

**GILMORE TOWNSHIP, MICHIGAN
ZONING ORDINANCE**

Article 1 – TITLE AND PURPOSE

1.1 TITLE

Gilmore Township in accordance with the enabling legislation for Municipal Zoning as provided in Act 110 of 2006 (M.C.L. 125.3101 *et seq.*) and P.A. 33 of 2008 (M.C.L. 125.3801 *et seq.*) hereby provides as follows: a Zoning Ordinance which shall be known as and may be cited as the “Gilmore Township Zoning Ordinance” of Gilmore Township, as amended and is referred to as the “Zoning Ordinance.”

1.2 AREA OF JURISDICTION

The provisions of this Zoning Ordinance apply to all development, public and private, throughout the incorporated areas of Gilmore Township, Benzie County, Michigan, to the extent permitted by law.

1.3 PURPOSE

The purpose of this Zoning Ordinance is to promote the public health, safety, and general welfare of the residents of Gilmore Township. This Zoning Ordinance shall serve the general good of the community in accordance with the adopted Gilmore Township Master Plan and any additions and amendments as may be approved by Gilmore Township.

1.4 INTERPRETATION AND RELATIONSHIP TO OTHER REGULATIONS

In interpreting and applying the provisions of this Zoning Ordinance, these provisions shall be held to be the minimum requirements for the promotion of public safety, health, convenience, comfort, prosperity and general welfare. It is not intended by this Zoning Ordinance to interfere with or abrogate or annul any easements, covenants, restrictions established by other ordinances or statutes, or agreements between private parties. However, where this Zoning Ordinance imposes a greater restriction upon the use of buildings or lots or upon the height of buildings, or requires larger open spaces than are imposed or required by any other applicable rule, covenant or law, the provisions of this Zoning Ordinance shall govern. The Township has no responsibility or authority for enforcing private agreements or covenants.

1.5 CONFLICT WITH STATE OR FEDERAL REGULATIONS

If the provisions of this Zoning Ordinance are inconsistent with those of the State or Federal government, the more restrictive provisions will control, to the extent permitted by law.

1.6 OFFICIAL ZONING MAP

The boundaries of the zoning districts established by the Zoning Ordinance are shown on a map or series of maps designated the “Official Zoning Map”. The Official Zoning Map including all notations, references, data and other information shown therein, is adopted and made a part of this Zoning Ordinance as fully as if it were contained within the pages of this Zoning Ordinance.

- A. Location: The Official Zoning Map is filed in the office of the Gilmore Township Clerk.
- B. Updates: The Gilmore Township Planning Commission is responsible for updating the Official Zoning Map to reflect amendments adopted by Township Board.

49 C. Zoning District Boundaries: Where uncertainty exists with respect to the boundaries of
50 the various districts, the following rules shall apply:
51

- 52 1. The district boundaries are public rights-of-way including either streets, places or
53 alleys unless otherwise shown; where the districts designated on the Official Zoning
54 Map are approximately bounded by street, road, place or alley lines, the same shall
55 be construed to be the boundary of the district.
56
- 57 2. Where the district boundaries are not otherwise indicated and where the property
58 has been or may hereafter be divided into blocks and lots, the district boundaries shall
59 be construed to be the lot lines; where districts designated on the Official Zoning Map
60 are approximately bounded by lot lines, the same shall be construed to be the
61 boundary of the districts, unless otherwise indicated on the Official Zoning Map.
62
- 63 3. Whenever any street, road, alley, place or other public way is officially vacated by the
64 Township or Benzie County Road Commission, the district adjoining each side thereof
65 shall be automatically extended to the center of such vacation and all area included
66 in the vacation shall thereafter be subject to all appropriate regulations of the
67 extended districts.
68
- 69 4. Where physical or natural features existing on the ground are at variance with those
70 shown on the Official Zoning Map, or in other circumstances not covered by rules "1"
71 through "3" above, the Zoning Administrator shall interpret the boundaries.
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- 73 5. Any dispute in the determination of the Zoning District boundaries shall be heard by
74 the Board of Zoning Appeals.
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ARTICLE 2 DEFINITIONS

Section 2.1 PURPOSE & INTERPRETATION

A. It is the purpose of this article to establish the definitions of the words, terms and phrases that comprise the text used in this Ordinance. Many of these words, terms and phrases have a meaning that is different than their use in everyday conversation. Illustrations of many definitions are offered to enhance understanding of the meaning of the word, term or phrase.

B. Where a question arises as to the interpretation of the text of a definition relative to an accompanying illustration, that meaning which appears to not conflict from a careful analysis of both the text and the illustration in context with the various uses of the word, term or phrase in this Ordinance, shall be the meaning ascribed to the word, term or phrase, until or unless the Zoning Board of Appeals reaches a different conclusion, or the governing body amends this ordinance.

C. See also the provisions regarding formal interpretation procedures of the Zoning Board of Appeals in concerning interpretations of the text of this Ordinance.

D. Some words, terms and phrases are only used in special sections of this Ordinance and so are defined there for the convenience of the reader.

Section 2.2 DEFINITIONS

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

Accessory Building or Structure: A subordinate building or structure on the same lot with a principal or main building, but detached from it. When appropriate, an accessory building may only be built with or after the construction of the principal building.

Accessory Use: A use customarily incidental and subordinate to the principal use or building located on the same lot as the principal use or building. In some cases, as with certain home occupations, it may be a part of the main or principal building devoted exclusively to an accessory use.

Access Easement: A vehicular access or right-of-way to an abutting lot or lots or parcel(s) of land constructed and maintained to a standard which will provide access for safety services operating within the Township. For purposes of this Ordinance, an access easement to a single lot shall be a minimum of twenty (20) feet in width, and, for two (2) to four (4) lots, a minimum of thirty-three (33) feet in width, and for five or more lots a minimum of sixty-six (66) feet in width.

Access Lot: See Lot, Access.

Actual Construction: The commencement of new construction and the purchase of building materials of a substantial character toward erecting the subject project. The making of preparatory plans,

landscaping, removal of an existing structure, vegetation or soils, or approvals of a site plan or a building permit is not actual construction.

Act of God or Natural Disaster: Severe destruction caused by the violence of nature, as in a flood, tornado, earthquake, windstorm, ice storm, lightning strike or fire.

Affordable Housing: A sales price or rent within the means of a low- or moderate-income household and calculated as follows:

1. For moderate-income households: eighty (80) percent of the median family income for households in the area as established by the U.S. Department of Housing and Urban Development, and as adjusted for household size, and with not more than thirty (30) percent of the family income used for rent (including utilities) or twenty-eight (28) percent for purchase (including principal and interest, condo fees, and insurance) (see www.huduser.org/datasets/il.html select current year "Income Limits", State of Michigan, Benzie County).
2. For low-income households: fifty (50) percent of median family income.
3. Affordable housing may be market housing or subsidized housing that meets the above affordability criteria.

Agriculture or Agricultural Use: Means the production of plants and animals useful to humans, including forages and sod crops; grains, feed crops, and field crops; dairy and dairy products; poultry and poultry products; livestock, including breeding and grazing of cattle, swine, captive cervidae, and similar animals; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; Christmas trees; and other similar uses and activities. Agricultural use includes use in a federal acreage set-aside program or a federal conservation reserve program. Agricultural use does not include the management and harvesting of a woodlot. [AS DEFINED IN PA 116 OF 1974]

Agriculture, Animals (Large): Members of the animal kingdom other than human beings and small animals raised on a farm including livestock such as cattle, sheep, new world camelids, goats, bison, captive cervidae, swine, and equine.

Agriculture, Animals (Small): Members of the animal kingdom other than human beings and large animals raised on a farm including poultry, rabbits, bees and apiary, mink, and aquaculture.

Agriculture, Crops: A harvestable product, planted, grown and cultivated in the soil.

Agriculture Service Establishments: Establishments primarily engaged in supplying soil preparation services, crop services, landscaping, horticultural services, and farm labor and management services.

Alterations: Any modification, additions, or change in construction or type of occupancy, any change or rearrangement in the structural parts of a building; any enlargement of a building, whether by extending a side or by increasing in height; or the moving from one location to another in accordance with all approved field changes.

Ambient Sound: Encompasses all sound present in a given environment, being usually a composite of the sounds from many sources near and far. It includes intermittent noise events, such as, from aircraft flying over, dogs barking, wind gusts, mobile farm or construction machinery, and the occasional vehicle traveling along a nearby road. The ambient sound also includes insect and other nearby sounds from

birds and animals or people. The nearby and transient events are part of the ambient sound environment but are not to be considered part of the long term background sound.

American National Standards Institute (ANSI): Standardized acoustical instrumentation and sound measurement protocol shall meet all the requirements of the following ANSI Standards:

- ANSI S1.43 Integrating Averaging Sound Level Meters: Type-1 (or IEC 61672-1)
- ANSI S1.11 Specification for Octave and One-third Octave-Band Filters (or IEC 61260)
- ANSI S1.40 Verification Procedures for Sound Calibrators
- ANSI S12.9 Part 1 Residual Noise Measurement
- ANSI S12.9 Part 3 Procedures for Measurement of Environmental Sound
- ANSI S12.18 Measurement of Outdoor Sound Pressure Level
- IEC 61400-11 Wind Turbine Generator Systems-Part 11: Acoustic Noise Measurements

Anemometer Tower: A free standing tower containing instrumentation designed to provide present moment wind data.

Applicant: The individual or business entity that hold title to the property seeks to secure a special land use permit under this section of the Township zoning ordinance.

As-Built Plans: Revised plans which are based on actual measurements of a completed building or development, including the exact building footprints, elevations, driveways, parking areas, landscaping, utilities, sidewalks, bikepaths and trails.

