article 12.
- C. The Planning Commission’s decision on a special use review shall include findings of fact relative to the location and use under consideration and shall specify the basis for the decision and any conditions imposed.

Section 8.5 SPECIAL LAND USE DETERMINATIONS

- A. **Approval:** The special use permit application shall be approved upon determination that it is in compliance with the standards of this Ordinance, other Township planning documents, other applicable ordinances, and local, state, and federal statutes. Such approval shall affect only the lot or area specified in the application and decision.
- B. **Conditional Approval:** The Planning Commission may approve a special use permit, subject to any conditions to address necessary modifications, obtain variances, or for approvals from other agencies. Conditions imposed shall meet the objectives outlined in Article 7.
- C. **Denial:** If the Planning Commission determines that a proposed special use permit application does not meet the standards of this Ordinance, it shall deny the application.

Section 8.6 RECORD OF ACTIONS

The Township shall keep a record of decisions on all special use permit applications on file in the Clerk’s Office. The record shall include the information required in Article 7, Section 7.7. In addition, a development agreement and final site plan as specified in Section 7.7(D) is required and shall be recorded at the Benzie County Register of Deeds Office. Evidence that the development agreement and final site plan were properly recorded must be submitted to the Township Clerk within forty-five (45) days of the final decision.

Section 8.7 EXPIRATION & REVOCATION

The standards and procedures for expiration and revocation of an approved special use permit shall be the same as those for site plan review in Article 7.

Section 8.8 AMENDMENTS & MODIFICATIONS

The standards and procedures for amendments or modifications of an approved special use permit shall be the same as those for site plan review in Article 7, with the exception that a major amendment to an approved special use permit will require a new public hearing following the standards and process in Article 7.

Section 8.9 FEES & PERFORMANCE GUARANTEES

Fees and performance guarantees associated with the review and approval of a special use application shall be required as specified in Article 12.

Article 9.

LAND DEVELOPMENT

OPTIONS

Section 9.1 PLANNED RESIDENTIAL DEVELOPMENTS – OPEN SPACE PRESERVATION

- A. **Intent and Purpose:** It is the purpose of this Section, in accordance with the Michigan Zoning Enabling Act (MZEA), to allow planned residential developments (PRD), which encourage flexible housing environments within Lake Township by allowing for a planned reduction of the individual lot area requirements provided the overall density requirements for each district remain the same and all other requirements and standards are met. PRDs are further intended to preserve rural character and provide for the permanent conservation of open space, natural features, farmland, and environmentally sensitive areas.
- B. All provisions, requirements, procedures, and limitations in Article 7, Site Plan Review, including but not limited to the application, review and approval process and the criteria for approval apply to any PRD.
- C. The following additional requirements apply to any proposed PRD:
7. **Density.** A yield plan shall be submitted showing that the density of housing in the proposed PRD will be less than as it would be permitted under the conventional development regulations in the zoning district where the property is located.
 8. **Minimum Area.** The minimum total size of the PRD shall be ten (10) contiguous acres. The Planning Commission may approve a PRD on a site of less than ten (10) acres where the applicant demonstrates that the development provides exceptional open space preservation, conservation value, or other public benefits consistent with the intent of this Section.
 9. **Demonstration of Rural Character Benefits.** The applicant for a PRD must demonstrate that the PRD will have benefits to the township that will exceed conventional development by setting aside and preserving open space, natural features, or areas prone to environmental damage, by providing recreational amenities, or by providing other benefits. Such benefits shall emphasize rural character preservation and environmental conservation.

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- 10. **Minimum Required Open Space.** All land in the PRD not intended to be conveyed to individual dwelling units, building envelopes or lots shall be set aside for the use of all occupants of the development. Title to such common areas or open space should be held in common ownership by the owners of all units/lots in the PRD or by a homeowners’ association controlled by the owners of all units/lots in the PRD. The applicant shall provide to the Township legal documents, as filed with the Benzie County Register of Deeds, setting aside the dedicated open space created as part of the PRD as permanent open space in perpetuity. Such dedication may be in the form of a conservation easement, plat dedication, restrictive covenant or other legal means that runs with the land. A minimum of forty percent (40%) of the total site area shall be preserved as permanent open space. Roads, required setbacks, stormwater facilities, septic fields, and utility areas shall not be counted toward required open space unless specifically designed and approved as naturalized open space.
- 11. **Maintenance Documentation.** The applicant shall provide to the Township legal documents which establish a permanent organization for maintenance and management of all common areas, open space, private roads and recreational amenities areas in the PRD. Such organization shall be established prior to final approval or recording of the PRD. The Township shall retain the right, but not the obligation, to enter and maintain such areas if maintenance responsibilities are not fulfilled, with costs assessed to the responsible entity.
- 12. **Access.** All access to the interior roads of the proposed development and the development itself shall not create or use more than two (2) curb cuts to a public road, unless approved by the Benzie County Road Commission or the Michigan Department of Transportation District Manager. Access shall meet all standards set forth by the Benzie County Road Commission and the Michigan Department of Transportation.

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Section 9.2 MOBILE HOME DEVELOPMENTS

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[This section needs work to ensure our ordinance provides for the maximum allowed control (any areas not totally preempted by state laws and regulations) over siting and other aspects of mobile home parks.]

Mobile home developments have special characteristics which require full consideration of the locational needs, their site layout and design, their demand upon community services and their relationship to and affect upon surrounding uses of land. Such developments shall comply with all the requirements of Act 96 of 1987, as amended, and the rules and regulations of the Michigan Manufactured Housing Commission.

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Section 9.3 SITE CONDOMINIUM SUBDIVISION PLAT DEVELOPMENT

[Some amendments to this Section would seem to be appropriate. First, the way this section meshes with or is inconsistent with the site plan review process in Article 7 has not been adequately assessed-some duplication or inconsistency appears to be present. Second, rather than keeping the old ordinance text, it would seem this section could be improved by updating and clarifying it.]

This section requires site plan review of condominium subdivisions to ensure that condominium projects comply with this Zoning Ordinance and all other applicable ordinances. Condominium projects may be approved, as provided by this section, in any Zoning Districts.

- A. The overall density of the condominium project shall not be higher than the underlying zoning district allows. The total acreage of the project, divided by the minimum lot size of the underlying zoning district, equals the number of building sites permitted. Compliance with required front, side and rear yards, shall be determined by measuring the distance from the equivalent front, side or rear yard boundaries of the building site to the closest respective front, side or rear boundary of the building footprint or envelope.

