

**ARTICLE III**  
**GENERAL PROVISIONS**

Sec. 3.0 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 the Township of Lake.

Sec. 3.1 Access To Public Road 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 sketch and site plans.

Sec. 3.2 Accessory Building As Dwelling No building or structure on the same lot with a principal building shall be used for dwelling purposes, except as specifically permitted in this Ordinance.

Sec. 3.3 Accessory Structure Setbacks Accessory structures shall meet the same setback requirements as a principal structure in the District wherein it is located.

Sec. 3.4 Accessory Use Without A Principal Use No construction of an accessory use structure shall be permitted without the foundation for a principal use structure first being in place, except in the R-2 and C-1 Districts. 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.

Sec. 3.5 Access Lots

Access lots may be lawfully created after the effective date of this Ordinance provided they have a minimum front yard width of fifty (50) feet, are a minimum of fifty (50) feet wide through the length, and have fifty (50) feet of frontage along the water line of the adjacent lake, river or stream.

An access lot having a minimum width of fifty (50) feet throughout its depth may be used for a beach structure provided said structure meets all dimensional setback requirements, is no larger than one hundred fifty (150) feet gross square footage in size, and is 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 fifty (50) feet in width of the access lot.

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. See Sec. 3.11 for dock and dockage limitations.

Projects involving more than two (2) families shall be subject to the Site Plan Review Process.

Sec. 3.6 Amusement Arcades - Mechanical amusement arcades may be permitted in the C-1 Zoning District subject to the following conditions:

A. Adequate lighting inside and outside the premises shall be provided for the safety of patrons and the public.

B. All off-street parking, loading and public street access requirements shall be provided as required by Article III of this Ordinance.

C. Bicycle racks shall be provided on-site within twenty-five (25) feet of any arcade.

D. No game arcade shall be open for business except between the hours of 10:00 a.m. and 10:00 p.m. on Sundays through Thursdays; and between the hours of 10:00 a.m. and 12 midnight Fridays and Saturdays.

Sec. 3.7 Antennas and Satellite Dishes - Location of Satellite dish: 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.

Sec. 3.8 Auto and Boat Dealers - 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. Display areas shall be suitably landscaped. Such landscaping shall include shrubs and trees in sufficient quantity to mitigate any adverse impact of the outdoor display. Servicing and repairs shall be conducted only within a totally enclosed building.

Sec. 3.9 Automotive Service Stations - Facilities to provide maintenance and minor repairs or replacement parts to automotive equipment, such as tires, mufflers, tune ups, electrical repairs, etc., but NOT including pumping of gasoline or diesel fuels or major repairs to engines or drive trains.

All repairs or servicing shall be conducted only within a completely enclosed building. Parking or storage of any vehicles shall be in accordance with an approved site plan. Screening or fencing shall be as required by the Planning Commission.

Sec. 3.10 Boarding Houses -

- A. All residences shall meet all state and local health and safety codes.
- B. No more than three (3) individuals shall be accommodated in any single residence.
- C. 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.

Sec. 3.11 Boat Docks Limitations

- A. The purpose of this section is to regulate the use of lakefront property and control boat docks and dockages in order to: protect natural resources, guide the proper development of shoreline areas; prevent overcrowding of land and water; minimize pollution and degradation of public waters; protect life and property by reducing the risk of boating accidents; preserve the recreational use of lakes and lake environments; protect property values; and, protect the public health, safety and general welfare.
- B. Except as otherwise provided in this Ordinance for access lots, not more than one (1) dwelling unit may have the use of water frontage per one hundred (100) feet thereof as measured along the water's edge. Not more than one (1) dock and no more than two (2) dockages (as defined in Sec. 2.2 of this Ordinance) shall be permitted for each fifty (50) feet of contiguous lake frontage.
- C. Notwithstanding the foregoing, lots of record less than one hundred (100) feet in width shall have the use of the water frontage, but subject to applicable conditions of paragraph "B" above.
- D. Public Recreational areas regulated by governmental agencies are not subject to the standards set forth in this section.
- E. Dock and dockage privileges are not severable from the lot to which they are appurtenant, and may not be separately sold, leased, assigned, or otherwise alienated, conveyed, or encumbered.
- F. No docks or dockages are permitted at stub road ends, public accesses, or access walkways.

Sec. 3.12 Campgrounds and Travel Trailer Park Camps –

- A. Intent and Purpose: 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. Site development requirements: 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, and also with the following:

C. 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:

1. 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.
2. Such establishments shall be restricted in their use to the occupants of the park.
3. Such establishments shall present no visible evidence of their commercial character which would attract customers other than occupants of the park.
4. No space shall be so located that any part intended for occupancy is within one hundred (100) feet of a residential district.
5. In addition to meeting the above requirements, the travel trailer site plan shall be subject to the review and approval of the health department.
6. Storage areas for unoccupied travel trailers, motor homes and similar units may be allowed as an accessory use.

D. Review and approval shall comply with the requirements of Articles XI and XII of this Ordinance.

Section 3.13 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 (MCL125.3101) 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.

1. 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 at a later time during the rezoning process.

2. 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.

3. The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested zoning district.

4. The owner's offer of conditions shall bear a reasonable and rational relationship to the property for which the rezoning is requested.

5. 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.

6. 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.

7. 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.

8. 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 401 of the Township Zoning Act (MCL 125.3101), 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.

1. 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.

2. 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 of the 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.

3. 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.

4. The approved Statement of Conditions shall be filed by the Township with the Register of Deeds of Benzie County.

5. Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all of the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the Statement of Conditions.

E. Compliance with Conditions.

1. 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.

2. No permit or approval shall be granted under this Ordinance for any use or development that is contrary to an applicable Statement of Conditions.

F. 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 zones and uses in the surrounding area or otherwise be inconsistent with sound zoning policy.

G. 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 MCL125.3101. 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.

H. 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.

I. Amendment of Conditions.

1. 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.

2. The Statement of Conditions may be amended thereafter in the same manner as was prescribed for the original rezoning and Statement of Conditions.

J. 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 Michigan Zoning Enabling Act (MCL 125.3101 et seq.)

K. 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.

Sec. 3.14 Corner Lot Setbacks Structures located on multiple road frontage lots shall observe the minimum required front yard setback from all arterial or primary roads.

Sec. 3.15 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.

Sec. 3.16 Dwellings, Minimum Dimensions A single family dwelling, including a mobile home, shall have a minimum width of twenty (20) feet over fifty (50%) percent of the entire structure length.

Sec. 3.17 Dwelling, Minimum Floor Area The minimum gross living area of a dwelling, and the minimum size for the footprint of the living portion of a structure shall be seven hundred twenty (720) square feet.

Sec. 3.18 Environmental Provisions -Regulation of Environmentally Sensitive Areas 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, and shall be considered as a separate portion of the zoning application.



A. 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.

B. 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.

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.

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 the MDEQ.

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.

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.

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.

Steep Slopes When the proposed building site has slopes in excess of fifteen (15) 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.

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.

C. Retaining Wall Permit No shoreline retaining wall shall be erected without first having obtained a permit from the Department of Natural Resources Bureau of Water and Land Management.

D. Removal of Vegetative Cover

1. The applicant shall provide evidence that the cutting and removing of trees and other native vegetation will be performed according to the following standards: (for Crystal Lake Watershed District and Platte Lakes Area Management Plan – See Article XIII).
2. The removal of no more than forty (40) percent of trees that are six (6) inches or more in diameter (measured at one (1) foot above ground level) shall not be permitted.
3. 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.
4. All trees intended to remain standing and undamaged shall be clearly marked on the proposed site plan.
5. 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.
6. Wherever feasible, groups or clumps of trees shall be preserved to encourage survival of the root zone.
7. Exceptions to the requirements of this subsection are as follows:
  - a. Tree removal or transplanting occurring during use of land for agriculture or the operation of a commercial nursery or tree farm.
  - b. 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.
  - c. Tree trimming, removal or transplanting performed on or behalf of any governmental agencies.
  - d. Repair or maintenance work performed by public utilities necessitating the trimming or cutting of trees.

- e. Removal or trimming of dead, diseased, or damaged trees where the damage resulted from an accident or non-human cause.

#### E. Stormwater Detention

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, and in accordance with the requirement of the Soil Erosion/Sedimentation Control Act, PA 347 of 1972, as amended for Crystal Lake and Platte Lake watersheds. See Article XIII A & B.

1. Special attention shall be given to proper site drainage so that runoff of stormwater will not adversely affect neighboring properties or the surface water quality of the Township's lakes and streams. Stormwater control mechanisms, such as retention/detention basins, vegetative buffers, swales, and infiltration trenches, shall be required to ensure that the peak rate of stormwater runoff, after development, does not exceed the rate prior to development.
2. All developments shall be designed, constructed, and maintained to protect the water quality of the Township's lakes and streams.

Sec. 3.19 Fences, Walls, and Screens In the L/R, R-1 and R-2 Districts, within the limits of a minimum front yard, no fence, wall, other than necessary retaining wall, or other screening structure shall be higher than three (3) feet. No such fence or wall located within a side or rear yard shall exceed six (6) feet in height.

Sec. 3.20 Fire Hazards In order to reduce fire hazards, no buildings or structures, including roof overhangs, shall be closer to any neighboring property line than as required by the setbacks in the Zoning District, or a minimum of ten (10) feet except as provided in Sec. 3.31.

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.

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

Sec. 3.21 Foster Care Facilities - Such uses shall be duly licensed by the State of Michigan Department of Human Services.

A maximum to ten (10) persons may receive foster care at any one time. Such facilities shall be located where foster care residents will be safe from traffic and other hazards.  
(Note: refer to state licensing requirements)

Sec. 3.22 Gasoline Service Stations –

A. Statement of Intent: Facilities to serve motor vehicles are of considerable importance within the Township, where the basic mode of transportation is the automobile. It is the intent of this Section to exercise a measure of control over service station buildings and their sites, and to establish a basic set of standards which will minimize traffic congestion and safety hazards including an emergency containment plan for spillage of petroleum products.

B. Uses Permitted: Gasoline Service Stations, as defined in Article II, PROVIDED ALL uses and services are conducted within a completely enclosed building.