A-Weighted Sound Level (dBA): A measure of over-all sound pressure level designed to reflect the response of the human ear, which does not respond equally to all frequencies. It is used to describe sound in a manner representative of the human ear's responses. It reduces the effects of the lower frequencies on the measured sound levels with respect to the higher and mid-range frequencies centered around 1000 Hertz (Hz) or higher. The resultant sound level is said to be "A-weighted" and the units are "dBA." Sound level meters have an A-weighting network for measuring A-weighted sound levels (dBA) meeting the characteristics and weighting specified in ANSI Specifications for Integrating Averaging Sound Level Meters, S1.43-1997 for Type 1 instruments and be capable of accurate readings (corrections for internal noise and microphone response permitted) at 20 dBA or lower. In this document dBA means Laeq unless specified otherwise.

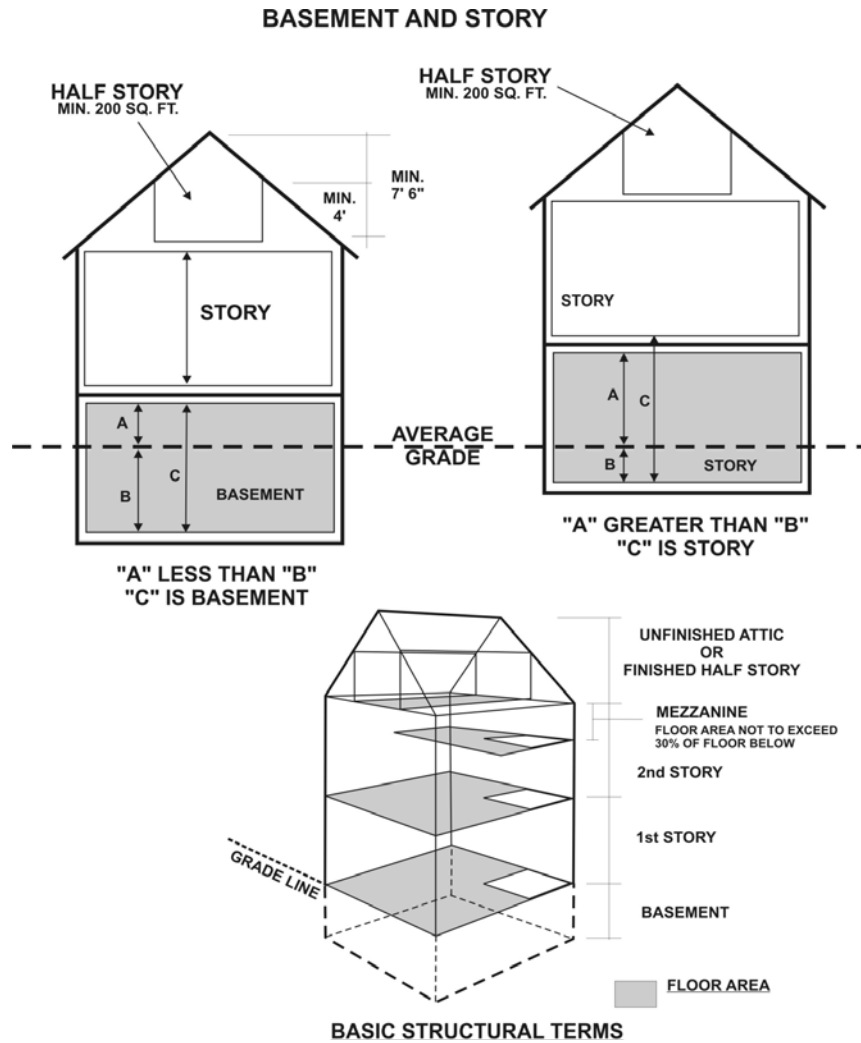
Background Noise: Synonymous with the desired signal as measured by ANSI S12.9 Part 1 Residual Noise Measurement.

Basement: That portion of a building which is partly or wholly below finished grade, but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement shall not be counted as a story (see Figure 2-1). A cellar is a basement. See also definition of "story".

Bed and Breakfast Establishment: A single family, owner occupied dwelling unit in which transient guests are provided a sleeping room and board for compensation as an accessory use of the single-family dwelling. A continental or American breakfast, lunch and/or dinner may be served to overnight guests

only. A bed and breakfast operation has four (4) or less sleeping rooms available for transient occupancy, including sleeping rooms occupied by the innkeeper and his/her family.

Figure 2-1



Benefit, Recognizable and Substantial: A clear benefit, both to the ultimate users of the property in question and to the community, which would reasonably be expected to accrue, taking into consideration the reasonable foreseeable detriments of the proposed development and use(s), including, without limitation: long-term protection and/or preservation of natural resources and natural features and/or historical and/or architectural features of a significant quantity and/or quality in need of protection or preservation on a local, state and/or national basis; reducing to a significant extent the nonconformity of a nonconforming use or structure so that, to a significant extent, it is rendered more conforming, or less offensive, to the zoning district in which it is situated.

Blade Clearance: Minimum distance between the lowest point of the blade or air foils and the ground.

Blade Glint: The intermittent reflection of the sun off the surface of the blades of a single or multiple wind energy system.

Gilmore Township Planning Commission: Any reference in this ordinance to the Gilmore Township Planning Commission shall mean the Planning Commission appointed by the Gilmore Township Board of Trustees pursuant to section 301 of the Michigan Zoning Enabling Act [MCL 125.3301](MZEA). Any reference to the “Gilmore Township Planning Commission” or “Planning Commission” shall mean the “Gilmore Township Planning Commission” or “Planning Commission” at such time as a Planning Commission is established pursuant to the Michigan Planning Enabling Act, 2008 PA 33 [MCL 125.3801 et seq] (MPEA) and the Township Board of Trustees has transferred the powers and duties of the Planning Commission to the Planning Commission pursuant to the MPEA.

Board of Appeals: Township Zoning Board of Appeals (ZBA).

Boat: See Watercraft.

Boat Dock: A platform or walkway, either permanent or temporary, extending outward from shore, used as a means to access boat dockages.

Boat Dockage: Any means to secure a watercraft in or above the water, whether it be a dock, mooring, shore station, slip, hoist, tether, or any other means, regardless of the distance from the water’s edge.

Bottom-land: The land area of an inland lake or stream which lies below the ordinary high water mark and which may or may not be covered by water at a particular time.

Buffer strip: Natural, landscaped and open space areas or any combination thereof used to filter, impede or control storm water runoff or physically separate or screen one use or land feature from another in order to visually shield or reduce noise, artificial lighting, or other nuisances.

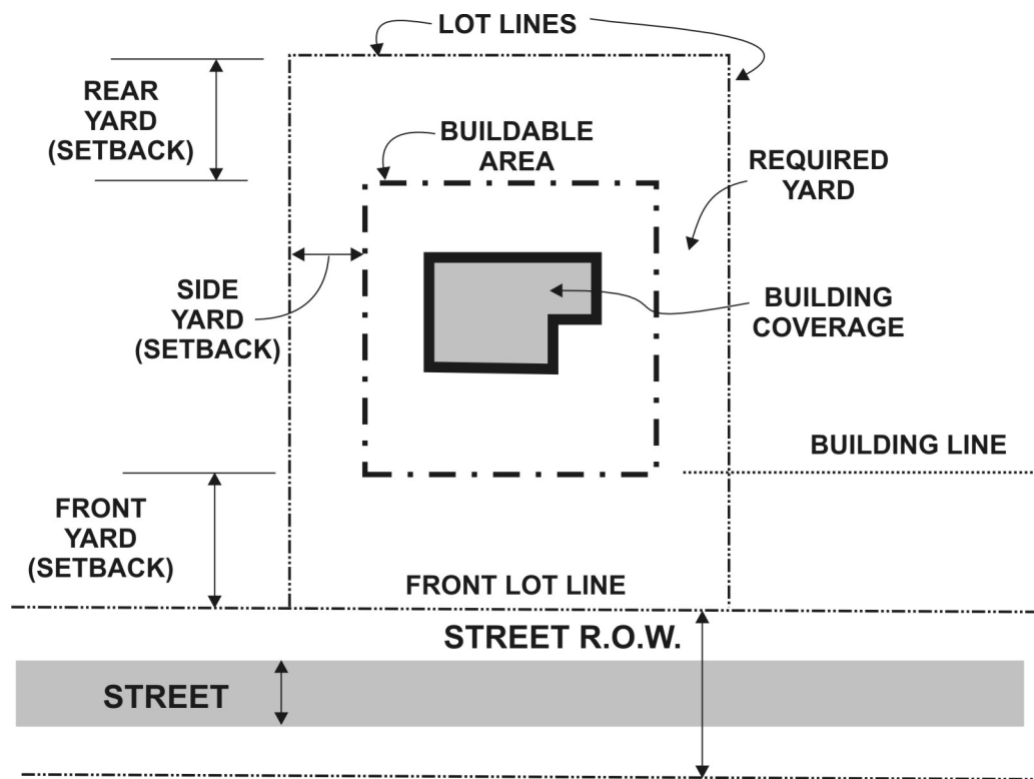
Buffer Strip or Greenbelt: Open spaces, landscaped areas, walls, berms, or any combination thereof that meets the terms of this Ordinance to physically separate or screen one use or property from another so as to visually shield or block noise, lights, or other potential nuisances. See requirements in Article XXI.

Buildable Area: The area of a lot remaining after the minimum yard and open space requirements of the Zoning Ordinance have been met. See Figure 2-2.

Building: Any structure, either temporary or permanent, having a roof supported by columns, walls or other supports, and used or built for the shelter or enclosure of persons, animals, chattels or property of any kind or for the conduct of business. This shall include but is not limited to tents, awnings, mobile homes, inflatable structures, sheds, garages, greenhouses and other principal and accessory buildings. It shall also include tents, trucks, vans, recreational vehicles or other vehicles or parts of vehicles situated on private property for more than thirty (30) days, and used for purposes of a building, whether or not mounted on wheels.

Building Area: The total of area taken on a horizontal plane at the average grade level of the principal building and all accessory buildings exclusive of uncovered porches, terraces, patios and steps.