- B. All dedicated public roadways in site condominium subdivisions shall meet the requirements of the Benzie County Road Commission's standards for roads.
- C. **Preliminary Site Condominium Subdivision Plan:** All site condominium subdivisions shall require preliminary site condominium development plan approval by the Planning Commission prior to conducting any on-site improvements.
- D. Six (6) copies of the preliminary site condominium subdivision plan and other required documentation shall be submitted to the Zoning Administrator at least twenty (20) days before a meeting of the Planning Commission. The Planning Commission shall study the plan and shall either approve or disapprove the preliminary plan. The information and drawings must be clearly marked "Preliminary Site Condominium Subdivision Plan."
- E. Any changes in the preliminary site condominium subdivision plan, once it has been approved, must be submitted to the Planning Commission for approval in compliance with this section.
- F. The following information shall be included in the preliminary condominium development plan:
 - 7. A site plan in accordance with Article 7.
 - 8. A site condominium subdivision plan in accordance with the requirements of Section 66 of the Condominium Act, P.S. 59 of 1978.
 - 9. Documented proof of review by the Benzie County Road Commission, the Benzie County Health Department, the Michigan Department of Transportation, the Michigan Department of Natural Resources (MDNR).
- G. In its review of the preliminary site condominium development plan, the Planning Commission may consult with the Zoning Administrator, an Attorney, Engineer, Fire Chief, Planner, or other appropriate officials and persons regarding the adequacy of the proposed common elements and maintenance provisions, use and occupancy restrictions, utility systems and streets, project layout and design, or other aspects of the proposed project. Any costs incurred will be charged to the applicant.
- H. Approval of the preliminary site condominium development plan shall authorize the construction of necessary site improvements. Construction of buildings and structures shall not be permitted until a final site condominium subdivision plan has been approved by the Planning Commission.
- I. Final Site Condominium Subdivision Plan: Six (6) copies of the final site condominium subdivision plan ("as-built") and other required documentation shall be submitted to the Zoning Administrator who shall study the plan and shall either approve or disapprove the final site condominium subdivision plan. The information and drawings must be clearly marked "Final Site Condominium Subdivision Plan."
- J. No buildings or structures shall be constructed, nor shall any other site improvements or changes be made on the property in connection with a proposed site condominium project except in compliance with a final site condominium subdivision plan as approved by the Planning Commission, including any conditions of approval and other applicable requirements of local, state, or federal laws and regulations.
- K. No building permits shall be issued for a site condominium project until a final site condominium subdivision plan has been approved by the Planning Commission, all conditions to commencement of construction imposed by the Planning Commission have been met, and all applicable approvals or permits from appropriate county and state review and enforcement agencies have been obtained for the project.

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- L. **Final Approval:** The Township Clerk shall be furnished with a copy of the recorded master deed, as defined in Section 8 of the Condominium Act prior to the issuance of any building permits. The master deed must ensure that the Township will not be responsible for maintenance or liability of the non-dedicated portions of the subdivision, that all private roads will be properly maintained, that snow removal will be provided, and that there is adequate access and set up area for emergency vehicles. Responsibility for the maintenance of stormwater retention areas, drainage easements, drainage structures, lawn cutting, and other general maintenance of common areas must be clearly stated in the recorded master deed.
- M. Approval of the final site condominium subdivision plan shall not constitute approval of expandable or convertible portions of a site condominium project unless the expandable or convertible areas were specifically reviewed and approved by the Planning Commission in compliance with the procedures, standards, and requirements of this section.
- N. Any significant change proposed in connection with a site condominium project for which the final site condominium subdivision plan has previously been approved by the Planning Commission shall be subject to review as required for the original application provided by this Section.

Article 10.

NONCONFORMITIES

Section 10.1 INTENT & PURPOSE

It is recognized that there exist within districts established by this Ordinance and subsequent amendments, uses, sites, structures, and lots which were lawful before this Ordinance was passed or amended which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendments, and It is the intent of this Ordinance to permit such legal nonconforming situations to continue until they are removed, abandoned or discontinued, subject to the requirements and conditions in this Article.

Section 10.2 GENERAL STANDARDS

- A. **Continuation:** On or after the effective date of this Ordinance or any subsequent amendments, a nonconforming situation that was lawfully operated, established, or commenced in accordance with the provisions of all ordinances, statutes, or regulations in effect at that time may continue subject to this Article.
- B. **Change in Tenancy or Ownership:** A change of tenancy, ownership, or management of any existing nonconforming situation does not alter the legality of the nonconforming situation.
- C. **Issued Zoning Permit:** Any zoning permit issued prior to the effective date of this Ordinance, or any subsequent amendments, shall be valid in accordance with its terms, even though not conforming to the provisions of this Ordinance, if construction is commenced within twelve (12) months after the date of permit issuance and proceeds meaningfully until completion.
- D. **Exception for Repairs Pursuant to Public Order:** Nothing in this Article shall be deemed to prevent the strengthening or restoration to a safe condition of a building or structure in accordance with an order of a public official who is charged with protecting the public safety and who declares such structure to be unsafe and orders it to restoration to a safe condition, provided that such restoration is not otherwise in violation of the various provisions of this Ordinance prohibiting the repair or restoration of partially damaged or destroyed buildings or structures.

Section 10.3 NONCONFORMING USES

- A. **Continuance:** A nonconforming use shall not be enlarged or moved, in whole or in part, to any other portion of the lot or parcel that was not occupied by the use at the time the use became nonconforming. However, a nonconforming use may be extended throughout any part of an existing structure, which was designed for such use, and which existed at the time the use became nonconforming.
- B. **Enlargement or Expansion:** A conforming structure in which a nonconforming use is operated shall not be enlarged or expanded unless the Zoning Board of Appeals (ZBA) issues an interpretation of this Ordinance which finds that proposed enlargement or expansion meets the standards listed in Section 10.6. ZBA approval is not required if the enlargement or expansion is required by law as ordered by a County Building Official or Public Health Inspector.
- C. **Change of Use Regulations:**
7. **Changes to Conforming Uses:** Any nonconforming use may be changed to a use conforming with the regulations established for the district in which the nonconforming use is located, provided, however, that a nonconforming use so changed shall not in the future be changed back to the former nonconforming use.
 8. **Changes to Conforming Uses:** A nonconforming use may not be changed to a different nonconforming use unless the Zoning Board of Appeals (ZBA) issues an interpretation of this Ordinance which finds that proposed change in use meets the standards listed in Section 10.6.
- D. **Abandonment.**
7. If a nonconforming use is abandoned for any reason for a period of more than twelve (12) calendar months, any subsequent use shall conform to the requirements of this Article.
 8. A nonconforming use shall be determined to be abandoned if two (2) or more of the following conditions exist that demonstrate intent on the part of the property owner to abandon the nonconforming use.
 - a. Whether utilities have been disconnected.
 - b. Whether any signs have been removed or have fallen into disrepair.
 - c. Whether any fixtures within and outside the building have been removed.
 - d. Whether the property has fallen into disrepair or is considered “blighted.”
 - e. Whether U.S. Mail delivery has been terminated or mail is forwarded to another address.
 - f. Whether the classification of the property for tax purposes has been changed to reflect another use.
 - g. Whether any license associated with the use has expired.
 - h. Removal of signs or other indications of the existence of the nonconforming use.
 - i. Whether there are any other similar changes to the nonconforming structure or use.

[The current ordinance has exceptions if the property is subject to probate, insurance recovery or criminal proceedings; should they be added back in??]