C. Site Development Requirements: The following requirements for site development together with any other applicable requirements of this Ordinance shall be complied with:

1. Site Location: The proposed site shall have at least one (1) property line on a major thoroughfare.
2. Building Setback: The service station building or buildings shall be set back fifty (50) feet from all street right-of-way lines and shall not be located closer than twenty-five (25) feet to any property line in a residential district.
3. Access Drives: No more than two (2) driveway approaches shall be permitted directly from any major thoroughfare not more than one (1) driveway approach from any other public street.
4. Driveway approach widths shall not exceed thirty-six (36) feet measured at the property line.
5. Driveways shall be located as far from street intersections as practical, but no less than fifty (50) feet.
6. No driveway or curb cut for a driveway shall be located within ten (10) feet of an adjoining property line.
7. Any two (2) driveways giving access to a single street shall be separated by an island with a minimum dimension of twenty (20) feet.
8. Lighting: Exterior lighting shall be so arranged that light is deflected away from adjacent properties.

9. Signs: As regulated in Article III.

Sec. 3.23 Greenbelt Buffer 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.

Sec. 3.24 Golf Courses - Golf courses and Country Clubs: Other than golf driving ranges and miniature golf courses, shall be subject to the following conditions:

1. The site shall be directly accessible from a county or state highway.
2. All principal or accessory buildings, including in-ground swimming pools and parking areas, shall be at least one hundred (100) feet from any property line of abutting residentially-zoned lands.
3. Whenever a swimming pool is to be provided, said pool shall be constructed and operated in accord with Public Act 368 of the Public Acts of 1978, as amended.

Sec. 3.25 Hazardous Liquid Containment 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.

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.

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.

Sec. 3.26 Height Limitations

- A. Subject to the remaining provisions of this section, and subject to provisions in Article XIII Section 13.6 part N in the Crystal Lake Watershed Overlay District, structure height limitations in the various zoning districts shall be as indicated.

B Subject to subsection N-2, the following features are exempt from the district height limitations as set forth in subsection A.

1. Chimneys, church spires, elevator shafts and similar structural appendages not intended as places of occupancy or storage,
2. Flagpoles, television, amateur radio towers and similar devices, heating, air conditioning and similar equipment, fixtures and devices.

C. The features listed in Section (B) are exempt from the height limitations set forth in Section (A) if they conform to the following requirements:

1. Not more than ten percent (10%) of a total roof area if so located may be consumed by such features.
2. The features described in Section (B) above must be set back from the edge of the roof a minimum distance of (1) foot for every foot by which such features extend above the roof surface of the principal structure to which they are attached.

Sec. 3.27 Home Businesses –

While the Township recognizes that many residents feel the necessity to work at home, 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, Bed & Breakfast Establishments and Short Term Rentals are compatible with other allowed uses in residential zones, and thus to maintain and preserve the residential character of the surrounding zone. The following regulations shall apply to all Home Businesses:

- Home Businesses shall be incidental and subordinate to the principal use of the lot or parcel for residential purposes.
- 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.
- Home Businesses 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.
- There shall be no exterior evidence of the Home Business other than an unlighted nameplate not to exceed four (4) square feet in area.

- Such use of a residence as a base of operation for a home based business or home occupation are 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.

#### A. Inspections, Revisions, Termination, and Extensions

1. Any home occupation, home based business, short-term rental, or bed and breakfast establishment may be subject to periodic review by the Zoning Administrator.
2. Revisions or additions to a Short-term Rental and Bed & Breakfast shall constitute a change of use and shall be subject to Formal Site Plan Review and revised approval by the Planning Commission. The revised Site Plan shall indicate the change.
3. Revisions or additions to a Home Based Business shall constitute a change of use and shall be subject to Formal Site Plan Review and revised approval by the Planning Commission. The revised Site Plan shall indicate the change.
4. 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.

#### B. Home Occupations

Any activity which is clearly secondary to a residential use, carried out for economic gain, and which meets all of the following requirements:

1. Home Occupations are permitted in all zoning districts in which single-family dwellings are permitted as a matter of right.
2. Home Occupations shall be operated in their entirety within the dwelling or within an attached or detached garage or accessory building.
3. Home Occupations shall be conducted only by the person or persons occupying the premises as their principal residence.
4. 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.

5. Home Occupations shall be incidental and subordinate to the principal use of the lot or parcel for residential purposes and shall not detract from the residential character of the premises or neighborhood.
6. Home Occupations shall not result in the creation of conditions that would constitute a nuisance to neighboring property owners and the Township as a whole. Any machinery, mechanical devices, or equipment employed in the conduct of a Home Occupation 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.
7. Traffic and delivery or pickup of goods shall not exceed that normally created by residential uses.
8. The outdoor storage of goods and/or materials associated with the home occupation is prohibited.
9. Adequate off-street parking shall be provided for patrons and clients.
10. No process, chemicals, or hazardous materials shall be used or stored on sites which are contrary to any applicable State or Federal laws.
11. There shall be no exterior evidence of the Home Occupation other than an unlighted nameplate not to exceed four (4) square feet in area.

### C. Home Based Business

Any activity conducted on the premises and/or the premises serves as a base of operation from which to conduct the activity off-site, except a home occupation and a business conducting primarily retail sales, which is clearly secondary to a residential use, carried out for economic gain, and meets all of the following requirements:

1. Home Based Businesses may be permitted in any zoning district in which single-family dwellings are permitted, subject to Site Plan Review as specified in Article XI of this Ordinance. Home Based Businesses shall be allowed on the basis of individual merit. A periodic review of each such business may be performed to ensure the conditions of approval are adhered to. If a premise is sold, leased, or rented to a party other than the applicant, the use shall be reviewed for compliance with the original permit by the Zoning Administrator. If any changes are necessary, the request will be reheard by the Planning Commission subject to Article XI.



2. Home Based Businesses shall be incidental and subordinate to the use of the premises for residential purposes and shall not detract from the residential character of the premises or neighborhood. There shall be no exterior evidence of such industry other than an unlighted nameplate not exceeding four (4) square feet in area.
3. 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.
4. 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.
5. Home Based Businesses shall not result in the creation of conditions that constitute a nuisance to neighboring property owners and the surrounding zoning district. Any machinery, mechanical devices or equipment employed in the conduct of a Home Based Business shall not generate noise, vibration, radiation, odor, glare, smoke, steam, electrical interference or other condition not typically associated with the use of the premises for residential purposes.
6. Traffic and delivery or pickup of goods shall not exceed that normally created by residential uses.
7. Home Based Businesses shall be conducted only by the person or persons residing on the premises.
8. 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.
9. Hours of operation shall be approved by the Planning Commission.
10. Adequate off-street parking shall be provided for patrons, clients and off-site employees.
11. No process, chemicals, or hazardous materials shall be used or stored on sites which are contrary to any applicable State or Federal laws.

D. Bed & Breakfast Establishments - It is the intent of this subsection to establish reasonable standards for Bed and Breakfast Establishments to assure that:

1. The property is suitable for transient lodging facilities.
2. Both the use and character of the lot is compatible with others in the same district.
3. Adjacent and nearby private lands shall not be subject to increased trespass.
4. The impact of the establishment is no greater than that of a private home with houseguests.
5. The following requirements for Bed and Breakfast Establishments together with any other applicable requirements of this Ordinance shall be complied with:
6. Off-street parking shall be provided in accordance with Article III of this Ordinance.
7. One non-illuminated sign no more than four (4) square feet in area.
8. The residence shall be the principal dwelling unit on the property and shall be owner-occupied at all times.
9. The residence shall have at least two (2) exits to the outdoors.
10. The rooms utilized for sleeping shall be a part of the primary residential use and not specifically constructed for rental purposes.
11. 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.
12. Proof of evaluation of the well and septic system by the health department shall be supplied by owner/occupant.
13. 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.
14. 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.

15. Rental of snowmobiles, ATV's or similar vehicles, boats and other marine equipment, in conjunction with the operation of the establishment shall be prohibited.

A Site Plan Approval shall not be granted if the essential character of a lot or structure within the district, in terms of use, traffic generation or appearance will be changed substantially by the occurrence of the Bed and Breakfast use.

E. Short Term Rentals - Short-term rentals shall be permitted in any zoning district in which single-family dwellings are permitted, subject to the following requirements:

#### 1. Application and Fee Requirements

An operator seeking a zoning permit under this Ordinance shall submit a complete application to the Zoning Administrator and pay the required fee, which shall be determined from time to time by resolution of the Township Board. The application shall include proof of ownership of, or the legal right to rent, a dwelling unit or efficiency dwelling unit, and all information reasonably necessary for the Zoning Administrator to determine whether the applicable standards for approval provided in part 2 have been met.

#### 2. Standards for Approval

The Zoning Administrator shall approve, or approve with conditions, an application for a short term rental only upon a finding that the application complies with all of the following applicable standards:

- a. A dwelling unit, other than an efficiency dwelling unit, shall comply with all of the following requirements:
  - A room that constitutes habitable space as defined in the Ordinance, other than a kitchen, shall not be less than 7 feet in any plan dimension. Kitchens shall have a clear passageway of not less than 3 feet between the front of countertops and appliances and/or between the front of countertops and walls.
  - Except as provided herein, habitable spaces, hallways, corridors, laundry areas, bathrooms, toilet rooms and habitable basement areas shall have a clear ceiling height or not less than 7 feet. Provided, however, (1) beams or girders spaced not less than 4 feet on center and projecting not more than 6 inches below the required ceiling height may be installed, and (2) bedrooms having a sloped ceiling over all or part of the bedroom shall have a clear ceiling height of at least 7 feet over not less than one-third of the required minimum floor area.

- All bedrooms within a dwelling unit shall comply with the following requirements:
  - i. Every bedroom occupied by one person shall contain at least 70 square feet of floor area, and every bedroom occupied by more than one person shall contain at least 50 square feet of floor area for each occupant thereof. In calculating the floor area of a bedroom having a sloped ceiling over all or part of the bedroom, only that portion of the bedroom with a clear ceiling height of 5 feet or more shall be included.
  - ii. Except in dwelling units having only one (1) bedroom, the bedrooms shall not constitute the only means of access to other bedrooms or habitable space and shall not serve as the only means of ingress or egress from other habitable spaces.
  - iii. Every bedroom shall have access to at least one bathroom and one toilet room on the same story as the bedroom or on an adjacent story without passing through another bedroom.
  - iv. A kitchen and space not defined as habitable space in this Ordinance shall not be used for sleeping purposes.
  - v. If habitable space other than a kitchen is to be used for sleeping purposes, then that habitable space shall have a minimum square footage equal to the minimum area required for that habitable space plus the area required for a bedroom with the number of occupants intending to sleep in the habitable space.
- All spaces to be occupied for food preparation purposes shall contain suitable space and equipment to store, prepare and serve foods in a sanitary manner. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage.
- A dwelling unit to be occupied by 3-5 tenants shall comply with both of the following additional requirements:
  - i. The dwelling unit shall have a living room no less than 120 square feet and a dining room of no less than 80 square feet. A dwelling unit with combined living room and dining room spaces shall have no less than 200 square feet and shall be located within the dwelling unit so as to function as a combination living room / dining room.
  - ii. The operator shall provide no less than two (2) off-street parking

spaces on the same property as the dwelling unit.