Figure 2-2

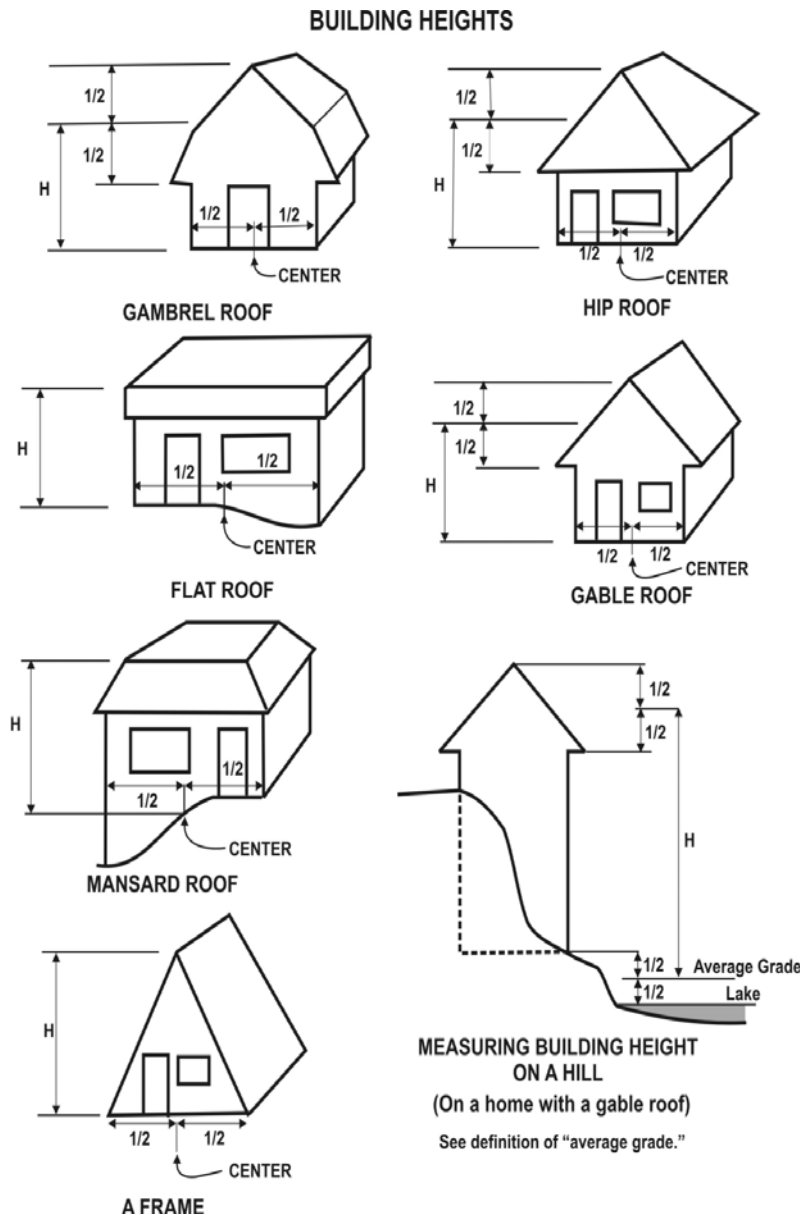


Building, Height Of: In the case of a principal building, the vertical distance measured from the average grade in the yard with the greatest building height to the highest point of the roof surface for flat roofs and A-frames, to the deck line of mansard roofs, and to the average height between eaves and ridge for gable, hip and gambrel roofs (see Figure 2-3). A cupola, widows watch or tower that extends above the roof line shall be considered the highest point of the roof surface on roofs with such features. The measurement of the height of an accessory building or structure shall be determined as the greatest vertical distance from the average grade of any side to the highest point of the roof surface.

Building Line or Setback Line: A line parallel to a street right-of-way line, shore of a lake, or stream bank, side or rear lot line established for the purpose of prohibiting the erection of a structure between such line and road right-of-way, side or rear lot line.

Business Center: A building or group of buildings on one or more parcels of land constructed as an integral land use for commercial, institutional and similar occupancy.

Figure 2-3



Business Service Establishments: Establishments primarily engaged in rendering services to business establishments on a fee or contract basis as well as finance, insurance and real estate services.

Campground: Means any part or tract of land under the control of any person wherein sites are offered for the use of the public or members of an organization, either free of charge or for a fee, for the establishment of temporary living quarters for five (5) or more recreational units, and as otherwise defined within Michigan Public Act 368 of 1978 as amended.

Commercial Agriculture or Horticulture: The commercial production, harvesting and storage of farm products on a farm and the farm operations typically attendant thereto, as defined in the Michigan Right

to Farm Act, Public Act 93 of 1981; except that the raising of livestock and other animals in animal confined feedlot operations is not included in this definition. See definition of confined feedlot.

Commercial Development: A facility providing building area, parking area, service area, screen plantings and traffic areas designed for the conduct of commerce.

Common Land: A parcel or parcels of land together with the improvements thereon, the use, maintenance, and enjoyment of which are intended to be shared by the owners and occupants of the individual building units in a planned unit development or condominium project.

Common Open Space - Land within or related to a development, not individually owned, that is designed and intended for the common use or enjoyment of the residents and their guests of the development or the public at large if dedicated to and accepted by the public, and may include such complementary structures and improvements as are necessary, appropriate and approved as part of the development according to the requirements of this Ordinance.

Community Residential Care Facilities: Community residential care facilities provide shelter and care for individuals with special needs in single family dwellings for six or less persons or in larger facilities when more persons are assisted. These are all state-regulated facilities.

Comprehensive Development Plan (or Master Plan): A plan adopted by the Planning Commission pursuant to Public Act 33 of 2008, the Michigan Planning Enabling Act.

Condominium Master Deed: The document recorded as part of a condominium subdivision to which are attached as exhibits and incorporated by reference the approved bylaws for the condominium subdivision, the condominium subdivision plan and the road maintenance agreement for any private roads in the condominium project.

Condominium Project: Means a plan or project consisting of not less than two (2) condominium units if established and approved in conformance with the Condominium Act, Public Act 59 of 1978.

Condominium Subdivision: A division of land on the basis of condominium ownership, pursuant to the Condominium Act and which is not subject to the provisions of the Land Division Act, Public Act 288 of 1967, as amended. Also known as a site condominium or site condo. As used in reference to a "Condominium Subdivision" in this ordinance, the terms below are defined as follows:

A. **Condominium Unit:** That portion of a condominium project that is designed and intended for separate ownership and use, as described in the master deed, regardless of whether it is intended for residential, office, industrial, business, recreational, use as a time-share unit, or any other type of use. The owner of a condominium unit also owns a share of the common elements. The term "condominium unit" shall be equivalent to the term "lot" or "building site", for purposes of determining compliance of the site condominium subdivision with the provisions of this Ordinance pertaining to minimum lot size, minimum lot width, and maximum lot coverage, and within which a building or other improvements may be constructed by the condominium unit owner. The condominium unit shall not include any limited common elements.

- B. General Common Area: That portion of a site condominium project designed and intended for joint ownership and maintenance by the condominium association as described in the Master Deed.
- C. Limited Common Area: That portion of a site condominium project designed and intended de the building setbacks for the zoning district the property is located in, as described in the Master Deed.
- D. Building Envelope: The area of a condominium unit within which the principal building or structure may be constructed, together with any accessory structures, as described in the Master Deed.
- E. Building Site: That portion of a condominium project that shall include the condominium unit and that may also include limited common elements as described in the Master Deed. For purposes of determining compliance with the applicable requirements of the Zoning Ordinance (including, without limitation, area, width, and setback requirements) or with other applicable laws, ordinances, or regulations, "building site" shall be considered to be the equivalent of a "lot."
- F. Limited Common Element: That portion of a condominium project other than the condominium unit that is reserved in the master deed for the exclusive use of the owner of the condominium unit.

Condominium Subdivision Plan: The drawings attached to the master deed for a condominium subdivision which describe the size, location, area, horizontal and vertical boundaries and volume of each condominium unit contained in the condominium subdivision, as well as the nature, location and size of common elements.

Confined Feedlot: The place of confined keeping of livestock or other animals in yards, lots, pens, building, or other areas not normally used for pasture or crops, and in which abnormal amounts of manure or other related animal wastes may originate by reason of keeping such animals.

Convenience Retail Establishments: A retail establishment offering for sale prepackaged food products, milk, bread, donuts, sandwiches, beverages, newspapers and magazines, household items, pharmaceuticals, and other items for off-premises consumption. These are usually short trip, high volume uses not more than 3,500 square feet in size. A convenience retail establishment can share a building with another use, such as an automobile service station. Drive-through establishments are not convenience retail establishments.

County Board: The Benzie County Board of Commissioners.

County Drain Commissioner: An elected official of Benzie County.

County Health Department: The District Health Department serving the County of Benzie.

County Plat Board: The Benzie County Plat Board.

County Road Commission: The Benzie County Road Commission.

County Zoning Act: Any reference in this ordinance to the County Zoning Act shall mean the Michigan Zoning Enabling Act, 2006 PA 110, as amended [MCL 125.3101 et seq] (MZE).

Crosswalkway (Pedestrian Walkway): Right-of-way, dedicated to public use, which crosses a block to facilitate pedestrian access to adjacent streets and properties.

C-Weighted Sound Level (dBC): Similar in concept to the A-Weighted Sound Level (dBA) but C-Weighting does not de-emphasize the frequencies below 1 kiloHertz (kHz) as A-Weighting does. It is used for measurements that must include the contribution of low frequencies in a single number representing the entire frequency spectrum. Sound level meters having a C-Weighting network for measuring C-Weighted sound levels (dBC) meeting the characteristics and weighting specified in ANSI S1-43-1997 Specifications for Integrating Averaging Sound Level Meters for Type 1 instruments. In this document dBC means L_{Ceq} unless specified otherwise.

Dangerous Chemicals, Manufacturing, Storage and/or Distribution: Manufacturing establishments which produce flammable, explosive or corrosive substances subject to state or federal regulation.

Decibel (dB): Decibel (dB) means the unit of measurement used to express the magnitude of sound pressure and sound intensity. A dimensionless unit which denotes the ratio between two quantities that are proportional to power, energy or intensity. One of these quantities is a designated reference by which all other quantities of identical units are divided. The sound pressure level (L_p) in decibels is equal to 10 times the logarithm (to the base 10) of the ratio between the pressure squared divided by the reference pressure squared. The reference pressure used in acoustics is 20 MicroPascals.