Section 10.4 NONCONFORMING STRUCTURES

Nonconforming structures may be continued, repaired, replaced, enlarged or expanded in accordance with the following provisions:

- A. **Continuance of Nonconforming Structures:** Subject to all limitations in this Article, any nonconforming structure may be occupied, operated, and maintained in a state of good repair, but no nonconforming structure shall be enlarged or extended unless in accordance with the allowable standards of this Article. Nonconforming structures that are demolished or removed cannot be replaced unless constructed in compliance with all the dimensional and use requirements of this Ordinance.
- B. **Repair and Maintenance of Nonconforming Structures:** Nothing in this Ordinance shall prevent the repair, reinforcement, improvement or rehabilitation of any nonconforming structure, or any part thereof, which results from wear and tear, deterioration, fire, windstorm, snowstorm, rainstorm, flood or other casualty damage, nor shall it prevent compliance with the provisions of the State Construction Code Act, relative to the maintenance of buildings or structures.
- C. **Replacement of Damaged Nonconforming Structures:** Nothing in this Ordinance shall prevent the replacement of any nonconforming building or structure damaged or destroyed by fire, windstorm, snowstorm, rainstorm, flood or other casualty damage beyond the control of the owner, provided such replacement utilizes the original structure footprint, does not increase the original usable floor area or volume of such structure. 1 year?
- D. **Enlargement or Expansion:** The Zoning Administrator may allow the enlargement or expansion of a nonconforming structure if all the following conditions are met:
 - 7. The use occurring in the structure is a conforming use.
 - 8. Any expansion will result in the structure being equally or more conforming to the requirements of this Ordinance than the current structure; and the expansion will be otherwise in full compliance with all other requirements of this Ordinance, including but not limited to requirements regarding lot coverage, impervious surfaces, vegetation removal and stormwater control.
 - 9. Written confirmation is received from the Health Department that safe and sanitary water and waste disposal systems are available and are compatible with the expansion.

Section 10.5 NONCONFORMING LOTS OF RECORD

- A. If a nonconforming lot of record is nonconforming solely due to the lot's failure to meet minimum total lot area requirements:
 - 7. The Zoning Administrator is authorized to waive the minimum lot size requirement to permit construction of a structure on such nonconforming lot of record provided that the intended structure is in full compliance with all other requirements of this Ordinance, including but not limited to requirements regarding lot coverage, impervious surfaces, vegetation removal and stormwater control.
 - 8. Structures located on such nonconforming lots of record may be continued, repaired, replaced, enlarged or expanded in accordance with the provisions specified in Section 10.4 (A)-(D).
- B. If a nonconforming lot of record is nonconforming because it does not meet minimum lot width requirements:
 - 7. The Zoning Administrator is authorized to waive the minimum lot width requirement to permit reconstruction or replacement of any existing structure on such nonconforming lot of record provided such reconstruction or replacement utilizes the original structure footprint, does not increase the original usable floor area or volume of such structure, and meets all other requirements of this Ordinance.
 - 8. The Zoning Administrator is not authorized to waive the minimum lot width requirement on such nonconforming lot of record for any enlargement or expansion of an existing structure or any new structure, unless the ZBA has granted a variance to allow such construction.

Section 10.6 ZONING BOARD OF APPROVAL - REVIEW STANDARDS FOR NONCONFORMITIES

- A. **ZBA Authority:** The ZBA is authorized, under its power to interpret this Ordinance, to issue opinions allowing the following changes if it makes findings that all the approval standards listed in Section 10.6(B) will be met.
7. An enlargement or expansion of an existing conforming structure for a nonconforming use.
 8. A change of use from a nonconforming use to a different nonconforming use.
- B. **Approval Standards:** The following approval standards must all be met for the ZBA to issue an interpretation allowing the situations listed in Section 10.6(A):
7. The new use or expansion will not be contrary to the public interest.
 8. The new use or expansion will not substantially or permanently injure the appropriate use of adjacent conforming property in the same district.
 9. The new use or expansion will be in harmony with the spirit and purpose of these regulations and the master plan goals, objectives, and policies.
 10. The plight of the applicant for which the new use or expansion is sought is due to unique circumstances existing on the property and/or within the surrounding district.
 11. Approval of the new use or expansion will not substantially weaken the general purposes of this Section or the regulations established in this Ordinance for the applicable zoning district.
 12. The new use or expansion shall not require more off-street parking and loading space than the former nonconforming use unless additional adequate off-street parking and loading space is provided for the increment of the new nonconforming use or expansion as if the increment were a separate use.
 13. The new use or expansion shall conform to all regulations and standards established this Ordinance.
 14. The new use or expansion will not adversely affect the public health, safety, and welfare.

Commented [ES23]: John and PC have edited Article 10. Do not edit until latest version has been received and inserted.

Article 11.

ZONING BOARD OF APPEALS

Section 11.1 CREATION AND MEMBERSHIP

There is hereby established a Zoning Board of Appeals (ZBA) which shall perform its duties and exercise its powers as provided in the Michigan Zoning Enabling Act [Section 601 of Act 110 of Public Acts of 2006, as amended (MZE)] and in such a way that the objectives of this Ordinance shall be observed, public safety secured, and justice done. The ZBA shall consist of three (3) regular members, appointed by a majority vote of the Township Board of Trustees.

- A. The first regular member appointed shall be a member of the Planning Commission for the term of his or her office.
- B. A member of the Township Board may serve as a regular member of the ZBA but may not serve as chairperson.
- C. The remaining member(s) of the ZBA must be selected from the electors of the Township and shall be, along with other members, representative of the population distribution and of the various interests present in the Township.
- D. An employee or contractor of the Township Board may not serve as a member of the ZBA.
- E. The Township Board may appoint not more than two (2) alternate members, for the same term as regular members to the ZBA. An alternate member may be called to sit as a regular member of the ZBA in the absence of a regular member if a regular member will be unable to attend one (1) or more meetings. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member having been appointed shall serve on that case until a final decision has been made. The alternate member shall have the same voting rights as a regular member of the ZBA.
- F. A member of the ZBA may be paid a reasonable per diem and reimbursed for expenses actually incurred in the discharge of his/her duties.
- G. A member may be removed by the Township Board for misfeasance, malfeasance or nonfeasance in office upon written charges and after a public hearing. A member shall disqualify himself/herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself/herself from a vote in which the member has a conflict of interest constitutes malfeasance in office.

- H. Terms for ZBA members shall be three (3) years, except for members serving because of their membership on the Planning Commission or Township Board whose terms shall be limited to the time they are members of the Planning Commission, or Township Board, respectively, and the period stated in the resolution appointing them. When members are first appointed, the appointment may be for less than 3 years to provide for staggered terms. Vacancies for unexpired terms shall be filled for the remainder of the term.
- I. Attendance: Since regular attendance is required for optimal function of the ZBA, members of the ZBA, unless excused by the chairperson, shall be expected to notify the chairperson, or his/her designee of his/her expected absence prior to a meeting.