- A dwelling unit to be occupied by 6 or more tenants shall comply with both of the following additional requirements:
  - i. The dwelling unit shall have a living room no less than 150 square feet and a dining room of no less than 100 square feet. A dwelling unit with combined living room and dining room spaces shall have no less than 250 square feet and shall be located within the dwelling unit so as to function as a combination living room / dining room.
  - ii. The operator shall provide no less than two (2) off-street parking spaces for the first 6 occupants, and one (1) additional off-street parking space for each 4 additional occupants. All off-street parking spaces shall be located on the same property as the dwelling unit.

b. An efficiency dwelling unit shall comply with all of the following requirements:

- No more than two (2) tenants shall occupy the dwelling.
- The dwelling shall have habitable space of no less than 220 square feet.
- The dwelling shall contain a kitchen that includes a sink, cooking appliance, and refrigeration appliance each having a clear working space of not less than 30 inches in front.
- The dwelling unit shall contain no less than one (1) bathroom.

c. Conditions.

The Zoning Administrator may impose reasonable conditions which are reasonably necessary to ensure compliance with the standards for approval provided in part 2, above. (See page III-17)

A Short Term Rental shall not result in the creation of conditions that would constitute a nuisance to neighboring property owners and the Township as a whole. Any machinery, mechanical devices, or equipment employed in the conduct of a Short Term Rental 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.

The Short Term Rental shall provide smoke and carbon monoxide detectors and fire extinguishers as prescribed by the Fire Department.

d. Nuisance

A violation of these provisions is hereby declared to be a public nuisance, a nuisance per se and is hereby further declared to be offensive to the public health, safety and welfare.

Sec. 3.28 Hotels, Motels, and Resorts - (Ten or More Units)

It is the purpose of this section to establish reasonable requirements for transient lodging facilities, exclusive of bed and breakfast establishments, in the C.R. Commercial Resort District. 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.

Qualifying Conditions:

1. Minimum Floor Area: Each guest unit shall contain not less than two hundred fifty (250) square feet of floor area.
2. Maximum Lot Coverage: All buildings, including accessory buildings, shall not occupy more than fifty percent (50%) of the net area within property lines.
3. Minimum Yard Dimensions: All buildings shall meet setback requirements.
4. Maximum Building Height: The maximum building height shall be two (2) stories, but not to exceed twenty-eight (28) feet.
5. 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.
6. No lighting shall have a source of illumination or light lenses visible outside the property line of the parcel or lot, and shall in no way impair safe movement of traffic on any street or highway.
7. Accessory Uses: Uses such as swimming pools and other outdoor recreational uses, meeting rooms, restaurants, taverns or bars, and a caretaker or proprietor's residence shall be permitted provided that these uses are located on the same site as the principle use to which they are accessory. Appropriate permits shall have been obtained from regulating county or state agencies.

8. Well and Septic System: Proof of acceptability of the well and septic system by the Health Department shall be supplied by owner.

9. A floor plan drawn to a scale of not less than 1/8" = 1', shall be on file with the appropriate fire department.

Sec. 3.29 Institutional Structures - Authorization: The Township Planning Commission may authorize the construction, maintenance and operation. Such institutional uses are limited to the following:

A. Religious Institutions: Churches or similar places of worship, convents, parsonages and parish houses, and other housing for clergy.

B. Educational and Social Institutions: Public and private schools, auditoriums and other places of assembly, and centers for social activities.

C. Public Buildings: Publicly owned and operated buildings and public utility buildings and structures.

D. Human Care Institutions: Hospitals, sanitariums, nursing or convalescent homes and homes for the aged.

E. Animal Care Institutions: Veterinarian offices, laboratories and boarding facilities for large and small animals shall comply with Article III and:

1. Be designed to be compatible and appropriate in scale and character with existing or planned surrounding developments.

2. Have entrance and exit drives directly onto a county road or state highway.

3. Have lighting designed to be unobtrusive to neighboring properties.

4. Structures of other than residential scale shall observe a one hundred (100) foot setback from residential uses.

Sec. 3.30 Livestock and Pets - The following shall apply to the keeping of animals and livestock:

A. The raising or keeping of small animals such as rabbits, poultry, goats and sheep 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, 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.

Sec. 3.31 Lot and Yard Area Requirement Exceptions Lot Area and Widths – On a lot of record, the Zoning Administrator is authorized to waive the minimum lot size and width at the building line requirements, provided that the intended structure is in full compliance with all other requirements of this Ordinance.

Front and Rear Yards – On any lot of record where the front and rear yard setbacks reduce the buildable area to less than twenty-five (25) feet, 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 lot to accommodate a requested buildable area. If the rear yard abuts a lake or stream, emphasis shall be given to the protection of the lake or stream. The front yard setback shall be reduced up to the full ten (10) percent first before the rear yard setback is reduced.

Existing structures – where a structure already exists on a parcel and it is nearer a front or a rear lot line than the setback required for that district, the Zoning Administrator is authorized to issue a land use permit to expand said structure or erect an accessory building, provided such addition or new construction is not located nearer a front or rear lot line than the existing structure and will not cause a threat to wetlands or water or cause a significant health or safety hazard.

Sec. 3.32 Marinas and 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. This yard shall be landscaped in accordance with approved plans.



### Section 3.33 Mass Gatherings

Mass Gathering: An organized outdoor event of three hundred (300) people or more, held at a single location on either public or private land within the Township; provided however, a mass gathering shall not include an outdoor event of any size that is sponsored by a public school recognized as such by the State of Michigan, or sponsored by local government.

Sponsor: Means any person who organizes, promotes, conducts or causes to be organized, promoted or conducted a mass gathering.

A. The Township recognizes that from time to time organized outdoor events of a short duration of not more than seven (7) days will need to be accommodated within the Township.

A person shall not be a sponsor, conduct or maintain, promote or permit a mass gathering in the Township without first obtaining approval of a special land use for each such mass gathering as specified in Article XII, Special Land Uses and Article XI, Section 11.4B, Site Plan Review.

B. In addition to other application requirements specified in this Ordinance, a sponsor of a proposed mass gathering shall provide the following information with his or her application for special land use approval for a mass gathering:

- 1) A description of the kind, character and type of mass gathering proposed, including the anticipated number of persons who will be attending the mass gathering each day.
- 2) The date(s) and estimated hours of the proposed mass gathering.
- 3) The location and size of the parcel on which the proposed mass gathering will be held, including a written statement from the property owner consenting to the use of his or her property for the proposed mass gathering.
- 4) A written statement(s) that indicates how the sponsor will provide for the following services and conditions:
  - a. Police and fire protection.
  - b. Medical facilities and services, including emergency vehicles.
  - c. Food and water supply facilities.
  - d. Health and sanitation facilities.
  - e. Vehicle access and parking facilities.

f. Cleanup and waste disposal.

g. Noise control measures.

h. Arrangements that have been made to furnish the Township with a performance guarantee in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Township in an amount equal to the estimated costs associated with the cleanup of the property and proper disposal of waste from the site.

C. In addition to complying with the standards for special land use approval specified in Article XII, and the standards for site plan approval specified in Article XI, Section 11.4B, an application for a mass gathering shall comply with the following specific standards:

- 1) The proposed mass gathering shall not place demands on fire, police, emergency medical services, or other public resources in excess of current capacity.
- 2) The entertainment activities of the proposed mass gathering shall not be conducted on the property later than 1:00 a.m. each day.
- 3) The proposed mass gathering shall be adequately served by public or private streets, and the site of the proposed mass gathering shall have adequate off-street parking for the size of the mass gathering anticipated.
- 4) The proposed mass gathering shall be served by food and water supply facilities that are adequate for the size and duration of the mass gathering anticipated.
- 5) The proposed mass gathering may be served by sewer or portable sanitation facilities and refuse collection and disposal services that are adequate for the size and duration of the mass gathering anticipated.
- 6) The sponsor of the proposed mass gathering shall provide for the cleanup of the parcel on which the proposed mass gathering will be located and shall provide for the proper disposal of all portable sanitation facilities and refuse from the site of the proposed mass gathering.
- 7) The proposed mass gathering shall not involve activities, processes, materials, or equipment that will create a substantially negative impact on properties in the area by reason of litter, noise, smoke, odors, or other nuisance conditions.

D. Application Fee:

Each application shall be accompanied by a non-refundable fee in an amount established from time to time by the Township Board.

E. Action on Application:

Upon receiving a complete application and the appropriate fee, the Planning Commission will process the application as a Special Land Use.

Sec. 3.34 Maximum Size of Accessory Structures The total ground level gross square footage of all accessory structures on any single residential lot or parcel shall not exceed the first floor gross square footage of the principal residence on such lot or parcel exclusive of attached accessory structures.

Section 3.35 Mineral Extraction:

Topsoil Removal, Earth Removal, Quarrying, Gravel, Sand and Clay Extraction, Gravel Processing and all other Mineral Extraction and Processing Businesses.

Earth Removal, Quarrying, Gravel Processing, Mining and Related Mineral Extraction Businesses may be considered in any zoning district as a Special Use, following the requirements of Article III, Section 3.35, and Article XII, Special Land Uses.

In addition to the Standards for Decisions specified in Article XII, Sections 12.4 and Article XI, Section 11.4, part D, Criteria for Review, the following conditions and limitations are, or shall be, strictly complied with, in addition to any other requirements contained in the Zoning Ordinance or in any other ordinance controlling such operations.

A. Location

1. All such operations shall be located on a primary road, as defined by Benzie County, for ingress and egress thereto, or on a road which does not create traffic through an area developed primarily for residential purposes. Where necessary, the Planning Commission may require the applicant to construct and/or improve a road to accommodate the truck travel necessitated by the operations as a condition to such operations, and for the purpose of routing traffic around residential areas and preventing the breaking up of existing roads which are not "all weather" roads.
2. No such excavation operation shall be permitted closer than 150 feet to interior boundary lines of the property or such larger setback as may be required by the Planning Commission to adequately protect adjoining properties. However, if the adjoining property is also used for such mining and excavation operation, then the Planning Commission may reduce or eliminate the required setback from that interior boundary line. In addition,

such setback may be temporarily reduced to 50 feet if reclamation of the land is promptly affected to increase the setback to at least 150 feet in accordance with the reclamation plan approved by the Commission and adequate lateral support as set forth shall at all times be maintained.