Deck: An unroofed structure used for outdoor living purposes which may or may not be attached to a building and protrudes twelve (12) or more inches above finished grade.

Dedication: The intentional appropriation of land by the owner to public use.

Density: The number of dwellings or dwelling units per net acre of land. Density is established by the minimum lot size standards in each district as listed in Article V. A minimum lot size of one acre equals a density of one dwelling unit per acre. A minimum lot size of 10 acres equals a density of one dwelling unit per 10 acres. A minimum lot size of 12,000 square feet equals a density of one dwelling unit per 0.275 acres or 3.63 dwellings per acre. The number of dwelling units situated on or to be developed on a net acre (or smaller unit) of land, shall be calculated by taking the total gross acreage of the parcel and subtracting the area in rights-of-way for streets and roads and any other area excluded from consideration by a particular Ordinance requirement. (See Figure 2-7 and definitions of Lot Area, Gross and Lot Area, Net). If a parcel description includes no area in a right-of-way, or access easement, or none will be included on a lot proposed for creation, or there is no other excepted area, then a net acre equals a gross acre.

Development Rights: The right to develop land by a land owner who maintains fee-simple ownership over the land or by a party other than the owner who has obtained the rights to develop. Such rights usually are expressed in terms of density allowed under existing zoning. For example, one development right may equal one unit of housing or may equal a specific number of square feet of gross floor area in one or more specified zone districts.

District: An area of land for which there are uniform regulations governing the use of buildings and premises, density of development, yard requirements and height limitations.

Dockage: See “boat dockage”.

Drive-Through Establishments: An establishment that by design, physical facilities, service or by packaging procedures encourages or permits customers to conveniently make deposits, view specified objects, receive services, or obtain goods without disembarking from their motor vehicles, and then proceeding elsewhere. Distinguished from a drive-in establishment by the absence of parking while the service is being provided (as in a drive-in theater).

Dune Formations and High Risk Erosion Areas are sensitive sandy and clay areas under protection of the Michigan Natural Resources & Environmental Protection Act, PA 451 of 1994, Parts 353 and 323 respectively (formerly, the Sand Dunes Protection Act, PA 222 of 1976, as amended by Public Act 146 and 147 of 1989, and the Shorelands Protection and Management Act, Public Act 245 of 1970, as amended).

Dwelling, Dwelling Unit: Any building or structure or part thereof occupied as the home, residence or sleeping place of one or more persons either permanently or transiently regardless of whether cooking facilities exist. The number of persons occupying such units shall not exceed that for which the septic system is sized, or in the case of “holding tanks”, two (2) persons per actual bedroom. See Figure 2-4.

Dwelling, Multiple or Multiple family: A building, other than a single or a two (2) family dwelling, including apartment houses, co-operatives and condominiums, used and designed to contain separate living quarters for three or more families on one or more levels, but which may have joint services or facilities, such as for laundry or storage. See Figure 2-4.

Dwelling, Rental Cottage: A detached building designed for and occupied by one (1) family, but in no event occupied by a group or a family of unrelated individuals, of no more than two (2) people per bedroom as authorized by the Benzie-Leelanau District Health Department and/or Benzie County Building Department or no more than a maximum of ten (10) individuals who occupy the building for a set duration of no less than one week.

Dwelling, Single Family: A detached building designed for or occupied exclusively as the home, residence or sleeping place of one (1) family. See Figure 2-4.

Dwelling, Temporary: A dwelling unit, recreational vehicle or other approved structure used during on a temporary basis per the requirements of Section 3.14(a). See also definition of “temporary housing”.

Dwelling, Two Family: A building containing not more than two dwelling units, each designed and used exclusively as the home, residence or sleeping place of one-family. An ECHO unit approved pursuant to the provisions of this Ordinance does not redefine a single-family dwelling as a two-family dwelling for the purposes of this Ordinance. See definition of ECHO housing and Figure 2-4.

Easement to water: The interest in or the ownership or use of property having water frontage on a water resource by the occupants of one or more easement grantee lots.

ECHO Housing or ECHO Unit: A small dwelling unit added as accessory to a principal dwelling usually to provide a residence for an elderly relative, caregiver, maid's quarters or similar purpose.

Educational and Social Institutions: An educational institution is any building or part thereof which is designed, constructed, or used for education or instruction in any branch of knowledge.

A social institution is any building or part thereof which is designed, constructed, or used to provide a service of a public, nonprofit or charitable nature to the people of the community on an ongoing basis (not just special events).

Educational and social institutions may have offices, meeting areas, food preparation or serving areas, and athletic facilities as accessory uses.

Effective Date of this Ordinance: Whenever this Ordinance refers to the effective date of this Ordinance, the reference shall be deemed to also include the effective date of any amendments to this Ordinance if the amendment, rather than this Ordinance as originally adopted, creates a non-conforming situation.

Emergency Vehicle Set-up Area: An unobstructed reasonably level area or improved surface area at least twenty (20) feet wide, forty (40) feet long and clear to a height of fifteen (15) feet above the ground. This area is for use by fire trucks, ambulances and other police or rescue vehicles as a set-up or operations area in an emergency.

Emission: Sound, energy, fumes, light or others that are emitted.

Erected: The building, construction, alteration, reconstruction, moving upon, or any physical activity upon a premise or lot.

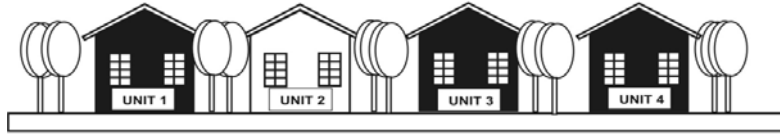
Essential Services: The erection, construction, alteration or maintenance by public utilities or municipal departments or commissions, of underground or overhead gas, electrical, communication, television, telephone transmission or distribution system including poles, wires, steam, fuel or water distribution or transmission systems, collection, supply or disposal systems including main drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories in connection therewith, which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general public health, safety, convenience, or welfare but not including towers or office buildings, substations, or structures for service equipment, or maintenance depots buildings reasonably necessary for the furnishing of adequate service by such public utilities, departments, or commissions.

Figure 2-4

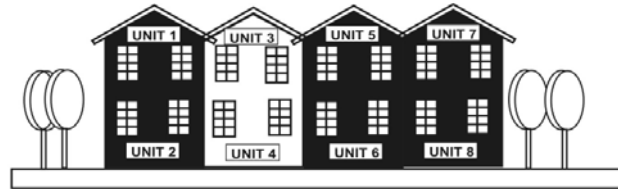
DWELLING, ROW HOUSE OR TOWN HOUSE



DWELLING -- ATTACHED



DWELLING -- DETACHED



DWELLING -- MULTI-FAMILY



DWELLING -- SINGLE FAMILY



DWELLING -- TOWNHOUSE



DWELLING -- TWO FAMILY

Existing Building: A building existing or for which the foundation is in place prior to the effective date of this Ordinance or any amendment thereto.

Existing Use: A use of premises or structure actually in operation, openly, visibly and notoriously prior to the effective date of this Ordinance or any amendment thereto.

Fall Zone: The area, defined as the furthest distance in any direction from the tower base, being no less than the horizontal distance on the ground in any direction from the tower base as measured from the outer portion of the tower at ground level to the height of the tower as measured from the existing ground level prior to construction at the base of the tower to the uppermost extension of any blade, or the

maximum height reached by any part of the WECS, in which a tower may collapse in the event of a structural failure.

Family:

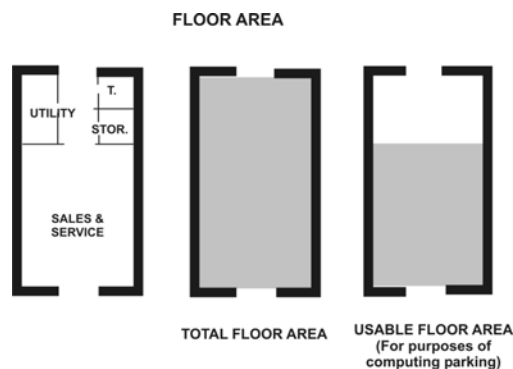
A. An individual or group of two (2) or more persons related by blood, marriage, or adoption, together with foster children and servants of the principal occupants, with not more than one additional unrelated person, who are domiciled together as a single, domestic, housekeeping unit in a dwelling unit, or

B. A collective number of individuals domiciled together in one (1) dwelling unit whose relationship is of a continuing domestic character and who are cooking and living as a single unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, coteries, organization, or group whose domestic relationship is of a transitory or seasonal nature.

Floodplain 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) or an Intermediate Regional Flood map prepared by the Army Corps of Engineers (see Section 10.6). A structure proposed within a floodplain is not permitted to be erected until a permit from the Michigan Dept. of Environmental Quality is obtained pursuant to Part 31 of the Michigan Natural Resource & Environmental Protection Act, Public Act 451 of 1994 and Section 10.6 of this Article.

Floor Area, Usable (for the purposes of computing parking): The term “usable floor area” as applied to offices, merchandising or service types of uses, shall mean the gross floor area used or intended to be used for services to the public, including those areas occupied by fixtures and equipment used for display or sale of merchandise, but excluding floor areas which are used exclusively for storage, housing or mechanical equipment integral with the building, maintenance facilities, or those areas where customers, patients, clients, salesmen, and the general public are denied access. “Floor area” shall be measured from the interior faces of exterior walls. See Figure 2-5.

Figure 2-5



Food Service Establishment: An establishment where food and drink are prepared, served and consumed primarily on the premises.

Footprint or Building Footprint: The ground area a structure covers.

Forest: A tract of land that is at least ten (10) percent stocked by trees of any size, whether of commercial or noncommercial species, or formerly having tree cover and not currently developed for nonforest use including woodlands, woodlots, windbreaks, and shelter belts. [SEE PA 676 OF 2002, RIGHT TO FOREST ACT.