Section 11.2 MEETINGS

- A. Meetings of the ZBA shall be held at the call of the Chairman and at such other times as the ZBA may determine or specify in its rules of procedure. All hearings conducted by the ZBA shall be open to the public. The ZBA may adopt its own rules of procedure.
- B. The ZBA shall keep a record of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating said fact. The ZBA shall file a record of its proceedings in the office of the Township Clerk, which record shall be a public record.
- C. The concurring vote of a majority of the members of the ZBA shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator, or to decide in favor of an applicant any matter upon which they are required to pass under this Ordinance or to grant any variation of this Ordinance.
- D. The ZBA shall not conduct business unless a majority of the regular members of the Board members qualified to sit for a particular matter are present to constitute a quorum.

Section 11.3 Duties and Powers

- A. The ZBA shall have the power to hear and decide on:
 - 7. Appeals from any administrative order, requirement, permit, decision or determination made by the Zoning Administrator or other administrative official or body charged with enforcement of this Ordinance, as provided in Section 11.4.
 - 8. Requests for interpretations of this Ordinance, as provided in Section 11.5.
 - 9. Requests for dimensional, non-use variances from this Ordinance, as provided in Section 11.6.
- B. In exercising the above powers, the ZBA, by a concurring vote of a majority of its members, may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the Zoning Administrator or other body from whom the appeal is taken.
- C. The ZBA has no authority to review the Planning Commission's decisions on applications for Special Land Uses or Planned Unit Developments. These appeals are taken to the Circuit Court for Benzie County.

Section 11.4 APPEALS OF ADMINISTRATIVE DECISIONS

- A. The ZBA shall hear and decide appeals wherein it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by the Zoning Administrator or by any other official or body in administering or enforcing any provisions of this Ordinance. This shall include appeals of use determinations issued in writing by the Zoning Administrator.
- B. An appeal concerning the administration of the provisions of this Ordinance may be taken to the ZBA within the timeframe defined in the general rules and procedures adopted by the ZBA, if any. If such a timeframe is not specified, appeals shall be filed within thirty (30) days of the decision of the Zoning Administrator or other body from which the appellant seeks relief.

Section 11.5 INTERPRETATION OF ZONING ORDINANCE PROVISIONS

- A. The ZBA shall have the power to hear and decide requests for interpretations of the provisions of this zoning Ordinance. Such authority shall be exercised in such a way as to preserve and promote the character of the zoning district in question and carry out the intent and purpose of this Ordinance, the Master Plan, or any applicable planning documents.
- B. The power granted by this section includes interpretations of the location of zoning district boundaries.
- C. The power granted by this section includes interpretation of the provisions of Article 10 relating to non-conforming uses, including consideration of expanding a conforming structure for a non-conforming use, and consideration of replacement of a nonconforming use with another nonconforming use, subject to the applicable standards in Article 10.
- D. The ZBA is not authorized to grant use variances but is authorized to hear and decide requests for interpretations of the provisions of this Ordinance specifying allowed uses.

Section 11.6 DIMENSIONAL VARIANCES

A. Standard and Requirements

- 7. The ZBA may grant dimensional variances when the applicant demonstrates in the official record of the hearing that the strict enforcement of this Ordinance would result in practical difficulty. To establish practical difficulty, the applicant must establish all of the following:
 - a. The need for the requested variance is due to unique circumstances or physical conditions of the property involved that do not apply generally to other properties in the surrounding area, such as narrowness, shallowness, shape, water, or topography and is not due to the applicant's personal or economic hardship.
 - b. The need for the requested variance is not the result of action of the property owner or previous property owners or otherwise self-created.
 - c. That strict compliance with regulations governing area, setback, frontage, height, bulk, density or other dimensional requirements will unreasonably prevent the property owner from using the property for a permitted purpose or will render conformity with those regulations unnecessarily burdensome.
 - d. Whether granting the requested variance would do substantial justice to the applicant as well as to other property owners in the district, or whether granting a lesser variance than requested would give a substantial relief to the property owner and be more consistent with justice to other property owners.

- e. That the requested variance will not cause an adverse impact on surrounding property, property values, or the use and enjoyment of property in the neighborhood or zoning district.
 8. When considering an application for a front setback variance, the ZBA may consider the actual average front setbacks of existing structures on nearby property. If the requested variance is no larger than the actual average setback of structures on nearby property, the ZBA may use that information to support a finding that the conditions listed in Section A(1)(d) and (e), above are met. For the purposes of this section, nearby property includes any parcel or lot located on the same public road and within 500 feet of the property for which the variance is requested. The calculation of average front setbacks on nearby property should include all conforming and legally non-conforming structures.
- B. CONDITIONS FOR A DIMENSIONAL VARIANCE** - The ZBA may attach reasonable conditions with the approval of a dimensional variance. These conditions may include those necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy. To ensure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Any conditions imposed, however, shall meet all of the following requirements:
7. Be designed to protect natural resources, the health, safety, and welfare and the social and economic wellbeing of those who will utilize 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.
 8. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
 9. 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 ensure compliance with those standards.

Section 11.7 HEARINGS - APPLICATION, NOTICE, AND DECISION

A. Application for Decision

7. An administrative appeal, a request for interpretation, or a variance request may be made by any person, firm or corporation, or by any Officer, Department or Board of the Township. The appellant or applicant shall file with the ZBA, on blanks or forms to be furnished by the Zoning Administrator, an application specifying the grounds for the requested decision of the ZBA.
8. Upon receipt of an application for a decision by the ZBA, the Zoning Administrator will review the application to insure it is complete, and any applicable fee established for such purpose by the Township Board is paid.
 - a. If the application is not complete, the Administrator will return the application to the applicant with a letter that specifies the additional material required.
 - b. If the application is complete, the Administrator and Chairperson of the ZBA shall establish a date to hold a hearing on the application.
 - c. The Zoning Administrator shall transmit to the ZBA the completed application, all the papers constituting the record upon which the action appealed was taken, and any other township records specifically relevant to the requested decision.

B. Public Notice. Following payment of the required fee and receipt of a written request concerning an appeal of an administrative decision, a request for an interpretation of the zoning ordinance or a request for a variance, the ZBA shall hold a public hearing, after giving the following applicable notice:

7. For an appeal of an administrative decision, a notice stating the time, date, and place of the public hearing shall be published in a newspaper of general circulation within the Township and shall be sent to the person filing the appeal and to the Zoning Administrator or other administrative agency or official whose decision is being appealed no less than fifteen (15) days before the public hearing. If a specific parcel is involved in the appeal, then the notice shall also be sent by first class mail or personal delivery to all persons who own real property and the occupants of all structures within three hundred (300) feet of the boundary of the property in question.
8. For a request seeking an interpretation of the zoning ordinance, a notice stating the time, date, and place of the public hearing shall be published in a newspaper of general circulation within the Township and shall be sent to the person requesting the interpretation no less than fifteen (15) days before the public hearing. If a specific parcel is involved in the appeal, then the notice shall also be sent by first class mail or personal delivery to all persons who own real property and the occupants of all structures within three hundred (300) feet of the boundary of the property in question.
9. For a variance request, a notice stating the nature of the variance being requested and the time, date, and place of the public hearing shall be published in a newspaper of general circulation within the Township and shall be sent to the person requesting the variance no less than fifteen (15) days before the public hearing. In addition, a notice stating the nature of the variance being requested and the time, date, and place of the public hearing shall be sent by first class mail or personal delivery to all persons to whom real property in question and to the occupants of all structures within 300 feet of the boundary of the property in question.