3. No excavation operation shall be permitted within 50 feet of adjoining public and private roads except for the lowering of land adjoining said rights-of-way to the grade level of said rights-of-way, or topsoil removal. Such excavation businesses shall at no time be permitted where adequate lateral support for the maintenance of adjoining lands is not maintained.
4. The permanent processing plant and its accessory structures shall not be located closer that 250 feet from the interior property lines and adjoining public or private rights-of-ways and shall, where practicable, be located at a lower level than the surrounding terrain to lessen visual and noise impact. In addition, the foregoing shall apply to the digging or excavating apparatus and to the stockpiling or loading of materials, and to the location of transportation equipment.
5. No such excavation operation shall be located within one hundred (100) feet of the banks of any stream or waterway unless previously approved, in writing, by the Michigan Water Resources Commission, or such other state commission having jurisdiction thereof. No such mining operations shall interfere with the natural established flow of surface waters to the detriment or damage of adjoining public or private properties. Greenbelt provisions shall be complied with as provided in Article III, Section 3.18, Environmental Provisions.

#### B. Site Barriers

Site barriers shall be provided along all boundaries of the site where quarrying, gravel processing, mining and related mineral extraction is proposed, which lack natural screening conditions through existing contours or evergreen growth. Such barriers shall consist of one or more of the following:

1. Earth berms constructed to a height of six (6) feet above the mean elevation of the centerline of the adjacent public highway or six(6) feet above the general level of terrain along interior property lines, as the case may be. Such berms shall have slopes that are not in excess of one foot vertical to three feet horizontal and shall be planted with grass, trees or shrubs.
2. Plantings of evergreen trees or shrubbery in rows parallel to the boundaries of the property, not less than four (4) feet in height at the time of planting and which grow to not less than six (6) feet in

height at maturity sufficiently spaced to provide effective sight barriers when six (6) feet in height.

3. Masonry walls or attractive solid fences made of uniform new materials constructed to a height of not less than six (6) feet and maintained in good repair.

#### C. Nuisance Abatement

1. Noise and vibration shall be minimized in their effect upon adjacent properties by the utilization of modern equipment designed to accomplish such minimization and by the proper use of berms, walls, and natural planting screens. All equipment shall be maintained and operated in such a manner so as to eliminate, as far as practicable, excessive noise and vibrations which are not necessary in the operation of such equipment.
2. Air pollution in the form of dust and dirt shall be kept to a minimum and comply with current MDNRE standards.
3. Hours. The hours of operation shall be as established during the site plan review process according to Article XI to minimize any adverse impacts on adjoining properties.
4. Fencing. All dangerous excavations, pits and pond areas, banks or slopes shall be fenced with a minimum height of six (6) feet, and posted with signs around the perimeter thereof and maintained to prevent injury to children or others, and such excavations shall be eliminated as expeditiously as possible.

#### D. Reclamation of Mined Areas or Excavated Areas

1. Reclamation and rehabilitation of mined areas shall be accomplished as soon as practicable following the mining or excavation of an area. Rehabilitation and reclamation shall be commenced immediately upon the termination of the mining or excavation operations in any area consisting of one acre or more. Substantial completion of reclamation and rehabilitation shall be effected within one year after termination of mining or excavation activity. Inactivity for a 12-month consecutive period shall constitute, for this purpose, termination of mining activity.
2. The following standards shall control reclamation and rehabilitation:
  - a. All excavation shall be either to a water-producing depth of not less than

five (5) feet below the average summer level of water in the excavation, or shall be graded or backfilled with non-noxious, non-flammable and non-combustible solids to insure:

- i. That the excavated areas shall not collect stagnant water and not permit the same to remain therein; or,
  - ii. That the surface of such area which is not permanently submerged is graded or backfilled as necessary to produce a gently rolling surface that will minimize wind and water erosion, and which will be generally compatible with the adjoining land area.
- b. The banks of all excavations shall be sloped to the waterline in a water-producing excavation, and to the pit floor in a dry operation at a slope that shall not be steeper than one (1) foot vertical to three (3) feet horizontal.
  - c. Top soil of a quality equal to that occurring naturally in the area shall be replaced on excavated areas not covered by water, except where streets, beaches, or other planned improvements are to be completed within a one-year period. Where used, top soil shall be applied to a minimum depth of four (4) inches sufficient to support vegetation.
  - d. Vegetation shall be restored by the appropriate seeding of grasses or the planting of trees and shrubs to establish a permanent vegetative cover on the land surface and to minimize erosion.
  - e. Upon cessation of mining operations by abandonment or otherwise, the operating company, within a reasonable period of time not to exceed 12 months thereafter, shall remove all plant structures, foundations, buildings, stockpiles and equipment, provided that buildings and structures which have a function under the reclamation plan and which can be lawfully used under the requirements of the zoning district in which they will be located under such plan may be retained.
  - f. A performance bond or cash shall be furnished to the Township Clerk insuring the proper rehabilitation and reclamation of the mined and excavated areas prior to the commencement of any such mining or excavating operations. The amount of guarantee shall be not less than \$4,000 per acre proposed to be mined or excavated in the following twelve (12) months' period and which has previously been mined or excavated during any preceding period and not reclaimed and rehabilitated in accordance with this ordinance and the applicant's filed plan.

### 3. Submission of Operational and Reclamation Plans

- a. No earth removal, quarrying, gravel processing, mining and related mineral extraction businesses shall be allowed or commenced until a plan has been submitted to the Planning Commission disclosing compliance with all of the provisions of this ordinance, or the manner in which compliance will be secured by the applicant.

Such plans shall include, among other things, the following:

1. A contour map of the tract of land involved in the operations, including dimensions of the same, access thereto abutting public streets, and whether or not the same are "all weather" roads, additional roads, if any, to be constructed, and the location and nature of abutting improvements on adjoining property shall be included on the map.
2. The number of acres and the location of the same proposed to be operated upon within the following twelve (12) months' period after commencement of operations.
3. The type of mining or processing proposed to be conducted and the nature of the equipment to be used.
4. The location of the principal processing plant and the distance of any proposed excavation or mining from the boundaries of the site.
5. Soil boring tests shall be made around the perimeter of the excavation site in the event excavation or activities are to be conducted closer than one hundred fifty (150) feet from the boundaries of the site. Said boring tests shall disclose conditions satisfactory for lateral support of adjacent premises as determined by the township engineer. The written consent of the owners of adjoining premises and of the Planning Commission shall be required if mining operations shall be closer than specified within the ordinance to the boundaries of the site.
6. A map or plan disclosing the final grades and elevations to be established following the completion of the mining operations, including the proposed uses then contemplated for the land, future lakes and roads and such other matters as may evidence the bona fide nature of the reclamation and rehabilitation plans and the fact that the land will not be devastated and rendered unusable by the proposed mining activities. Such plan shall be submitted to the County Cooperative Extension Office and to the Soil Conservation District for recommendation to the Planning Commission.

7. Soil boring tests shall be submitted to provide the depth of the groundwater table of the proposed site.
8. An environmental impact statement, concerning the existing environmental conditions in the proposed area to be excavated, which should include statements concerning, but not limited to: land, vegetation, water, etc.
9. A soil erosion and drainage plan shall be submitted as provided by the Soil Erosion and Sedimentation Act, part 91 of Act 451 of 1994, as amended.

b. Hearing

After receiving a complete application for the special use permit for an earth removal, quarrying, gravel processing, mining, and related mineral extraction business accompanied by the required plans and specifications and permit fees, the Planning Commission shall hold a public hearing as specified in Article XII, Section 12.2.

Sec 3.36 Mobile Homes It is the purpose of this Section to establish reasonable requirements for mobile homes located outside of licensed mobile home parks to assure that the mobile home, when located upon the particular site, would compare favorably to other housing in such things as aesthetics, insulation, adequacy of plumbing, size of living space, protection from wind storm damage, quality of manufacture, a solid foundation under the same, obscurity of the wheels and chassis and a community standard size lot.

A. A mobile home must also comply with the minimum dimensional requirements established in Sections 3.16 and 3.17.

B. 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.

Qualifying Conditions:

1. Each mobile home shall bear a label required by Section 3232.362(c) (2) of the Federal Mobile Home Procedural and Enforcement Regulations.(HUD SEAL)
2. Each mobile home shall be installed pursuant to the manufacturer's setup instruction 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.



3. Within ten (10) days following installation, all towing mechanisms shall be removed from each mobile home or concealed or disguised from view. No mobile home shall have any exposed undercarriage or chassis.

4. Each mobile home shall have footings and a permanent perimeter wall of conventional building materials which shall prevent the entrance of rodents, control heat loss and contribute to aesthetic compatibility with surrounding structures.

5. All construction and all plumbing, electrical apparatus and insulation, within and connected to each mobile home, shall be of a type and quality conforming to the "Mobile Home Construction and Safety Standards: as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, as from time to time amended. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.

6. Exterior Finish; Light Reflection: Any materials that are generally acceptable for housing built on the site may be used for exterior finish if applied in such a manner as to be similar in appearance; provided, however, that reflection from such exterior shall not be greater than from siding coated with clean, white, gloss, exterior enamel.

7. Each mobile home shall be aesthetically compatible in design and appearance with other residences, particularly with regard to foundation treatment, siding and roofing materials and perimeter walls. Compatible materials such as siding, screen walls, etc. may be added.

#### Sec. 3.37 Mobile Home Parks / Manufactured Housing Communities

Mobile home park 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.

Sec. 3.38 Model Homes - Model homes, provided the home and landscaping is completed as if it were to be occupied; is located so as not to create any unsafe conditions, noise, light, traffic or other nuisance to neighboring residential uses; is used for the purpose of selling homes within the immediate subdivision or subdivisions; is open only during normal real estate sales hours; and the duration of use does not exceed one (1) year, unless approved by the Board of Appeals. One (1) sign shall be allowed, meeting the specification as set forth in Article III. There shall be no banners, flags, lighting or other devices used to attract attention or set the model apart from other residential structures in the development. No cooking or sleeping shall be permitted in the Model Home until it is converted to residential use.

Sec. 3.39 Non-Commercial Storage Buildings Non-Commercial storage buildings used for non-commercial activities shall be allowed in the R-2 and C-1 Districts without the presence of a principal use provided they meet all of the applicable requirements of this Ordinance.