Forestry Use or Forestry Operations: Activities related to the harvesting, reforestation, and other management activities, including but not limited to thinning, pest control, fertilization, and wildlife management, that are consistent with principles of sustainable forestry. [SEE PA 676 OF 2002, RIGHT TO FOREST ACT.

Forest Management: Activities conducted on or directly pertaining to forest and relating to the growing, managing, harvesting, and interim storage of merchantable timber for commercial value.

Frequency: The number of oscillations or cycles per unit of time. Sound frequency is usually expressed in units of Hertz (Hz) where one Hz is equal to one cycle per second.

Garage, Private: An accessory building or an accessory portion of a principal building designed or used solely for non-commercial storage.

Gasoline Service Station: Any area of land, including any structures thereon, used or designed for the supply of gasoline, oil, or other fuel for the propulsion of vehicles. For the purpose of this Ordinance, this term shall also mean any area or structure used or designed for polishing, greasing, washing, cleaning, or servicing such motor vehicles.

General Retail Establishments: The principal activity of general retail establishments is the purchase and resale, leasing or renting of goods or merchandise to the public for personal, household, or business use or consumption and rendering services incidental to the sale of such goods. There may be processing or manufacturing of products incidental or subordinate to the selling activities (such as a bakery or delicatessen at a grocery store). A common accessory use is repair of products sold on the premises.

Governing Body: The Gilmore Township Board of Trustees.

Grade, Finished: The completed surfaces of lawns, walks and roads brought to grades as shown on official plans or designs related thereto.

Grade, Average: The arithmetic average of the lowest and highest grade elevations in an area within five (5) feet of the foundation line of a building or structure (see Figure 2-6).

Gross Decommissioning Cost: The cost of removal of all towers and turbines, all related infrastructure above and below grade, removal of all accessory buildings, access roads, and restoration of vegetation of lands changed as a result of WECS construction and operation.

Group Housing: Group housing is characterized by the residential occupancy of a structure by a group of people who do not meet the definition of a "family" but often share a common situation. The size of the group may be larger than the average size of a household. Tenancy is usually arranged on a monthly or longer basis. It is a form of transient lodging. There is usually a common eating area for residents.

Health Department: See County Health Department.

Height (WECS): The total distance measured from the grade of the property as existed prior to the construction of the WECS, facility, tower, turbine, or related facility at the base to the highest point (tip of blade).

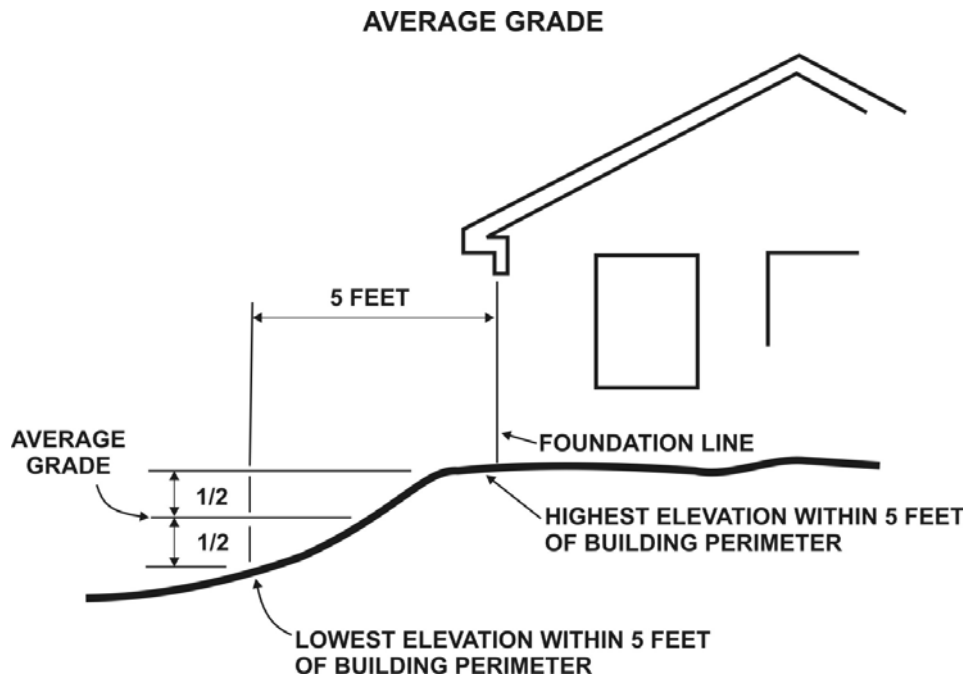
Hertz (Hz): Frequency of sounds expressed in cycles per second.

High Water Mark: See Water Mark, High.

Highway: Any public thoroughfare in Gilmore Township including Federal, State, and County highways. (See Road)

Home Occupation: An accessory use of professional, service, or business character conducted within a residential area by the family residents thereof, which is clearly secondary and incidental to the use of the structure for living purposes and does not change the character thereof.

Figure 2-6



Housing, Temporary: A dwelling unit, recreational vehicle or other approved structure, which is permitted on-site only during the actual construction of a principal residence. See Section 3.14(b). See also definition of "temporary dwelling".

Hunting Cabin: Seasonal building or structure with a fixed roof used incidental to hunting; are exempt from minimum floor area, but use is limited to sixty (60) days in any calendar year and fifteen (15) days in succession, unless built to comply with all Building Code and zoning requirements applicable to a single family dwelling. A tent or recreational vehicle is not a hunting cabin. See also regulations for temporary dwellings in Section 3.14(a).

Ice Throw: The distance that ice accumulation on a wind turbine blade can be thrown.

IEC: The International Electrotechnical Commission (IEC) refers to the organization that prepares and publishes international standards for all electrical, electronic and related technologies. These standards serve as a basis for national standardization and as references when drafting national and international tenders and contracts.

Immission: Noise emitted as a receiver is transmitted from noise source that emitted sound energy. (See "Emission").

Immission Spectra Balance: The spectra are not in balance when the C-Weighted sound level is more than 20 Db greater than the A-Weighted sound level. For the purposes of this requirement, the A-Weighted sound level is defined as the long-term background sound level (LA90) + 5 Dba. The C-Weighted sound level is defined as the Lceq measured during the operation so as to result in its highest sound output.

Impervious Surface: Any surface, including streets, roads, driveways, parking lots, sidewalks, patios and rooftops, which prevents storm water from percolating into the ground.

Improvements: Any structure incident to servicing or furnishing facilities for a subdivision such as grading, street surfacing, curb and gutter, driveway approaches, sidewalks, crosswalks, water mains and lines, sanitary sewers, storm sewers, culverts, bridges, utilities, lagoons, slips, waterways, lakes, bays, canals, roadways, lighting, screening, drainage and other appropriate ties, with appurtenant construction.

Impulsive Noise: Short acoustical impulses or thumping sounds which vary in amplitude. Impulsive noise may be a single noise event or an intermittent repetitive noise event with an impulse rate of one or more per second.

Indoor Entertainment Establishments: Business establishments providing recreation that diverts, amuses, entertains, or provides entertainment or other hospitality associated with food service or accommodations. Does not include drive-through establishments.

Industrial Service Establishments: Industrial service firms are engaged in the repair or servicing of industrial, business or consumer machinery, equipment, products or by-products. Firms that service consumer goods do so by mainly providing centralized services for separate retail outlets. Contractors and building maintenance services and similar uses perform services off-site. Few customers, especially the general public, come to the site.

Infra-Sound: Sound with energy in the frequency range of 0-20 Hz is considered to be infra-sound. It is normally considered to not be audible for most people unless in a relatively high amplitude. However, there is a wide range between the most sensitive and least sensitive people to perception of sound and perception is not limited to stimulus of the auditory senses. The most significant exterior noise induced dwelling vibration occurs in the frequency range between 5 Hz and 50 Hz. Moreover, levels below the threshold of audibility can still cause measurable resonances inside dwelling interiors. Conditions that support or magnify resonance may also exist in human body cavities and organs under certain conditions. Although no specific test for infra-sound is provided in this document, the test for emission spectra

677 imbalance will limit how frequency sound and thus indirectly limit infra-sound. See low-frequency noise
678 (LFN) for more information.

679
680 **Institutions for Human Care and Habitation:** Institutions for human care include a broad spectrum of
681 public and private facilities for the diagnosis, treatment, care, rehabilitation or training of persons who
682 may be ill, physically disabled, mentally retarded, emotionally disturbed, drug or alcohol dependent. Also
683 includes facilities designed to meet the temporary housing needs of special populations (e.g. homeless,
684 abused spouses, etc.). Does not include correctional facilities.

685
686 **Junk Yard:** Any land or building where waste, used, recycled or secondhand materials are bought and
687 sold, exchanged, stored, baled, parked, disassembled or handled; including, but not limited to, scrap iron
688 and other metals, paper, rags, rubber tires and bottles. A "junk yard" includes automobile wrecking yards
689 and includes any area of more than fifty (50) square feet for storage, keeping or abandonment of junk,
690 but does not include uses established entirely within enclosed buildings.

691
692 **Kennel:** Any lot or premises used for the sale, boarding, or breeding of dogs, cats, or other household
693 pets. Kennel shall also mean the keeping of five (5) or more household pets over the age of six (6) months.

694
695 **Land Use Permit:** A Zoning Permit required for any change in use of land or structure in accordance with
696 the provisions of this Ordinance.

697
698 **Lease Unit Boundary:** A boundary around the property leased by applicant for the purpose of a Wind
699 Energy System. For the purpose of setback, the Lease Unit Boundary shall not cross a road right-of-way.

700
701 **Line, Street:** The dividing line between a street right-of-way and property line of a lot.

702
703 **Lodging Accommodations:** A facility offering transient lodging accommodations to the general public
704 and possibly providing additional services, such as restaurants, meeting rooms, entertainment, and
705 recreational facilities as accessory uses.