C. Hearing and Decision

7. The ZBA may require an appellant to submit surveys, plans, or other information deemed reasonably necessary to making an informed decision on his or her appeal or request for decision.
8. Any person may appear and testify at the hearing either in person or by duly authorized agent or attorney. All persons, not licensed to practice law in the State of Michigan, shall file a written statement signed by the principal stating the agent's right to act upon their behalf.
9. The final decision of the ZBA shall be by a concurring vote of a majority of its members; and
 - a. A decision on an administrative appeal shall be in the form of a resolution either reversing, modifying or affirming, wholly or partly, the decision or determination appealed.
 - b. A decision on an application for an interpretation of this ordinance shall be in the form of succinct written summary of the ZBA's interpretation.
 - c. A decision on a request for a variance shall be in the form of a resolution either (i) denying the variance, (ii) granting the variance as requested, or (iii) granting the variance with conditions as provided in Section 11.6(B).
10. Reasons for the decision must be stated and shall be certified in writing within ten (10) days of the meeting at which the decision was made.

Section 11.8 STAY

An appeal of an administrative decision shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the ZBA, after notice of appeal shall have been filed with him/her, that by reason

of facts stated in the certificate, a stay would, in his/her opinion, cause imminent peril to life or property, in which case the proceedings shall not be stayed other than by a restraining order which may be granted by the ZBA or by the Circuit Court, by application or notice of the Zoning Administrator and on due cause shown.

Section 11.9 APPEAL OF DECISIONS MADE UNDER THIS ARTICLE

A decision of the ZBA is final. A party aggrieved by the decision may appeal to the circuit court of Benzie County within thirty (30) days after the ZBA issues its decision in writing signed by the chairperson, or after the ZBA approves the minutes of its decision, whichever first occurs. The court may affirm, reverse, or modify the decision of the ZBA, or make other orders as justice requires.

Section 11.10 DURATION OF APPROVALS

No order of the ZBA permitting the erection or alteration of a building shall be valid for a period longer than one (1) year, unless a building permit for such erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit. A six (6) month extension may be granted by the Board of Appeals if applied for prior to the expiration of the one (1) year period.

Section 11.11 DENIAL AND RE-SUBMITTAL

No application for a variance which has been denied wholly or in part by the ZBA 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 when the Township's attorney certifies in writing that a mistake in the original procedure of the original hearing had been made.

Article 12.

ADMINISTRATION, ENFORCEMENT & VIOLATIONS

Section 12.1 ADMINISTRATION

- A. The Township Board is authorized to appoint by resolution any person to the office of Zoning Administrator on such term as may be designated in said resolution and for such compensation as the Board may determine. The Board may further, by resolution, remove any person from said office, at the discretion of the Board. It shall be the duty of the Zoning Administrator to administer this Ordinance and to enforce its provisions.
- B. The Township Board is authorized to appoint by resolution any person to the office of code enforcement officer for such term as may be designated in said resolution and for such compensation as the Board may determine. The Board may further, by resolution, remove any person from said office, at the discretion of the Board. The code enforcement officer is authorized to enforce all ordinances of the township.
- C. The Township Board is authorized to appoint by resolution any person to other offices or positions to assist in the administration or enforcement of this Ordinance for such term as may be designated in said resolution and for such compensation as the Board may determine. The Board may further, by resolution, remove any person from said office, at the discretion of the Board. Such appointed individuals shall have duties determined by the Board.
- D. The Zoning Board of Appeals (ZBA) shall interpret this Ordinance, hear appeals from acts or interpretations of the Zoning Administrator, make decisions on matters coming within its jurisdiction and instruct the Zoning Administrator as to the steps necessary to enforce its decision
- E. The Township Board may employ a Recording Secretary for the Planning Commission and ZBA for the purposes of preparing a public record of minutes, resolutions, transactions, findings and determinations. The Recording Secretary may perform other duties related to conduct of the Planning Commission or Board of Appeals business as may be required from time to time by the officers of the Planning Commission or Board of Appeals, provided the Secretary of the respective Commission and Board is solely responsible for the accuracy of such duties and all documents prepared by the recording secretary shall be signed by the official secretary of the Planning Commission or official secretary of the ZBA.

Section 12.2 12.2 ZONING ADMINISTRATOR

- A. It shall be the duty of the Zoning Administrator to receive applications for land use permits and issue or deny same; to inspect buildings or structures; and to determine compliance with the land use permits issued in compliance with this Ordinance. The Zoning Administrator has authority to enforce this Ordinance in conjunction with any code enforcement officer. The Township Board may, in its discretion, instruct the Zoning Administrator to make efforts to obtain voluntary compliance with this Ordinance. He/she shall perform such other duties as the Township Boards may prescribe.
- B. The Zoning Administrator, or designee, shall have the authority to:
7. Approve all zoning permits and certificates of compliance.
 8. Conduct inspections of all buildings and structures and the use of all lands subject to the provisions of this ordinance to determine compliance.
 9. Maintain permanent and correct records of this ordinance including, but not limited to zoning permits, exceptions, variances and appeals.
 10. Provide and maintain a public information office relative to all matters arising out of the administration of the Ordinance.
 11. Investigate all applications for uses subject to special approval and variances addressed to the Planning Commission and the ZBA and report these findings to the Commission and Board.
 12. Initiate appropriate action for proceedings to prevent, restrain, correct or abate any illegal act in violation of this Ordinance.
 13. **If no Code Enforcement Officer is active, the Zoning Administrator, or designee, shall have the authority to complete all duties of the position as outlined in Section 12.3.**

Commented [RC24]: Updated for interchangeability

Section 12.3 Code Enforcement Officer

- A. The code enforcement officer's duties shall include the following:
7. Investigating ordinance violations.
 8. Issuing and serving ordinance violation notices.
 9. Issuing and serving appearance tickets.
 10. Issuing and serving municipal ordinance violation notices and municipal civil infraction citations.
 11. Appearing in court or other judicial or quasi-judicial proceedings to assist in the prosecution of ordinance violations; and
 12. Such other ordinance enforcing duties as may be delegated by the township board, township supervisor or assigned by the township attorney.

B. The code enforcement officer and/or Zoning Administrator is hereby authorized to enforce all ordinances of the township, and whether such ordinances specifically designate a different enforcing officer or do not designate any particular enforcing officer. Where a particular officer is so designated in any ordinance, that officer's authority shall continue in full force and effect and shall not be diminished or impaired by the terms of this section, and the authority of the code enforcement officer shall be in addition and supplementary to the authority granted to such other specific officer. The code enforcement officer shall in the performance of the officer's duties be subordinate and responsible to the Supervisor, Zoning Administrator, or such other township board member or official as the Township Board may from time to time designate.