Sec. 3.40 Non-conforming Uses and Structures

Intent While it is the intent of this Ordinance to prevent the establishment of new non-conforming situations within the Township, reality dictates that compatible non-conforming uses and structures, which were lawfully established prior to the adoption of this Ordinance, that do not and are likely not to significantly depress the value of nearby property, and which do not pose a threat to public health, safety and welfare of the Township, be allowed to continue under the following conditions:

A. Limitations on Expanding Non-Conforming Situations Any dimensional non-conforming structure or structure devoted to a non-conforming use may be expanded provided the addition is not located nearer a front or rear lot line than the existing structure and will not cause a significant hazard to health or safety.

B. Involuntary Destruction Any dimensional non-conforming structure or any structure devoted to a non-conforming use which is involuntarily destroyed may be restored or reconstructed, provided the same is commenced within one (1) year and completed within the time period the permits are valid.

C. Voluntary Discontinuance –Abandonment of Nonconforming Uses. If a property owner abandons a nonconforming use or structure, then any subsequent use of the property or structure shall conform to the requirements of this Ordinance. The owner's intent to abandon or no longer continue the nonconforming use of the land or structure shall be established by a preponderance of the evidence which shall consider the following:

1. Whether utilities have been disconnected.
2. Whether any signs have been removed or have fallen into disrepair.
3. Whether any fixtures within and outside the building have been removed.
4. Whether the property has fallen into disrepair or is considered "blighted."
5. Whether U.S. Mail delivery has been terminated or mail is forwarded to another address.
6. Whether the classification of the property for tax purposes has been changed to reflect another use.
7. Whether any license associated with the use has expired.

8. Whether there are any other similar changes to the nonconforming structure or use.

Action to determine if a nonconforming use was intended to be discontinued by the owner may be delayed if any of the following is ongoing:

1. Ownership or possession of the property is the subject of a pending Probate Court proceeding;
2. The property is the subject of an Insurance settlement dispute; or
3. The property is the subject of an ongoing criminal investigation.

D. Restriction of Change Whenever a non-conforming use has been changed to a use which is in greater conformity with the provision of the district in which it is located, and has remained as such for one (1) year, such use shall not thereafter be changed back to the former non-conforming use or to a use less in conformity with the provisions of this Ordinance.

E. Appeals of Decisions Made Under this Section: Any party aggrieved by any order, determination, or decision made under this Section by the Zoning Administrator, the Planning Commission, the Township Board or the Zoning Board of Appeals may obtain a review of that order, determination or decision in the Benzie County Circuit Court as provided for in section 607 of the MZEA.

#### Section 3.41 Parking and Loading Regulations

Requirements: 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. 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.

Sec. 3.42 Permit Compliance Surety The Planning Commission or Township Board may require a surety bond, cash bond, performance bond or irrevocable bank letter of credit be posted to ensure compliance with provisions of site plan approvals, Special Land Use Permits or Planned Unit Developments.

#### Sec. 3.43 Planned Residential Developments - Open Space Preservation

It is the purpose of this Section to encourage more imaginative and livable housing environments within Lake Township and to comply with the requirements of Act 110 of 2006, as amended, by allowing for a planned reduction of the individual lot area requirements for all residential zoning districts, provided the overall density requirements for each district remain the same.

A. Application – Application and approval shall be as outlined in Article XI, Major Site Plan Review. In addition, as part of the review process, a yield plan showing the proposed development as it would be permitted under conventional development regulations in the zoning district where the property is located, as outlined in this Ordinance, shall be submitted by the applicant.

The Planning Commission shall use this yield plan in determining the density and number of dwelling units to be used in calculating the Open space Preservation Development Plan.

All other regulations of the zoning district, such as building height, setbacks, minimum floor area, etc., remain in full effect as outlined in the zoning ordinance regulations.

B. 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.

If the interior access to serve dwelling units is to be by private road, such access shall meet all of the requirements of the private road standards and regulations of the Township as outlined in Article III of this ordinance.

C. Dedication of Open Space - The applicant shall provide to the Township evidence of the creation of legal documents, as filed with the Benzie County Register of Deeds, setting aside the dedicated open space created as part of the project 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.

All land 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. All such lands shall be protected by restrictions or covenants running with the land and shall be approved by the Township Attorney to assure the following:

1. Title to open space is held in common ownership by the owners of all units/lots in the Open Space Development.
2. A permanent organization for maintenance and management of all such areas shall be assured by legal documents prior to the issuance of a Land Use Permit.

Sec. 3.44 Pre-Application Conference It is recommended that, before any extensive site design or related work is conducted on any major development, the developer confer in a meeting with the Zoning Administrator and/or planning commission to receive guidance regarding land development regulations, the township's land use plan, and the application process. A sketch plan containing enough information so that an accurate analysis can be made shall be presented to the Zoning Administrator and/or Planning Commission prior to the meeting.

### Section 3.45 Private Roads

#### A. Purpose

The Township has determined that as tracts and parcels of land are divided, sold, transferred, and developed, private roads are being created to provide access to the newly created properties which are not subject to regulation under the Land Division Act, as amended, or other State regulations. The Township determines it is in the best interest of public health, safety, and welfare to regulate the construction and improvement, extension, relocation, and use of private roads to assure that:

1. Private roads are designed with width, surface, and grade to assure safe passage and maneuverability of private vehicles, and police, fire, ambulance, and other safety vehicles.
2. Private roads are constructed of suitable materials to ensure minimal maintenance and safe passage.
3. Private roads will be constructed so as to protect against or minimize soil erosion to prevent damage to lakes, streams, wetlands, and natural environment of the Townships.
4. Private roads appropriately serve the properties and individuals they are intended to serve.

#### B. Private Roads Permitted

Private roads are permitted provided they conform to the requirements of this Section.

#### C. Exceptions

Exceptions are as set forth in paragraph D-1 below, all parcels of land or lots created by a land division, platted subdivision, and site condominium units must front on a public or private road which meets this Ordinance requirements and a land use and or zoning permit for a structure or building shall not be issued until a final road permit has been issued by the Zoning Administrator.

#### D. General Private Road Requirements

1. The provisions of this Section shall only apply to a new private road or private drive which provides access to five (5) or more existing or proposed lots or parcels and all site condominium units.
2. After the effective date of this Ordinance, a private road shall not be constructed, extended, or relocated, except in accordance with the minimum standards and requirements of this Ordinance. If an existing private road is proposed to be extended, the entire private road shall comply with the standards of this Ordinance.
3. The provisions of this Ordinance shall not apply to access roads internal to any individual lot, parcel, or tract of land which has direct frontage access and is under the control of one person, firm, corporation, association, or other entity provided that the access road does not provide access to any abutting lot, parcel, or tract of land.

#### E. Private Roads

All private roads constructed in the Township shall be located within either private dedicated right of way or a permanent right-of- way easement duly recorded with the Benzie County Register of Deeds, and shall have an overhead clearance of sixteen (16) feet.

#### F. Private Road Easements

All private roads shall meet the requirements established for easements as defined in Article II, unless additional right-of- way is required for adequate construction, and shall have an overhead clearance of sixteen (16) feet.

#### G. Dead-ends and Cul-de-Sacs

At any dead-end or cul-de-sac, the easement shall widen to a minimum radius of ninety (90) feet and an overhead clearance of sixteen feet (16 ‘) and shall otherwise meet the access requirements of the appropriate Fire Department.

#### H. Construction Standards and Road Geometrics

Except as otherwise provided in this Ordinance, the creation of a road that serves a division of land, subdivision, or site condominium development consisting of one or more principal buildings, other than a subdivision as defined by the Land Division Act, as amended, shall meet or exceed the cross-sectional construction standards established by the Benzie County Road Commission for all public roads.

#### I. Zoning Board of Appeals

The Zoning Board of Appeals, pursuant to the Michigan Zoning Enabling Act (Act 110 of 2006, as amended) may grant a variance of the above stated construction standards, road geometrics, or design standards in this Section based on the following standards:

1. Whether anticipated traffic flows will overburden the proposed roadway design.
2. If any unusual topographic conditions will constrain the roadway design.
3. To what extent roadway design will preserve natural features on the site.
4. Whether a stub road connection would be created.
5. Whether or not the proposed roadway should be constructed with curb and gutter drainage structures.

J. Roadway Surface

All private roadway surfaces shall be developed with a minimum width of twenty four (24) feet and shall be located within the established right-of-way.

K. Dedication of Rights-of-Way or Easements

While not required to be dedicated to the public, no structure or development activity shall be established within approved rights-of-way or easements. All plans, as submitted for approval, must show the private road easement including a legal description, and must include the grades for these roads.

L. Connection to County Roads

Construction authorization from the Benzie County Road Commission is required for connection to a County road. When applicable, a permit is also required from the County under the Soil Erosion and Sedimentation portion of PA 451 of 1994, part 91, as amended.

M. Cul-de-sacs

Cul-de-sacs shall meet or exceed the Benzie County Road Commission cross-section specifications and:

1. Any cul-de-sac shall terminate at the property line except when precluded by a natural barrier or when the cul-de-sac terminates at the last available building envelope, lot or parcel within the development and that building envelope, lot or parcel fronts on the cul-de-sac.
2. Frontage measurements along the cul-de-sac shall be measured at the front setback line and at right angles to the lot depth.
3. Not more than four (4) dwelling units or structures shall have frontage on a cul-de-sac.

N. Maximum Number of Principal Single Family dwellings or Parcels of Land Served

No more than twenty five (25) dwellings or parcels of land may be served by a single private road if only one (1) point of intersection is provided between a private road and a public road. No more than seventy five (75) dwellings or parcels of land may be served by a private road where two or more points of intersection are provided between a private road or roads and public roads. Where more than seventy five (75) dwelling units or parcels of land are served, the road shall be a paved street built to full Benzie County Road Commission standards.

O. Road Construction Application

Application for road construction shall be made at the same time as application for land division, if applicable, and at least thirty (30) days prior to the meeting date for which the applicant requests consideration. Prior to approval by the Planning Commission, the applicant shall prepare and provide six (6) sets of a general property development site plan complying with the requirements for major site plan review and approval pursuant to the requirements found in Article XI of this Ordinance. The following additional information shall be submitted:

1. An application for approval of a joint road maintenance and easement agreement shall be made to the Zoning Administrator at the same time as application for land division, if a private road is required under this Section. Such application shall include a proposed road maintenance and easement agreement signed by the private road proprietor(s) to be recorded with the Township Clerk and the Benzie County Register of Deeds that contains the following provisions:
  - a. A method of initiating and financing of such road construction and maintenance in order to keep the road up to properly engineered specifications and free of snow or debris.
  - b. A workable method of apportioning the costs of maintenance and improvements to current and future users.
  - c. A notice that if repairs and maintenance are not made, the Township Board may bring the road up to the established Township Road Standards for private roads and assess the owners of the parcels on the private road for the improvements.
  - d. A notice that no public funds of the Township are to be used to build, repair, or maintain the private road and the Township has no responsibility for the maintenance or upkeep of the road.
  - e. The United States Postal Service and the local school district are not



required to traverse this private improvement and may provide service only to the closest public access. (Maintenance of Private Roads Act, PA 139 of 1972, as amended.) All conditions and requirements concerning public roads shall be deemed the same for private roads, i.e., location on a public road, setbacks (front yard measured from the property line), etc.