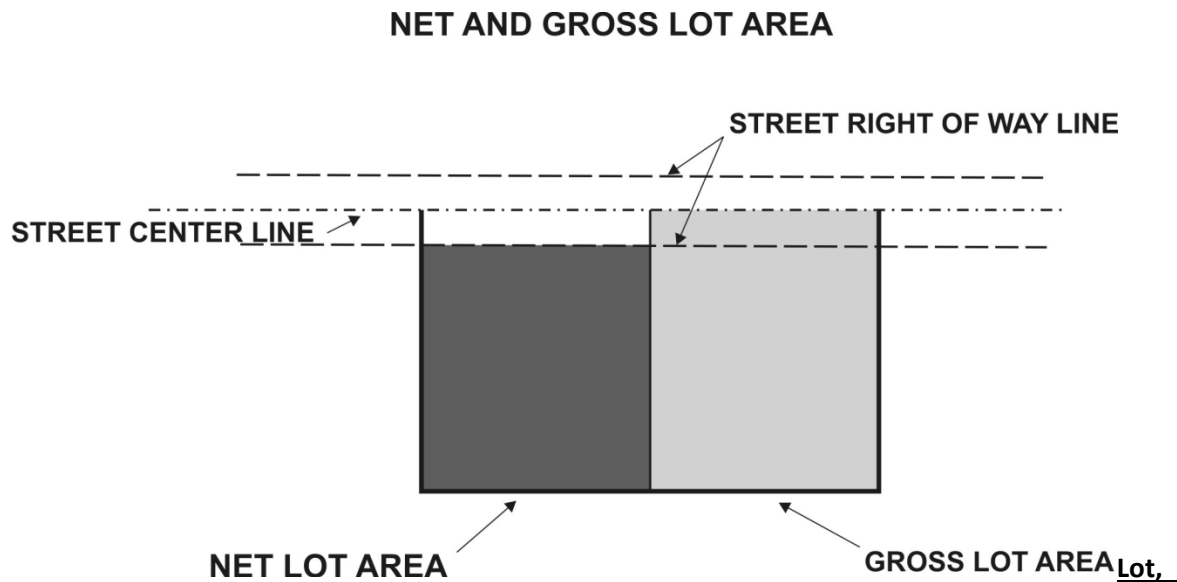
706
707 **Lot/Parcel or Building Site:** Land described in a recorded plat or by metes and bounds description,
708 including a condominium unit in a condominium subdivision, occupied or to be occupied by a building,
709 structure, land use or group of buildings having sufficient size to comply with the frontage, area, width-
710 to-depth ratio, setbacks, yards, coverage and buildable area requirements of this Ordinance, and having
711 its principal frontage upon a public street or on an approved private road or approved access easement
712 (see Figure 2-7). Such lot may consist of: a) a single lot of record; b) a portion of a lot of record; c) a
713 combination of contiguous lots of record or portions of contiguous lots of record, or; d) a parcel of land
714 described by metes and bounds; provided that in no case shall a division or combination of any residential
715 lot or parcel be created which does not meet the requirements of this Ordinance.

716
717 **Lot, Access:** A lot having frontage on a lake, river, or stream which does not meet the dimensional lot
718 requirements of the zoning district in which it is located and is of insufficient lot area to accommodate the
719 minimum dimensional requirements for a dwelling.

720
721 **Lot Area, Gross:** The area contained within the lot lines or property boundary including street right-of-
722 way (see Figure 2-7).

Lot Area, Net: The total area of a horizontal plane within the lot lines of a lot, exclusive of any public street right-of-way abutting any side of the lot (see Figure 2-7).

Figure 2-7



Corner: A lot where the interior angle of two adjacent sides at the intersection of two streets is less than one hundred and thirty-five (135) degrees. A lot abutting upon a curved street or streets shall be considered a corner lot for the purposes of this Ordinance if the arc is of less radius than one hundred and fifty (150) feet and the tangents to the curve, at the two points where the lot lines meet the curve or the straight street line extended, form an interior angle of less than one hundred and thirty-five (135) degrees (see Figure 2-8).

Lot Coverage: The amount of impervious surface on a lot, stated in terms of percentage, that is covered by all buildings, and/or structures located thereon. This shall be deemed to include all buildings, roofed porches, arbors, breezeways, patio roofs, whether open box types and/or lathe roofs, or fully roofed, as well as sidewalks, driveways, garage aprons and parking areas, but shall not be deemed to include fences, walls, or hedges used as fences, unroofed decks (twelve (12) inches or more above the finished grade) or swimming pools. Lot coverage shall be measured from the drip line of the roof or from the wall or foundation if there is no projecting portion of the roof.

Lot, Depth of: The horizontal distance between the front and rear lot lines, measured along the median between the side lot lines. (See Figure 2-9).

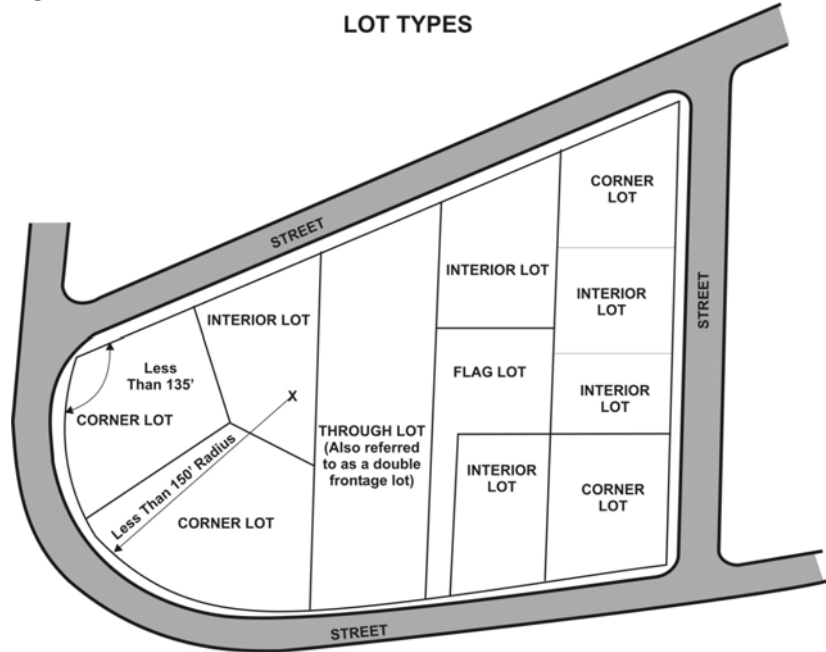
Lot, Flag: A lot whose access to the public street is by a narrow, private right-of-way that is either a part of the lot or an easement across another property. See Figures 2-8 and 2-10. Flag lots are discouraged.

Lot Frontage: The length of the front lot line. (See Figure 2-9.)

Lot, Front of: That lot line which is the street line of the principal street or right-of-way providing access to a lot.

Lot, Interior: Any lot other than a corner lot which, with the exception of a "through lot", has only one lot line fronting on a street (see Figure 2-8).

Figure 2-8



Lot Line:

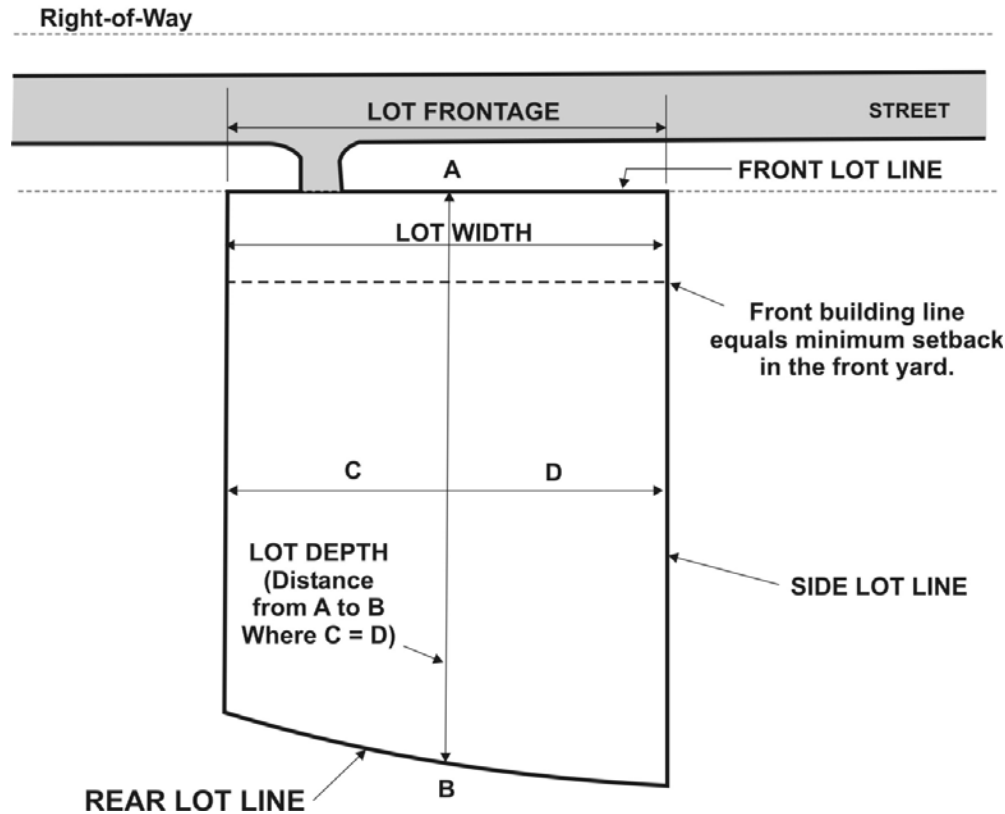
Front: In the case of an interior lot, that line separating said lot from the street, a private road, or other access easement. In the case of a through lot, that line separating said lot from either street private road, or other access easement. In the case of a flag lot, that line parallel to the main roadway, not the side lot line which is perpendicular to the main roadway. (See Figure 2-9 and 2-10).

Rear: The line opposite the front lot line. In the case of a through lot or a lot having frontage on more than one street, the line which is opposite the street address. In the case of a triangular or otherwise irregularly shaped lot or parcel, an imaginary line at least ten (10) feet in length entirely within the lot or parcel, parallel to and at a maximum distance from the front lot line. (See Figure 2-9 and 2-10).