The provisions of this ordinance shall be enforced by the Code Enforcement Officer and/or Zoning Administrator. The Code Enforcement Officer and/or Zoning Administrator is designated as the authorized official to issue Municipal Civil Infraction action. The Code Enforcement Officer shall in the performance of the officer's duties be subordinate and responsible to the Supervisor, Zoning Administrator, or such other township board member or official as the Township Board may from time to time designate.

Section 12.4 ZONING COMPLIANCE VERIFICATION LETTER

A. A Zoning Compliance Verification Letter may be requested via written request to the Zoning Administrator at a fee of \$(TBD) per letter. The Zoning Compliance Verification Letter shall describe information regarding a specific parcel such as zoning district, overlay zones, current legal land use, and permissions regarding a proposed use. The Zoning Administrator shall provide the Zoning Compliance Verification Letter within ten (10) business days of receipt of the request.

Section 12.5 FEES

- A. The Township Board may adopt by resolution a fee schedule establishing fees required for:
 - 7. Land use permit applications.
 - 8. Site plan applications.
 - 9. Special use permit applications.
 - 10. Appeals, requests for interpretation, or variance requests to the Zoning Board of Appeals.
 - 11. Requests for special meetings of the Planning Commission.
 - 12. Zoning amendment requests, including rezoning, text amendments, or district boundary amendments
- B. Fees must be paid before any review of an application is performed or a permit is issued. Certain applications, permits and requests are subject to the Escrow Policy, as defined in Section 12.6.

Section 12.6 ESCROW POLICY

A. In connection with any application, potential application, or any other time when outside assistance is required or anticipated to be need for a specific person, property, or project, the Township shall require the applicant to pay in advance into an escrow fund established to cover reasonable costs. These costs may include staff costs or consultant fees for professional and technical services required for a proper and thorough review of the application.

Commented [RC25]: Added for interchangeability

Commented [RC26]: Add to legal list

Commented [RC26R2]: Narrow scope to just zoning ordinance rather than all ordinances

Commented [RC27]: Rewritten with scope narrowed.

Moved up [6]: <#>LAND USE PERMITS¶

General Requirement: No person shall erect or place any building or structure, having more than one hundred (100) square feet of floor area, nor shall any person make an addition of more than one hundred (100) square feet of enclosed floor space to any existing building, or change or establish a new use for any land within any zoning district without first obtaining a land use permit. Application shall be made to the Zoning Administrator for such permit, on forms to be supplied by him or her, together with a non-refundable application fee. The Zoning Administrator shall have the power to require proof of ability to comply with all of the requirements of this Ordinance pertaining to said use and may require a site plan review as specified in Article 7, and further he/she may also require proof of ability to meet all public health standards and applicable State and County laws, regulations and ordinances.¶

Land Use Permit Application Requirements¶

The application shall be signed by the owner of the premises or his agent and shall certify that all provisions of this Ordinance and other applicable laws and requirements are to be complied with.¶
The application shall be accompanied by a site plan, if required, or a sketch to scale in duplicate showing the location and dimensions of the premises including the boundary lines of all parcels of land under separate ownership contained therein.¶
The size, dimensions, location on the premises, and height of all buildings, structures or other impervious surfaces in existence, to be erected and/or altered.¶
The width and alignment of all abutting streets, highways, alleys, easements and public open spaces.¶
The front yard dimensions of the nearest building on both sides of the proposed building or structure.¶
The location and dimensions of sewage disposal facilities both on adjoining land or lots and those to be erected on the lot under consideration.¶
And the location of all wells on adjoining lands or lots and those to be erected on the lot under consideration.¶
The property owner shall physically stake on the ground the location of where buildings will be located. The Zoning Administrator shall inspect the site prior to construction to be sure that the actual locations of the proposed buildings on the ground are the same as the

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Commented [RC28]: Discuss fee with Planning Commission or Council?

- B. The Zoning Administrator may waive the requirement of establishing an escrow account when the matter to be considered does not contain issues for which the use of a consultant will be reasonably required. However, if issues arise at any time for which the use of a consultant will be reasonably required, the Zoning Administrator shall require that an escrow fund be established.
- C. No application shall be considered complete until all costs have been paid and/or the escrow fund has been replenished as outlined below. The Township Clerk shall refund any unexpended funds within sixty (60) days of final action.
- D. Should the escrow fund ever dip below fifty (50) percent of the original fund amount, the applicant shall be advised and required to replenish said escrow fund to the full original amount within five (5) business days of having been so notified by the Township Clerk. If the Zoning Administrator determines that more money than the initial deposit is necessary, the Township Clerk shall notify the applicant, and the applicant shall deposit the necessary funds within five (5) business days. The failure of the applicant to either initially fund or replenish the escrow fund shall render the application incomplete and ineligible for further consideration until the escrow fund is replenished as required.
- E. The applicant may seek an accounting from the Township Clerk of expenditures from the escrow fund when a request is made by the Township to replenish the fund and after a final decision on the application has been made. The applicant has no authority to approve or deny expenditures.

Section 12.7 POSTING OF FINANCIAL GUARANTEE

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

Section 12.8 ON-SITE INSPECTION

- A. Before issuing a land use permit for the erection of any building an on-site inspection shall be made by the Zoning Administrator to determine if the building site generally meets all requirements of this Ordinance and specifically if there are features of the site, such as wetlands, water body frontage, steep slopes, or ridgelines that could trigger applicable provisions of this Ordinance. Based on such inspection, the Zoning Administrator may require the applicant to conduct additional surveys, testing or analysis and provide reports to ensure all requirements of this Ordinance can be met. The applicant shall bear the cost of such inspection and report.
- B. In addition to any other report required in Section 12.8 (A), before issuing a land use permit for the erection of any building on land classified "high water table" (high seasonal stages of ground water level six (6) feet or less from the surface) as shown by the current Soil Survey of Benzie County, Michigan, as published by the United States Department of Agriculture, an on-site inspection shall be made by the Zoning Administrator, or an inspection report submitted by a representative of the Soil Conservation District and the County Health Department supporting said use and any conditions or alterations recommended by the report shall be included in the Land Use Permit.

Commented [RC29]: Add threshold by which on-site inspection is not required.

Commented [RC29R2]: 200 sq ft for accessory structures. Base minimum on schedule of regulations to be completed by Ethan

Section 12.9 PERMIT EFFECTIVE DATE AND LIMITS

A land use permit shall be effective for twelve (12) months from the date of issue. ~~Extension of that time may be obtained by applying to the Zoning Administrator. Such extension of permit effectiveness is required only if the land use change planned under the original permit had not been yet completed.~~ Any Land Use Permit granted under this Ordinance that has been issued shall become null and void after twelve (12) months from date of issuance unless substantial construction has begun. No permit shall be transferable to another parcel.

Commented [RC30]: See below for rewritten extension clause.

~~Upon written request, an extension of an approval may be granted by the Zoning Administrator for good cause for a period not to exceed one (1) year. No written request for an extension shall be considered unless submitted to the Zoning Administrator no later than one week prior to expiration. Failure to submit an application for an extension within the time limits established by this section shall result in the approval's expiration.~~

Commented [RC31]: Added to address extension clause per technical review.