- f. Majority vote rules regarding road maintenance and improvement decisions.
  - g. The owner of each parcel will be responsible for payment of the share of costs apportioned to his or her parcel.
  - h. The owners shall have standing and the right to commence legal or equitable action against a delinquent parcel owner or parcel owners to foreclose a lien or otherwise collect the sums owed.
  - i. The agreement shall be recorded and shall run with the land and bind and benefit the parcels, and the owners thereof, in perpetuity.
  - j. The owner or owners of the land served by the road shall provide for the requirement to grade, drain, and otherwise maintain the private road in accordance with the requirements of the Ordinance.
  - k. Easements to the public for purposes of emergency and other public vehicles and whatever public utility services are necessary.
  - l. The owners of any and all property using the road shall refrain from prohibiting, restricting, limiting or in any manner interfering with normal ingress and egress and use shall include use by family, guests, invitees, vendors, tradesman, delivery persons, and others bound to or returning from any of the properties or having a need to use the road.
2. The proposed road maintenance and easement agreement shall be sent to the Township Attorney for review and approval. All associated costs shall be borne by the applicant.
  3. The Zoning Administrator shall approve the road maintenance and easement agreement if the information and agreements required by this Section have been met by the applicant. Following approval, the road maintenance and easement agreement shall be recorded with the Benzie County Register of Deeds.

## P. Application

### Approval Process for Preliminary and Final Road Construction Permit:

1. After the Zoning Administrator has approved the road maintenance and easement agreement required by Section 3.45-O-1, an application for road construction may be made at least 30 days prior to the meeting date for which the applicant requests consideration.
2. Prior to approval by the Planning Commission, the applicant shall prepare and provide six (6) sets of a general site plan complying with the requirements for site plan review and approval pursuant to the requirements found in Article XI of this Ordinance. A site plan for the private road shall be submitted to the Zoning Administrator. The Zoning Administrator may submit the private road site plan to the Benzie County Road Commission and the Township Engineer for review and comment.
3. The recommendations of the Road Commission and the Township Engineer shall be forwarded to the Planning Commission, who shall be responsible for granting approval for the private road application.
4. The Planning Commission shall approve a private road application if it finds that all of the applicable requirements of this Section have been met. If the private road application is approved by the Planning Commission, preliminary construction permit will be issued by the Zoning Administrator. If the application is rejected, the reasons for the rejection and any requirements for approval will be given in writing to the applicant.
5. The applicant will arrange for timely inspections by the Township Engineer during construction of, and upon completion of the private road. Such costs shall be borne by the applicant.
6. The final road permit shall be issued by the Zoning Administrator after the private road has been constructed and certification has been made by the Township Engineer that the road has been built according to the site plan and the requirements of this Ordinance.

## Q. Failure to Perform

Failure by the applicant to begin construction of the private road according to approved plans on file with the Township within one (1) year from the date of approval shall void the approval and a new plan shall be required by the Township subject to any changes made by the Benzie County Road Commission or the Township in its standards and specifications for road construction and development. The private road shall be completed within one and one-half (1-1/2) years.

R. Posting of Private Roads

All private roads shall be designated as such and shall be clearly posted with a clearly readable name which can be easily seen in an emergency. The sign shall be paid for, posted, and thereafter maintained by the property owner's association or developer. The developer shall check with the Benzie County Road Commission to avoid a duplicate of names and the Road Commission shall give approval of the same.

S. Private Drives

Private Drives serving three (3) to nine (9) dwellings and /or parcels are not required to comply with the established standards for a private road. All private drives shall have a road surface of not less than twenty four feet in width, and shall have signs posted at all access points from a public road, clearly stating the name and "Private Drive, not maintained by Township or County". All private drives shall be recorded with the Benzie County Register of Deeds and with the Township.

T. Private Drives / Land Divisions

In the event any divisions of land are made such that a formally designated private drive will serve an additional tenth (10th) dwelling unit or parcel, then the portion of the private drive between the new dwelling unit or parcel and the public road shall be required to comply with the Private Road provisions of this section. The costs of upgrading the private drive to a private road shall be the responsibility of the party creating the tenth (10th) parcel accessing the drive.

Sec. 3.46 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.

Sec. 3.47 Residential Uses in the C-1 Commercial District

A. Statement of Intent:

Modern commercial development is often of such a character that the inclusion of some limited residential units directly associated with the commercial use may be deemed as either desirable, or in some cases, necessary. Under these conditions, a Special Land Use Permit may be issued for the construction and occupancy of such units provided the standards, procedures and requirements set forth in this Section can be complied with.

B. A Special Land Use Permit For Such May Be Issued Providing:

Floor space used for residential purposes shall be subtracted from allowable commercial space.

Residential units shall have separate services including water, sewer, electric, etc. from commercial uses.

Units shall be designated for occupancy of owner or tenant, or their employees.

Sec. 3.48 Sewage Treatment and Disposal

A. All uses shall be established, operated and maintained in accordance with all applicable State of Michigan statutes.

B. All operations shall be completely enclosed by a wire link fence not less than six (6) feet high.

C. All operations and structures shall be surrounded on all sides by a transition strip at least two hundred (200) feet in width within which grass, plant materials and structural screens shall be placed to minimize the appearance and odors of the installation. The Planning Commission shall approve all treatment of transition strips.

Sec. 3.49 Signs

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 and the following provisions permitting the erection and maintenance of roadside signs will be construed in the light of the foregoing:

A. 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 shall be not more than eight (8) square feet.

B. 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.

C. 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.

D. 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.

E. Signs Excluded From Permit 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.

1. 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.
- 2.. 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.
3. 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.
- 4.. Official signs of a non-commercial nature erected by public utilities.
5. Flags, or insignia of any governmental or non-profit organization when not displayed in connection with a commercial promotion or as an advertising service.
6. 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.
7. Signs directing and guiding traffic on private property that do not exceed four (4) square feet each and that bear no advertising matter.
8. Informational signs not exceeding one (1) square foot in sign face.
9. 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).

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

**F. Temporary Signs: Permit Exemptions**

1. The following temporary signs, related to temporary land uses, are permitted without a land use permit. However, such signs shall conform to the requirements set forth herein as well as all other applicable requirements of this Section.

a.. Real estate signs: Signs containing the message that the real estate on which the sign is located (including buildings) is for sale, lease, or rent, together with information identifying the owner or agent. Not more than one such sign shall be erected per site, shall not exceed six (6) square feet in sign face area, and shall be removed within ten (10) days after sale, lease or rental.

b. Construction site identification signs: Such signs may identify the project, the owner or developer, architect, engineer, contractor and subcontractors, funding sources, and may contain related information including, but not limited to, sale or leasing information. Not more than an accumulative total of thirty-two (32) square feet in sign face area, shall be erected.

c. Political Signs: Signs erected in connection with elections or political campaigns. Such signs shall be removed within two (2) days following the election or conclusion of the campaign. No such sign may exceed four (4) square feet in sign face area.

d. Special temporary event signs: One sign not exceeding twenty-four (24) square feet in sign face indicating a special temporary event such as a carnival, circus, festival or similar event, placed on the lot where the activity is to take place. Such signs may be erected no sooner than two (2) weeks before the event and must be removed no later than three (3) days after the event.

e. Seasonal commodity signs: Seasonal commodity signs shall not have a total sign face greater than fifty-two (52) square feet, of which not more than twenty (20) square feet may be on premises and not more than thirty-two (32) square feet may be off-premise.

f. Yard sale signs or other similar temporary activity signs not covered in the foregoing categories, so long as such signs meet the following restrictions:

Not more than one (1) such sign may be located on any lot. No such sign may exceed four (4) square feet in surface area. Such signs shall be erected not more than three (3) days prior to the event and shall be removed immediately following the event.

2.. Other temporary signs, not listed in subsection (1), shall be regarded and treated in all respects as permanent signs.

#### G. Determining the Number of Signs

1. 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.

2. 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.

#### Sec. 3.50 Site Condominium Subdivision Plan

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:

1. A site plan in accordance with Article XI.
2. A site condominium subdivision plan in accordance with the requirements of Section 66 of the Condominium Act, P.S. 59 of 1978.
3. 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 and Environment (MDNRE).

G. In it’s 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.

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.

#### Sec. 3.51 Structure Setbacks

No portion of any structure or freestanding sign may be located closer to any lot line than is authorized in the District provisions and Table of Dimensional Requirements.

A. If the road right-of-way line is readily determinable (by reference to a recorded survey and set irons), the setback shall be measured from such right-of-way line. If the road line is not so determinable the setback shall be measured from the access centerline of the traveled surface of the roadway.

B. Setback distances shall be measured in accordance with (a) above to a point on the lot that is nearest the extension of any part of the structure unless otherwise provided in this Ordinance.

Sec. 3.52 Swimming Pools - Swimming pools shall be permitted as an accessory use, in any residential district, subject to the following restrictions:

1. Private pools shall meet required yard setbacks,
2. 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,

3. For the protection of the general public, 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.

#### Sec. 3.53 Use of Open Space

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, second hand building materials or other discarded, abandoned or rubbish-like materials or structures.

The location, parking or storage of recreational vehicles shall be allowed on a lot used for a dwelling, 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.

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.

#### Sec. 3.54 Vacated Streets

Whenever any street, alley, or other public way is vacated by official action, the zoning district adjoining each side of such public way shall automatically be extended to the center of such vacation.

#### Sec. 3.55 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.

#### Sec. 3.56 Warehousing, Commercial Storage

A. Enclosed buildings: Activities shall be carried on in completely enclosed buildings. Storage may be permitted out-of-doors, provided that within three-hundred (300) feet of any residential use, all storage shall be in completely enclosed buildings. 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. Such storage shall not be deemed to include the parking of licensed motor vehicles under one (1) ton rated capacity.

B. 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:

1. 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.
2. 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.
3. Discharge into the air no dust or other particulate matter.
4. Shall use only shielded lighting which will not shine beyond the lot boundaries.