Side: Any lot line other than the front lot line or rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line. (See Figure 2-9 and 2-10).

Figure 2-9

LOT FRONTAGE, WIDTH & DEPTH



Lot of Record: A lot which is part of a subdivision, the map of which was recorded in the Office of the Register of Deeds in Benzie County on the effective date of this Ordinance or a lot described by metes and bounds, the deed, survey or land contract, or land contract memoranda, which had been recorded in the Office of the Register of Deeds in Benzie County on the effective date of this Ordinance. Any one lot of record created after the effective date of this Ordinance without frontage on any public road or right-of-way shall not be occupied without access to a public road or right-of-way and must have access provided by an easement or other right-of-way no less than 20 feet wide.

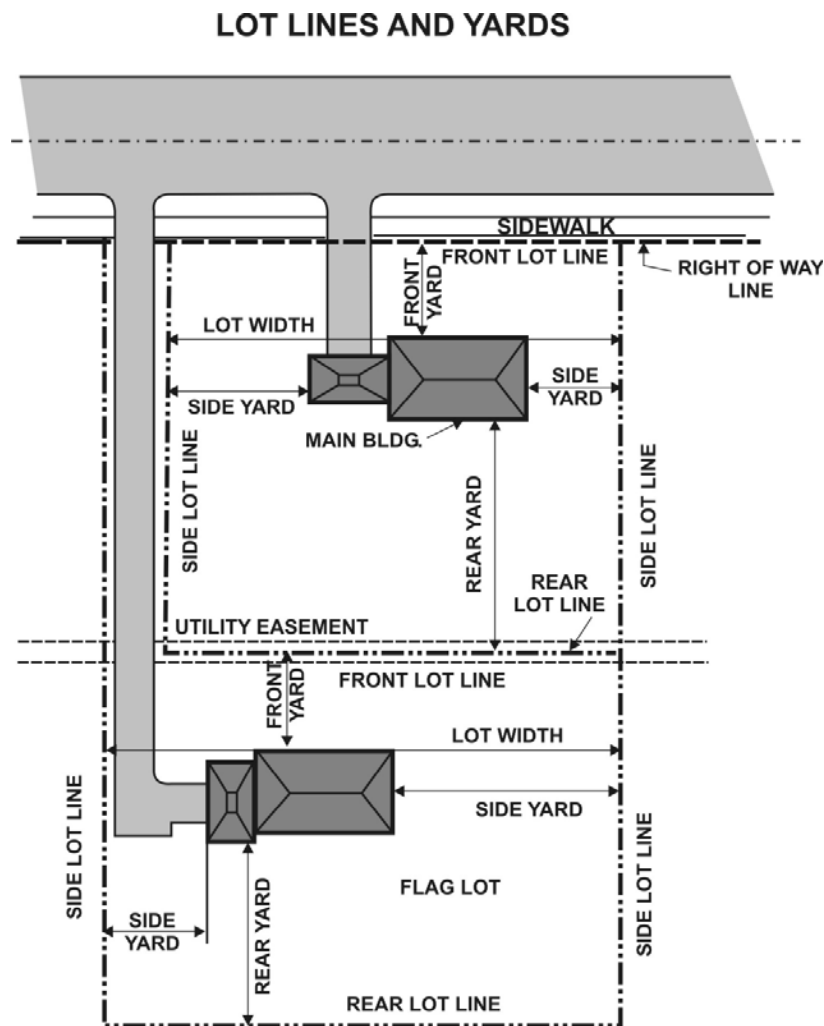
Lot, Through: Any interior lot having frontage on two more or less parallel streets as distinguished from a corner lot (see Figure 2-8). In the case of a row of through lots, all yards of said lots adjacent to streets shall be considered frontage, and front yard setbacks shall be provided as required. Through lots in residential districts may only be accessed by motor vehicles from the side on which the street address is assigned. Through lots are discouraged.

Lot, Water Front: A lot that has water frontage on a water body.

Lot line, Water Front: The ordinary high water mark of surface water or watercourses or boundary line of a wetland area (as defined by Section 307 of 1994 P.A. 451).

Lot, Width of: The horizontal straight line distance between the side lot lines, measured between the two points where the line establishing the setback for the front yard (also known as the front building line) intersects the side lot lines. (See Figure 2-9).

Figure 2-10



Lot Width/Depth Ratio: Newly created lots shall not exceed four (4) times the lot width in depth.

Low Frequency Noise LFN): Sounds with energy in the lower frequency range of 20 to 200 Hz.

Manufacturing Establishment —Light or Heavy: Manufacturing and production firms are involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, man-made, raw, secondary, or partially completed materials may be used. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or

consumers. Goods are generally not displayed or sold on site, but if so, they are a subordinate part of sales. Relatively few customers come to the manufacturing site.

Major Thoroughfare: A public street, the principal use or function of which is to provide an arterial route for through traffic, with its secondary function the provision of access to abutting property and which is a County Primary, State Trunkline, Interstate Highway, or is classified as a "principal arterial" or "major collector."

Minor Thoroughfare: A public street identified as a secondary street or road or "minor collector" defined by the Benzie County Road Commission.

Marina: A facility engaged in the sale, service and storage of all types of watercraft and small engine recreational vehicles and other related equipment and supplies, including, if with water frontage, docking and mooring facilities.

Measurement Point (MP): The location where sound measurements are taken such that no significant obstruction blocks sound from the site.

Measurement Wind Speed: For measurements conducted to establish the background noise levels (LA90 10 min, LC90 10 min, and etc.), the maximum wind speed, sampled within 5 meters of the microphone and at its height, shall be less than 2 meters per second (m/s) for valid background measurements, per ANSI S19.1 Part 3.

Mechanical Amusement Arcades: Any place or premises occupied by or under the control of the operator of mechanical amusement devices, room or establishment in which a substantial and significant portion of the business is devoted to the operation of mechanical amusement devices, or in which more than five (5) mechanical amusement devices are located and available for operation. For purposes of this Ordinance, a mechanical amusement arcade shall not include mechanical amusement devices located in restaurants or bars, motels or hotels and private clubs, where the devices are only available primarily to guests or patrons, nor to vending machines which dispense food, drink, tobacco or other similar items.

Mechanical Amusement Device: Any machine which, upon the insertion of a coin, slug, token, plate or disk or upon payment of a price, may be operated by the public generally for use as a game, entertainment or amusement, including but not limited to games registering a score, electronic video games, mechanical and/or electronic devices such as marble machines, pinball machines, mechanical grab machines, shuffle board game machines, pool tables, billiard tables and all game operations or transactions similar thereto, whether operated by hand, electric power, or combination thereof. For purposes of this Ordinance, a mechanical amusement device shall not include the following:

- A. Jukebox or other similar device which plays only music for money;
- B. Full-size bowling lane or alley;
- C. Movie theater seating more than ten persons.

Mechanical Noise: Sound produced as a byproduct of the operation of mechanical components such as gearboxes, generators and transformers, as well as noise emitting from other mechanical moving parts.

Medical Service Establishments: Health care facilities providing medical, dental, surgical and preventive health services to patients as well as establishments providing support to health professionals and patients such as medical laboratories, medical suppliers and service establishments.

Mobile Home: A structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained in the structure. Mobile home does not include a recreational vehicle.

Mobile Home Park: A parcel or tract of land under the control of a person upon which three (3) or more mobile homes are located on a continual, non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefor, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home, or as otherwise defined in Michigan Public Act 96 of the Public Acts of 1987, as amended.

Mobile Home Subdivision: A mobile home development in which lots are privately owned.

Mowing and Cutting: The process of cutting the grass or ground vegetation in a way which allows the cuttings to be removed for deposition elsewhere.

Natural River District - The rules and regulations adopted under Part 305, Section 324.30501, et seq, of the Michigan Natural Resources & Environmental Protection Act, PA 451 of 1994 (formerly PA 231 of 1970) the State of Michigan shall apply to the strip of land four hundred (400) feet wide on each side of and parallel to the Betsie River, Dair Creek, and the Little Betsie River

Non-conforming Dimension: A non-conforming situation that occurs when the height, size, or minimum floor area of a structure or the relationship between an existing building or buildings and other buildings or lot lines does not conform to the regulations applicable to the district in which the property is located.

Non-conforming Lot: A lot lawfully existing at the effective date of this Ordinance (and not created for the purposes of evading the restrictions of this Ordinance) that does not meet the minimum area, width or depth requirements of the district in which the lot is located.

Non-conforming Sign: A sign lawfully existing on the effective date of this Ordinance which does not conform to one (1) or more of the regulations set forth in the Ordinance.

Non-conforming Situation: A situation that occurs when, on the effective date of this Ordinance, a lawfully created existing lot or structure or use of a lawfully-created existing lot or structure does not conform to one or more of the regulations applicable to the district in which the lot or structure is located. Among other possibilities: a non-conforming situation may arise because a lot does not meet minimum area or size requirements; because structures exceed maximum height limitations; because the relationship between existing buildings and the land (in such matters as density and setback requirements) is not in conformity with this Ordinance; or, because land or buildings are used for purposes made unlawful by this Ordinance. Non-conforming signs shall not be regarded as non-conforming situations for purposes of this Ordinance.

Non-conforming Use: A building, structure or use of land lawfully existing at the time of enactment of this Ordinance, or an amendment, and which does not conform to the regulations of the district or zone in which it is situated.

Non-participating Property: Any parcel listed by a parcel number, (property) not leased to applicant/owner/operator. (If any portion of a parcel is leased by an applicant/owner/operator for WECS development, the entire parcel is considered to be a participating property and is incorporated into the lease unit boundary.)

Non-Point Source Pollution: General storm water runoff from impervious surfaces and sediment from urban, agriculture and forestry sources, as well as subterranean water influx to a waterbody.

Office Establishments: Office uses are characterized by activities conducted in an office setting and generally focusing on business, government, professional, medical or financial services. Accessory uses may include cafeterias and health facilities established primarily to service the needs of employees on the premises.

On-Site System (Small): A wind energy conversion system under 95 feet in height and is intended to primarily reduce on-site consumption of utility power.