Section 12.10 PUBLIC NOTIFICATION

All applications for development approval requiring a public hearing shall comply with the Michigan Zoning Enabling Act, PA 110 of 2006, as amended (MZEA) and the provisions of this Section.

Deleted: <#>Certificate of Compliance¶
Prior to occupancy or use associated with a permit, a certificate of occupancy shall be issued by the Zoning Administrator following an inspection to determine that construction was completed according to the approved permit.¶

- A. **Responsibility:** When the provisions of this Ordinance or the MZEA require that notice be published, the Zoning Administrator or other designated official shall be responsible for preparing the content of the notice, having it published in a newspaper of general circulation in the Township and mailed or delivered as provided in this Section.
- B. **Content:** All mail, personal and newspaper notices for public hearings shall:
 - 7. **Describe the nature of the request:** Identify whether the request is for a rezoning, text amendment, special land use, variance, appeal, ordinance interpretation or other purpose.
 - 8. **Location:** Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the subject property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used such as a tax parcel identification number, identifying the nearest cross street, or including a map showing the location of the property. No street addresses must be listed when eleven (11) or more adjacent properties are proposed for rezoning, or when the request is for an ordinance interpretation not involving a specific property.
 - 9. **When and where the request will be considered:** Indicate the date, time and place of the public hearing(s).
 - 10. **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.
 - 11. **Handicap access:** Information concerning how handicap access will be accommodated if the meeting facility is not handicap accessible.
- C. **Personal and Mailed Notice**
 - 7. **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 owner(s) of property for which approval is being considered, and the applicant, if different than the owner(s) of the property.

- b. Except for rezoning requests involving eleven (11) or more adjacent properties or an ordinance interpretation request that does not involve a specific property; to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property subject to the request, regardless of whether the property or occupant is located within the boundaries of the 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 to different individuals, partnerships, businesses, or organizations, one (1) occupant of each unit or spatial area shall receive the notice. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.
 - c. For requests for interpretation or appeals of administrative decisions, to the person requesting an interpretation of the zoning ordinance or to a person appealing an administrative decision.
 - d. In the case of a zoning ordinance amendment, or rezoning, each electric, gas, and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the clerk of the legislative body for the purpose of receiving the notice of public hearing.
8. **Notice by mail/Affidavit:** Notice shall be deemed mailed by its deposit in the United States mail, first class, properly addressed, postage paid. The Zoning Administrator shall prepare a list of property owners and registrants to whom notice was mailed, as well as anyone to whom personal notice was delivered.
- D. **Timing of Notice.** Unless otherwise provided in the MZEA, or this Ordinance where applicable, notice of a public hearing shall be provided as follows.
- 7. 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 that the application will be considered for approval.
 - 8. For any other public hearing required by this Ordinance: not less than fifteen (15) days before the date that the application will be considered for approval.
 - 9. A notice will not be published unless/until the information required is complete and the appropriate fee is paid.

Section 12.11 VIOLATIONS AND PENALTIES

- A. **Nuisance per se:** Any land, dwellings, buildings or structures, (including tents and trailer coaches), used, erected, altered, razed or converted in violation of this Ordinance or in violation of any regulations, conditions, permits or other rights granted, adopted or issued pursuant to this Ordinance, are hereby declared to be a nuisance per se.
- B. **Inspection:** The Zoning Administrator, the Code Enforcement Officer or their designee, shall have the duty to investigate each alleged violation and shall have the right to inspect any property for which a zoning permit has been issued to ensure compliance with the plans and conditions of the zoning permit or approved site plan.
- C. **Stop Work Order:** The Zoning Administrator, the Code Enforcement Officer or their designee, may, in conjunction with the issuance of a municipal civil infraction, issue a stop work order on work in progress when that work violates any provision of the Zoning Ordinance. The stop work order shall remain in effect only until adjudication of the municipal civil infraction citation by the court or until modified or revoked by a court of competent jurisdiction.

D. Penalties

7. Any person, partnership, corporation, or association who creates or maintains a nuisance per se or who violates or fails to comply with this Ordinance or any permit issued pursuant to this Ordinance shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.9939 of Michigan Compiled Laws, and shall be subject to a fine of not more than five hundred dollars (\$500). Every day that such violation continues shall constitute a separate and distinct offense under the provisions of this Ordinance. Nothing in this section shall exempt the offender from compliance with the provisions of this Ordinance.
8. The Zoning Administrator, the Code Enforcement Officer or their designee, is hereby designated as the authorized Township official to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court.
9. In addition to enforcing this Ordinance, as a municipal civil infraction, the Township may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this Ordinance.

Article 13. AMENDMENTS

Section 13.1 AMENDMENTS TO THIS ORDINANCE

- A. The Township Board is authorized and empowered to amend this Ordinance, pursuant to the authority and according to the procedures set forth in the Michigan Zoning Enabling Act (MZEA), as amended.
- B. The regulations and provisions stated in the text of this Ordinance and the boundaries of zoning districts shown on the Zoning Map may be amended, supplemented or changed by action of the Township Board following a recommendation from the Planning Commission.
- C. Proposals for amendments, supplements or changes may be initiated by the Township Board on their own motion, by the Planning Commission or by petition of one (1) or more owners of property to be affected by the proposed amendment.
- D. The procedure to be followed for initiating and processing an amendment shall be as follows:
 7. Each petition by one (1) or more persons for an amendment shall be submitted by application to the Zoning Administrator, or designee, and shall be accompanied by the fee as prescribed by Section 12.4 of this Ordinance. The petition shall be on a standard form, if one is provided, and if no form is provided the petition shall clearly state the terms of and reasons for the requested amendment.
 8. The Zoning Administrator, or designee, shall notify, in writing, the Township Clerk and Chair of the Planning Commission at or before the time he/she transmits the amendment request to the Planning Commission.
 9. The Planning Commission shall consider each proposal for amendment on the facts related to the individual proposal and in terms of the likely effect on the community's physical development. The Planning Commission may recommend any additions or modifications to the original proposal.
 10. Before ruling on any proposal, the Planning Commission shall conduct a public hearing as required by the MZEA, as amended and as outlined in Section 12.9.
 11. Following the public hearing the Planning Commission shall submit the proposed amendment including any zoning map changes to the County Planning Commission, if applicable. If the recommendation of the County Planning Commission has not been received within thirty (30) days after the receipt of the Ordinance by the County, it shall be conclusively presumed that the County has waived its right for review.

12. The Planning Commission shall submit a final report/recommendation and proposed text to the Township Board along with a summary of the comments received at the public hearing.
13. The Township Board may hold additional public hearings, if they decide it is necessary and following the requirements of Section 12.9. The Township Board may adopt, amend, or reject any proposed amendment or refer it back to the Planning Commission for further review as prescribed by the MZEA, as amended.
14. Once adopted by the Township Board, amendments to this Ordinance shall be filed with the Township Clerk, and one (1) notice of adoption shall be published in a newspaper of general circulation in the Township within fifteen (15) days after adoption.
15. No application for rezoning which has been denied by the Township shall be resubmitted for a period of one (1) year from the date of the last denial, except on grounds of newly discovered evidence or proof of changed conditions found upon inspection by the Planning Commission to be valid. A rezoning request may be resubmitted if the Township Attorney certifies that a mistake has been made in the prior procedures.