C. Yards in this district shall conform to the following standards:

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. 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 3.57 Wind Energy Conversion Systems (WECS)

The purpose of this Section is to establish guidelines or siting WECS. The goals are:

1. To enable the safe, effective and efficient use of WECS to generate electricity.
2. To preserve and protect public health, safety, welfare and quality of life by minimizing adverse impacts of a WECS.
3. To establish standards and procedures by which the siting, installation, operation and maintenance of a WECS shall be governed.

A. Applicability: This Ordinance applies to all WECS proposed to be constructed after the effective date of this Ordinance.

B. Temporary Uses: Anemometers:

1. The construction or installation of an anemometer tower shall require a land use permit and shall conform to all applicable local, state, and federal safety, construction, environmental, electrical and communication codes and FAA requirements.

2. An anemometer shall be subject to the minimum requirements for height, setback, location, safety requirements, and the decommissioning that correspond to the size of the WECS that is proposed to be constructed on the site.

3. An anemometer shall be permitted for no more than eighteen (18) months. The Planning Commission may grant an extension of six (6) months to this limit.

C. Regulations and Requirements:

1. Small Household WECS: This type of system shall be considered a use by right in all zoning districts, provided that the applicant obtains a land use permit, any necessary building permits, and that all siting and design requirements for Household WECS can be met.

2. Siting and Design Requirements:

- a. A land use permit and building permit are required.
- b. A Site Plan as specified in Article XI is required.
- c. One household WECS per parcel is allowed in the L/R and R-1 districts if the parcel has an existing dwelling.
- d. A household WECS is not allowed in the front yard setback area.
- e. Setback from any property line is 110 % of the total height of the system.
- f. Setbacks from any existing overhead electrical transmission line shall be documented in writing from the utility company owning the lines.
- g. Noise emanating from the operation of the Household WECS shall not exceed 50 dB(A) measured at the property line.
- h. Color shall be a neutral non-reflective industry standard.
- i. If the system is to be connected to existing utility company lines, written documentation of approval from that company shall be provided.
- j. Any and all Federal, State and local electrical and construction codes pertaining to the system shall be followed.
- k. Applicant shall provide written documentation that the system will not interfere with radio and television transmission and reception, and other communication systems.

- l. No lighting is allowed unless required by the FAA.
- m. Towers with heights up to 100 feet may use guy wires, towers taller than 100 feet shall be free standing.
- n. 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.
- o. 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.

2. Decommissioning:

- a. If a system is deemed to be non-functional by the Zoning Administrator, the land owner shall have 12 months to either repair the system so that it is functional, or remove the system.
- b. At the time a land use permit is obtained an acceptable plan shall be submitted for removing the system.

3. Large Commercial WECS: This type of system may be allowed only by Special Use Permit in the R-2 Rural Residential District.

a. Siting and design requirements:

- i. "Upwind" turbines shall be the only type allowed.
- ii. One commercial WECS (one tower with one generator) shall be allowed per parcel.
- iii. Color shall be a neutral non-reflective industry standard and shall apply to all structures associated with the system.
- iv. No lighting is allowed unless required by the FAA.
- v. Advertising and/or decorative displays are prohibited on any part of the system.
- vi. Vibration shall not be humanly perceptible beyond the property lines on which the system is located.
- vii. Shadow Flicker shall not exceed 30 hours per year on any occupied building.

The owner and/or operator shall conduct an analysis of potential shadow flicker at all occupied buildings with direct

line-of sight exposure to the system. If analysis determines that shadow flicker may affect any occupants of a building for more than 30 hours per year, and then a plan shall describe measures that the installer will take to eliminate or mitigate the effects.

viii. Guy wires shall not be permitted.

ix. All electrical controls, power lines and electrical system components shall be placed underground (wiring to connect the generator to the tower is exempt)

x. Setback from any property line is 110 % of the total height of the system. Further, setback from any inhabited structure or a structure housing animals, a public or private road shall also be 110% of the total height of the system.

xi. Noise emanating from the operation of the system shall not exceed 50 dB(A) measured at the property line of the parcel where the system is located.

xii. Applicant shall provide written documentation that the system will not interfere with radio and television reception, and other communication systems.

xiii. Written evidence from a qualified individual that the site is feasible for a Large Commercial WECS.

xiv. An access road shall provide access to all parts of the system that meets the private road requirements of Lake Township, at a minimum.

xv. Lake Township reserves the right to consult a third party expert in determining if a requirement is being fulfilled. The cost of any third party fees shall be paid by the applicant to Lake Township prior to the issuance of any land use permit.

b. Permit Application Requirements:

i. Name of the property owner(s), address, and parcel number.

ii. Name and address of owners(s) and operator of the proposed system.

iii. A site plan complying with Article XI of this Ordinance.

- iv. The proposed type of WECS including the manufacturer and model, generating capacity, dimensions of the tower and blades, and drawings or blueprints for the entire system.
- v. Certification from a registered engineer that the rotor and overspeed control have been designed for the proposed use on the proposed site.
- vi. Documented compliance with applicable Federal, State and local regulations including, but not limited to, safety, construction, environmental, electrical, communications and FAA requirements.
- vii. Proof of liability insurance.
- viii. Evidence of an interconnect agreement between the applicant and the utility company the system will provide electricity to.
- ix. A plan for removing the system, which shall give an estimated cost and a method for financing the removal of the system.
- x. Name and telephone number of the contact person(either owner or operator)
- xi. Any other information that the Planning Commission may request.
- xii. Signature of the applicant.

c. Decommissioning:

- i. Within 12 months after a system ceases to operate, as determined by the Zoning Administrator, it shall either begin operation or be completely removed.
- ii. All roads and other improvements made for the system shall be removed and the site restored to its original state and shall meet with the landowners approval.
- iii. All foundations shall be removed to a depth of 60 inches below grade. If any foundation is left after this requirement is met, then it shall be identified on a map and recorded with the deed to the property with the County Register of Deeds.

iv. The site shall be seeded and stabilized to prevent erosion.

4. Wind Farms: Wind Farms may be allowed by Special Use Permit in the R-2 District.

a. Siting and Design Requirements:

i. "Upwind" turbines shall be the only type allowed.

ii. One WECS is allowed per forty (40) acres. The minimum distance between towers is 1,000 feet.

iii. All parcels leased by an applicant shall be considered one unit for the propose of setbacks. Perimeter property line setbacks (i.e. property lines between leased and non-leased parcels) of the unit shall be 110% of the total height of the system. For those leased parcels within the unit, the property line setback shall be fifteen (15) feet.

iv. Setback from any property line is 110 % of the total height of the system. Further, setback from any inhabited structure or a structure housing animals, a public or private road shall also be 110% of the total height of the system.

v. Written evidence from a qualified individual that the unit is feasible site for a Wind Farm.

vi. Guy wires shall not be permitted.

vii. All electrical controls, power lines and electrical system components shall be placed underground (wiring to connect the generator to the tower is exempt).

viii. No lighting is allowed unless required by the FAA.

ix. Advertising and/or decorative displays are prohibited on any part of the system.

x. Vibration shall not be humanly perceptible beyond the property lines on which the Wind Farm is located.

xi. Color shall be a neutral non-reflective industry standard and shall apply to all structures associated with the system.

xii. Shadow Flicker shall not exceed 30 hours per year on any occupied building.



The owner and/or operator shall conduct an analysis of potential shadow flicker at all occupied buildings with direct line-of sight exposure to the system. If analysis determines that shadow flicker may effect any occupants of a building for more than 30 hours per year, then a plan shall describe measures that the installer will take to eliminate or mitigate the effects.

xiii. Noise emanating from the operation of the Wind Farm shall not exceed 50 dB(A) measured at the property line between the unit and non-leased property. If the noise emanating from the operation of a Wind Farm shall exceed 50 dB(A) at any property line within the unit then the applicant shall secure a legal document from the affected property owner/owners giving permission for the noise to exceed 50 dB(A).

xiv. Setback from any existing overhead electrical transmission lines shall be a minimum of 110% of the total height of the system and more if the owner of the existing lines shows a reasonable cause why the distance should be greater.

xv. Applicant shall provide written documentation that the system will not interfere with radio and television reception, and other communication systems.

xvi. . An access road shall provide access to all parts of the Wind Farm system that meets the private road requirements of Lake Township, at a minimum.

xvii. Applicant shall provide avian and wildlife impact analysis that conforms to state and federal wildlife agency recommendations.

xviii. Lake Township reserves the right to consult a third party expert in determining if a requirement is being fulfilled. The cost of any third party fees shall be paid by the applicant to Lake Township prior to the issuance of any land use permit.

b. Permit Application Requirements:

i. List of the property owner(s), address, and parcel numbers of all property leased by the applicant that will make up the unit for the proposed Wind Farm.

ii. Name and address of owners(s)lessee and operator of the proposed Wind Farm.

- iii. A site plan complying with Article XI of this Ordinance.
- iv. The proposed type of WECS including the manufacturer and model, generating capacity, dimensions of the tower and blades, and drawings or blueprints for the entire system.
- v. Certification from a registered engineer that the rotor and overspeed control have been designed for the proposed use on the proposed site.
- vi. Documented compliance with applicable Federal, State and local regulations including, but not limited to, safety, construction, environmental, electrical, communications and FAA requirements.
- vii. Proof of liability insurance.
- viii. Evidence of an interconnect agreement between the applicant and the utility company the system will provide electricity to.
- ix. The phases of construction with a construction schedule timeline and a projected completion date, along with a projected useful life of the wind farm.
- x. A written complaint resolution process developed by the applicant to resolve complaints from nearby residents concerning the construction or operation of the Wind Farm. The process shall include a time limit for acting on a complaint. It shall not preclude local government from acting on a complaint and shall provide a telephone number where a representative of the project can be reached during normal business hours.
- xi. A plan for removing the system, which shall give an estimated cost and a method for financing the removal of the system.
- xii. Name and telephone number of the contact person (either owner or operator).
- xiii. Any other information that the Planning Commission may request.
- xiv. Signature of the applicant.

c. Decommissioning:

i. If any or all generators do not operate for a period of 120 days, as determined by the Zoning Administrator, the applicant shall have 18 months to bring the non-operating generator or generators into operation or remove the non-operating generator or generators( including the towers and any other physical improvements made to the property.

ii. All roads and other improvements made for the Wind Farm shall be removed and the site restored to its original state and shall meet with the landowner's approval. A landowner may request that a road remain if it was built on his or her property.

iii. All foundations shall be removed to a depth of 60 inches below grade. If any foundation is left after this requirement is met, then it shall be identified on a map and recorded with the deed to the property with the County Register of Deeds.

iv. The site shall be seeded and stabilized to prevent erosion.