Section 13.2 REQUIRED STANDARDS AND FINDING OF FACT FOR MAKING DETERMINATIONS

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The Planning Commission shall review the particular circumstances and facts of each proposed use or rezone in terms of the following adequate data, information, and evidence showing that such use on a proposed site, lot, or parcel:

- A. Will be harmonious with and in accordance with the general objectives, intent, and purposes of this Ordinance.
- B. Will be designed, constructed, operated, maintained, and managed so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity.
- C. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service.
- D. Will not be hazardous or disruptive to existing or future neighboring uses.
- E. Will not create excessive additional requirements at public cost for public facilities and services.
- F. Will comply with the Zoning District standards for the conditional use or conditional rezone.
- G. The Planning Commission may deny, approve, or approve with conditions a request for the special land use or conditional rezone approval.
- H. Following a public hearing a request for approval of a special land use or conditional rezone or activity shall be approved if the request is in compliance with the standards stated within this ordinance, the conditions imposed under this Zoning Ordinance, other applicable ordinances, and state and federal statutes.
- I. Following the public hearing the Planning Commission shall transmit its recommendation with respect to the special land use or conditional rezone to the Township Board, together with the record of proceedings at which the request was considered. The Township Board may, at its discretion, hold another public hearing on the request. The Township Board may approve the special land use or conditional rezone; deny the special land use or conditional rezone; approve the special land use or conditional rezone; or refer the request to the Planning Commission for additional information.

J. The Zoning Board of Appeals (ZBA) shall have no authority to hear appeals from the Planning Commission on a special land use or conditional rezone.

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Section 13.3 CONDITIONAL REZONING

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

A. Application and Offer of Conditions:

7. An owner of land may voluntarily offer in writing, conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or may be made later during the rezoning process.
8. The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this Section.
9. The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested zoning district.
10. The owner's offer of conditions shall bear a reasonable and rational relationship to the property for which the rezoning is requested.
11. Any use or development proposed as part of an offer of conditions that would require a special land use permit under the terms of this Ordinance may only be commenced if a special land use permit for such use or development is ultimately granted in accordance with the provisions of this Ordinance.
12. Any use or development proposed as part of an offer of conditions that would require a variance under the terms of this Ordinance may only be commenced if a variance for such use or development is ultimately granted by the Zoning Board of Appeals in accordance with the provisions of this Ordinance.
13. Any use or development proposed as part of an offer of conditions that would require site plan approval under the terms of this Ordinance may only be commenced if site plan approval for such use or development is ultimately granted in accordance with the provisions of this Ordinance.
14. The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are entered into voluntarily by the owner. An owner may withdraw all or part of the offer of conditions at any time prior to the final rezoning action of the Township Board provided that, if such withdrawal occurs subsequent to the Planning Commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the Planning Commission for a new public hearing with the appropriate notice and a new recommendation.

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

- C. **Township Board Review:** After receipt of the Planning Commission's recommendation, the Township Board shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request. Should the Township Board consider amendments to the proposed conditional rezoning advisable and if such contemplated amendments to the offer of conditions are acceptable to and thereafter offered by the owner, then the Township Board shall, in accordance with Section 405 of the MZEA, refer such amendments to the Planning Commission for a report thereon within a time specified by the Township Board and proceed thereafter in accordance with said statute to deny or approve the conditional rezoning with or without amendments.
- D. **Approval:**
7. If the Township Board finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written Statement of Conditions acceptable to the owner and conforming in form to the provisions of this Section. The Statement of Conditions shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the Township Board to accomplish the requested rezoning.
 8. The Statement of Conditions shall:
 - a. Be in a form recordable with the Register of Deeds of Benzie County.
 - b. Contain a legal description of the land to which it pertains.
 - c. Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding upon successor owners of the land.
 - d. Incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owner and that are necessary to illustrate the implementation of the Statement of Conditions. If any such documents are incorporated by reference, the reference shall specify where the documents may be examined.
 - e. Contain a statement acknowledging that the Statement of Conditions shall be recorded by the Township with the Benzie County Register of Deeds.
 - f. Contain the notarized signature of all owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the Statement of Conditions.
 9. Upon the rezoning taking effect, the Zoning Map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a Statement of Conditions. The Township Clerk shall maintain a listing of all lands rezoned with a Statement of Conditions.
 10. The approved Statement of Conditions shall be filed by the Township with the Register of Deeds of Benzie County.
 11. Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the Statement of Conditions.
 12. Compliance with Conditions:
 - a. Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with the entire conditions set forth in the Statement of Conditions. Any failure to comply with a condition contained within the Statement of Conditions shall constitute a violation of this Zoning Ordinance and shall be deemed a nuisance per se and subject to judicial abatement as provided by law.

- b. No permit or approval shall be granted under this Ordinance for any use or development that is contrary to an applicable Statement of Conditions.
- E. **Time Period for Establishing Development or Use:** Unless another time period is specified in the Ordinance rezoning the subject land, the approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within 18 months after the rezoning takes effect and thereafter proceed diligently to completion. This time limitation may, upon written request, be extended by the Township Board if (1) it is demonstrated to the Township Board's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion and (2) the Township Board finds that there has not been a change in circumstances that would render the current zoning with Statement of Conditions incompatible with other zoning and uses in the surrounding area or otherwise be inconsistent with sound zoning policy.
- F. **Reversion of Zoning:** If an approved development and/or use of the rezoned land do not occur within the time frame specified under Subsection F above, then the land shall revert to its former zoning classification as set forth in Section 405 of the MZEA. The reversion process shall be initiated by the Township Board requesting that the Planning Commission proceed with consideration of the rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applies to all other rezoning requests.
- G. **Subsequent Rezoning of Land:** When land that is rezoned with a Statement of Conditions is thereafter rezoned to a different zoning classification, to the same zoning classification but with a different or no Statement of Conditions, whether as a result of a reversion of zoning pursuant to Subsection G above or otherwise, the Statement of Conditions imposed under the former zoning classification shall cease to be in effect.

Upon the owner's written request, the Township Clerk shall record with the Register of Deeds of Benzie County a notice that the Statement of Conditions is no longer in effect.
- H. **Amendment of Conditions:**
 - 7. During the time period for commencement of an approved development or use specified pursuant to Subsection F above, or during any extension thereof granted by the Township Board, the Township shall not add to or alter the conditions in the Statement of Conditions.
 - 8. The Statement of Conditions may be amended thereafter in the same manner as was prescribed for the original rezoning and Statement of Conditions.
- I. **Township Right to Rezone:** Nothing in the Statement of Conditions, nor in the provisions of this Section shall be deemed to prohibit the Township from rezoning all or any portion of land that is subject to a Statement of Conditions to another zoning classification. Any rezoning shall be conducted in compliance with this Ordinance and the MZEA.
- J. **Failure to Offer Conditions:** The Township shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this Ordinance.

Article 14.

DEFINITIONS

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