Section 3.58 Wireless Communication Towers

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:

1. Protect other land uses, especially residential uses, from potential adverse impacts of towers and antennas.
2. Minimize the total number of towers throughout the community.
3. Strongly encourage the joint use of new and existing tower sites as a primary option.
4. 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.
5. 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.
6. Enhance the ability of the providers of telecommunication services to provide such services quickly, effectively and efficiently.
7. Consider the public health and safety of communication towers.

8. Avoid potential damage to adjacent properties from tower failure.

A. General Requirements

1. Towers and antennas may be considered either a principal or accessory use, whenever possible:

- a. Antennas shall be placed on existing structures.
- b. Shall be limited to the lowest possible height which still allows reasonable coverage of an area.
- c. Shall be a neutral color and shall not be lighted unless otherwise required by the FAA or FCC.
- d. Towers shall comply with engineering standards for structural integrity.
- e. Towers shall not be considered “Essential Services” or public or private utilities, but shall instead be regulated by this Section.
- f. Towers shall be permitted in any zoning district except the L/R, and R-1 residential districts.
- g. No signs or advertising shall be allowed on a tower.
- h. Antennas and metal towers shall be grounded for protection against direct strike by lightning.
- i. Towers shall be set back from any adjoining lot line a distance of at least equal to the height of the tower.
- j. 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.
- k. Towers shall be enclosed by security fencing not less than six (6) feet in height and be equipped with an anti-climbing device.
- l. 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.

B. Application for Permit; Exemptions-Uses

1. 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.
2. Antennas located on public property under lease or license with a governmental agency shall be exempt from a permit under this Section.
3. 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 tower by a monopole.
  - 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.
4. All other tower and antenna applications shall be processed by the Planning Commission following the prescribed procedure for a Special Land Use Permit in accordance with Article XII.
5. An application for a tower or antenna shall be either approved or denied within a reasonable period of time, taking into account the nature and scope of the request, after a completed application is filed by the applicant.
6. Any decision to deny a request to place, construct, or modify a tower or antenna shall be in writing and supported by substantial evidence contained in a written record.
7. If the Planning Commission determines it necessary to consult with an expert in considering the factors listed in this Section, all reasonable costs and expenses associated with such consultation shall be borne by the applicant. Failure to pay such costs and expenses or provide information requested by the Planning Commission shall be grounds for denial or the withholding of the issuance of a land use permit until such costs have been paid.

C. 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.

D. Buildings and Equipment Storage

The 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.

E. 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.

F. 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.

G. Separation – Other Towers

Except as otherwise provided in this Section, towers shall be separated from each other according to the following:

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.

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.

Sec. 3.59 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.

### Sec. 3.60 Lighting Ordinance

The purpose of this article is to provide for outdoor lighting that will:

- a. 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.
- b. Conserve energy and resources to the greatest extent possible.
- c. Decrease light pollution and curtail and reverse the degradation of the nighttime visual environment and the night sky.
- d. 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.

#### General Provisions (requirements)

- A. All outdoor lighting with illumination equivalent to 150 watts incandescent or more use in all districts shall be shielded to reduce glare and to prevent light from shining onto adjacent properties. Lighting shall be shielded on the top to prevent lighting of the night sky. All lighting shall be shielded sufficiently so as to ensure that the light source is not visible from, or causes glare on public rights of way or adjacent properties. Lighting will be shielded such that light does not disperse above 90 degrees. See exhibit 1.
- B. Streetlights for residential developments: Streetlight installation in residential developments constructed after the effective date of this article shall utilize cut off luminaries. The maximum height of streetlights above grade shall not exceed 20 feet. In the event that 50% or more of existing luminaries or posts in a residential development constructed prior to the effective date of this article are replaced or modified, the luminaries or posts shall be brought into compliance with this article.
- C. Spotlights will be no more than the equivalency of 150 watts incandescent and will be shielded and will be turned off at 11:00pm.
- D. Lighting Plan: Any project including outdoor lighting of the equivalency of 150 watts incandescent or more shall submit a lighting plan with the land use application.
- E. Flag poles: Upward flagpole lighting is permitted for government flags only. Light must have a narrow distribution so that the light illuminates only the flag pole and the flag. Flags are encouraged to be taken down at sunset to avoid the need for lighting.



- F. Towers: All radio, communication and navigation towers requiring FAA compliant lights shall have dual lighting capabilities. White strobes may be used when required during daylight hours. Only red lights may be used during nighttime hours.
- G. Parking lots: Parking lot luminaries shall be no taller than 25 feet in commercially zoned districts. Parking lot lighting in residentially zoned districts shall be no taller than 15 feet. All parking lot lighting shall be downward facing with no light emitted above 90 degrees. See exhibit 1. All commercial lighting will be turned off after business hours of operation.
- H. 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
- I. The zoning administrator will provide lighting guidelines to all property owners/occupants in order to correct any non-conforming lighting per this ordinance. Existing outdoor lighting is not grandfathered.

Definitions:

Lighting Plan: A plan used for an approval process indicating all site improvements and the number, locations, type and design of all luminaries and the manufactures data on the luminaries.

Light Pollution: Any adverse effect of manmade light including, but not limited to light trespass, up-lighting, the uncomfortable distraction to the eye or any manmade light that diminishes the ability to view the night sky.

Light Trespass: Light falling where it is not wanted or needed, generally caused by a light on a property that shines onto the property of others.

Shielding: Devices or techniques that are used as part of a luminaire or lamp to limit glare, light trespass and light pollution.

Luminaire: Complete lighting system consisting of a lamp or lamps together, with the parts, fixtures and wiring, designed to distribute light, to position and protect the lamps and to connect the lamps to the power supply.

Spotlight: A luminaire designed to light a small well defined area.

### ARTICLE III SECTION 3.61 SOLAR PANELS

Solar panels shall be allowed in all zoning districts either attached to permitted principal or accessory buildings or as accessory structures subject to the following regulations:

- A. **Attached to building.** Where attached to a building, the solar panels shall be subject to the same regulations as the building in terms of height and setbacks. Solar panels may be attached to the roof or the building wall, but not both.
1. 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.
    - (a) Solar panels integrated as the surface layer of the roof structure may be located on any part of the roof.
    - (b) Separate flush-mounted solar panels may only be located on a front, rear- or side-facing roof.
    - (c) Separate flush-mounted solar panels installed on a building or structure with a sloped roof surface shall not project vertically above the peak of the roof to which it is attached.
    - (d) Solar panels mounted on a flat roof shall not project vertically higher than the height of the parapet wall surrounding the roof or shall be screened by architectural features.
  2. 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. **Free-standing.** Solar panels that are not attached to a building shall be permitted as accessory structures subject to the following regulations:
- a. Free-standing solar panels shall be setback from the side and rear lot line in accordance with Article 4 Section 4.7.
  - b. Free-standing solar panels shall not exceed a height of six (6) feet.
  - c. 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 covered shall be included in the lot coverage calculations for the lot.
  - d. All power transmission lines shall be underground.
  - e. Free-standing solar panels shall not be visible from adjacent property and shall be screened by landscaping where necessary.
- C. **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.

D. **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.

**B. SEVERABILITY**

If any provision of this Ordinance is found to be invalid, the remaining portions of this Ordinance shall remain enforceable.

**C. EFFECTIVE DATE**

This Ordinance shall take effect seven (7) days following the date of its publication.

### ARTICLE III SECTION 3.62 OUTDOOR WOOD FURNACES

#### DEFINITION-OUTDOOR WOOD BURNING FURNACE

“Outdoor wood furnace” also known as an outdoor wood-fired boiler, outdoor wood-burning appliance, or hydronic heater, means a fuel-burning device that is designed to burn clean wood or other approved solid fuels and is not located within a building intended for habitation by humans or domestic animals, and heats building space and/or water through the distribution, typically through pipes, of a fluid heated in the device, typically water or a mixture of water and antifreeze.

An outdoor wood furnace may be installed and used in the township of Lake only in accordance with the following provisions:

- A. The outdoor wood furnace shall have a permanently attached stack with a minimum stack height of 15 feet above the ground that also extends at least two feet above the highest peak of any residence not served by the outdoor wood furnace located less than 200 feet from the outdoor wood furnace.
- B. Fuel burned in the outdoor wood furnace shall be only clean wood, wood pellets made from clean wood or other listed fuels specifically permitted by the manufacturer’s instructions such as fuel oil, natural gas or propane backup.
- C. The following items are strictly prohibited in outdoor wood furnaces:
  - a. Any material not listed in B.
  - b. Wood that has been painted, varnished, or coated with similar material and/or has been pressure treated with preservatives and contains resins or glues as in plywood or other composite wood products.
  - c. Rubbish or garbage, including but not limited to food wastes, food packaging, food wraps.
  - d. Any plastic materials including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers.
  - e. Rubber, including tires or other synthetic rubber-like products.
  - f. Newspaper, cardboard, or any paper with ink or dye products.
  - g. Any other items not specifically allowed by the manufacturer or this provision.
- D. Outdoor wood furnaces installed on or after June 1, 2018 must comply with the following provisions
  - a. Outdoor wood furnaces may be installed in only zoning district R-2 – Rural Residential.
  - b. The outdoor wood furnace shall be constructed, established, installed, operated, and maintained in conformance with the manufacturer’s instructions and the requirements of this ordinance. In the event of a conflict, the requirements of this ordinance shall apply unless the manufacturer’s instructions are stricter, in which case the manufacturer’s instructions shall apply.
  - c. The unit must be specifically designed for exterior installations (installing a heating system that was designed , tested, listed and /or approved for interior installation outside of a building or enclosure is **not acceptable**).

- E.** The outdoor wood furnace shall be laboratory tested, and listed by a recognized organization following established recognized safety standards. Nationally recognized organizations include, Underwriters Laboratory, the Canadian Standards Association, and the American National Standards Institute, and may include other bodies specifically recognized by the Township.
- F.** The outdoor wood furnace shall be located at least 200 feet from the nearest occupied dwelling, exempting applicants residence.
- G.** The outdoor wood furnace shall be located on the property in compliance with manufacturers recommendations and or testing and listing requirements for clearance to combustible materials.
- H.** In addition to compliance with this section, an outdoor wood furnace shall comply with Art. III Section 3.46 on Prohibited Uses, and compliance with this section does not assure compliance with Section 3.46.

If any provision of this Ordinance is found to be invalid, the remaining portions of this Ordinance shall remain enforceable.