On-Site System (Large): A wind energy conversion system greater than 95 feet and up to 199 feet that is intended to primarily reduce on-site consumption of utility power.

Open Space: Any unoccupied space open to the sky on the same lot with a building; as well as any parcel or area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for public or private use or enjoyment or for the use and enjoyment of owners, occupants, and their guests of land adjoining or neighboring such open space.

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

Organic Beach Debris: Organic matter that washes up on the shoreline. To include but not be limited to leaves, aquatic plants, algae, dead fish, dead animals and shoreline vegetation that has broken loose and washed up, etc

Outdoor Recreation and Entertainment Establishments: Outdoor recreation and entertainment uses provide continuous, intermittent or seasonal recreation and/or entertainment-oriented activities largely in an outdoor setting. They may take place in a number of structures that are arranged together in an outdoor setting. There may be concessions, restaurants, retail shops selling items related to the recreation or entertainment uses, office for management functions, spectator seating and service areas, including locker rooms and rest rooms, caretaker's quarters and maintenance facilities in addition to structures for the principal uses.

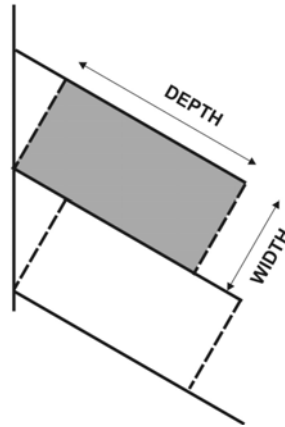
Outlot: When included within the boundary of a recorded plat, means a lot set aside for purposes other than a development site, park, or other land dedicated to public use or reserved to private use.

Overlay Zone - A zoning district that encompasses one or more underlying zones and that imposes additional requirements above that required by the underlying zone.

Parking Space: A land area of not less than ten (10) by twenty (20) feet, exclusive of driveways and aisles, and so prepared as to be usable for the parking of a motor vehicle and so located as to be readily accessible to a public street or alley. See Figure 2-11.

Figure 2-11

PARKING SPACE DIMENSIONS



Pattern Book: A book detailing the explicit design details for a new urbanist or traditional neighborhood development including all the public spaces and private buildings.

Patio: An open space area used for outdoor living purposes constructed of any materials which provide a hard, durable surface and which protrudes less than twelve (12) inches above the finished grade of the property.

Performance Guarantee: Cash, completion bond, certified check, irrevocable bank letter of credit or other financial security acceptable to the Township as assurance that required improvements or conditions associated with project approval are properly built or conformed with.

Permanent Sign: A sign that is affixed to the ground by a foundation or to a building by a bracket or other mounting device.

Permeable Materials: Materials that permit full or partial absorption of storm water into underlying soils, including, but not limited to shredded bark, wood chips, paving bricks if installed without mortared joints, landscape stone and wood decks.

Person: A corporation, company, association, society, firm, partnership, or joint stock company, as well as an individual, a state, and all political subdivisions of a state or any agency or instrumentality thereof.

Personal Services Establishments: Establishments primarily engaged in providing services involving the care of a person or his or her personal goods or apparel.

Phosphate Containing Fertilizer: Any fertilizer of any type that contains phosphorus.

Planned Unit Development (PUD) or Planned Development (PD): A land area comprised of one or more lots or parcels, or portions of lots or parcels, which has both individual building sites and common property such as a park, or permanently preserved open space, and which is designed and developed under the control of one (1) person as a separate project, neighborhood or community unit.

Planning Commission: Any reference in this ordinance to “Planning Commission” shall mean the “Gilmore Township Planning Commission” or “Planning Commission” until such time as a Planning Commission is established pursuant to the Michigan Planning Enabling Act, 2008 PA 33 [MCL 125.3801 et seq] (MPEA) and the Township Board of Trustees has transferred the powers and duties of the Planning Commission to the Planning Commission pursuant to the MPEA.

Plat: A map representing a tract of land showing the boundaries and location of individual lots and streets; or a map of a subdivision of land created under the provisions of the Land Division Act, Public Act 288 of 1967, as amended, or a predecessor statute.

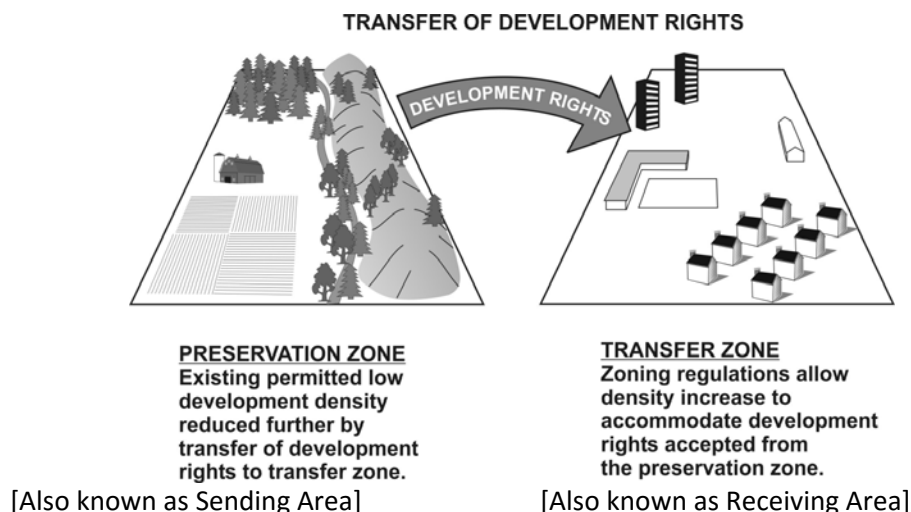
A. **Pre-Preliminary Plat:** An informal plan or sketch, drawn to scale, showing the existing features of a site and its surroundings and the general layout of a proposed subdivision.

B. **Preliminary Plat:** A map showing the main features of a proposed subdivision of land for purposes of preliminary consideration.

C. **Final Plat:** A map of a subdivision of land made up in final form ready for approval and recording.

Preservation Zone: Land designated for permanent preservation. Also known as the sending area. Development rights are sold by the landowner and transferred to a receiving zone where a developer is allowed to build at a higher density using the transferred development rights. See Figure 2-12.

Figure 2-12



Principal Use or Principal Permitted Use: The main use to which the premises are devoted and the principal purpose for which the premises exists. Also known as a use permitted "by right".

Property Line: The legally described and surveyed property parcel boundary line.

Proprietor, Subdivider or Developer: A natural person, firm, association, partnership, corporation, or combination of any of them which may hold any recorded or unrecorded ownership interest in land. The proprietor is also commonly referred to as the owner.

Public Buildings: Buildings housing public services usually in offices; but not including "Utility and Public Service Installations" or "Educational and Social Institutions".

Public Utility: Any person, firm, corporation, municipal department or board, regulated by the Michigan Public Service Commission and fully authorized to furnish to the public electricity, gas, steam, telephone, cable television, transportation or water.

Public and Private Conserved Land: a conservation covenant or conservation restriction is an encumbrance which creates a legally enforceable land preservation agreement between a landowner, a non-governmental agency or a government agency (municipality, county, state, federal) or a qualified land protection organization. It restricts real estate development, development and uses, and certain other activities on a property to a mutually agreed upon level.

Public Open Space: Land dedicated or reserved for use by the general public. It includes parks, parkways, recreation areas, school sites, community or public building sites, streets and highways and public parking spaces.

Qualified Environmental Professional: Individual must have an advanced degree in biology, environmental science, environmental engineering, or closely related field from an accredited university. The firm or individual from the firm must have a minimum of 5 years' experience in conducting and preparation of an acceptable Environmental Assessment and Environmental Impact Statement (EIS). "Acceptable" means that reports that meet FHWA Technical Advisory 771 or other state or federal regulation. The firm must provide a list of the ten (10) most recent EIS including the client and project objective. The firm must provide a representative body of work from the past two (2) years and provide a list of clients over the past three (3) years.

Qualified Independent Acoustical Consultant: Qualifications for persons conducting baseline and other measurements and reviews related to the application for a special land use permit, PUD, conditional rezoning or rezoning, or for enforcement actions under this Zoning Ordinance, including at a minimum, demonstration of competence in the specialty of community noise testing. An example is a person with Full Membership in the Institute of Noise Control Engineers (INCE). Certifications such as Professional Engineer (P.E.) do not test for competence in acoustical principles and measurement and are thus not, without further qualification, appropriate for work under this document. The Independent Qualified Acoustical Consultant can have no financial or other connection to a developer or related company.

Qualified Individual: Qualifications for persons conducting technical assessment or other measurements and reviews related to the application for a special land use permit, PUD, conditional rezoning or rezoning or for enforcement actions under this Zoning Ordinance, including, at a minimum, demonstration of

competence in the specialty being requested. The qualified individual must also have an appropriate four year degree from an accredited college or university and a minimum of five years experience with similar studies as well as experience in the field. The qualified individual must provide a representative body of work from the past two years and provide a list of clients over the past three (3) years.

Receiving Area or Transfer Zone –Land designated for development at a higher density or intensity than the base district because development rights were purchased from a qualified seller in the preservation zone or sending area. See Figure 2-13.

Recreation, Private: A recreational space or structure, or combination thereof, belonging to and/or operated by private interests for use by private individuals and/or organizations and/or other artificial apparatus which are necessary to form the basis for said use.

Recreational Unit: A tent, or vehicular type structure, primarily designed as temporary living quarters for recreational camping or travel use, which either has its own motive power or is mounted on or drawn by another vehicle which is self-powered. A tent means a collapsible shelter of canvas or other fabric stretched and sustained by poles and used for camping outdoors. Recreation unit shall include "travel trailers", "camping trailer", "motor home", "truck camper", "slide-in-camper", and "chassis-mount camper" as defined in Public Act 525, Michigan Public Acts of 1982.

Recreational Vehicle: Means a recreational unit, exclusive of tents and including a trailer used for the transport of motorized recreational equipment such as snowmobiles, watercraft, non-motorized recreational equipment such as a fish shanty, or a trailer along with motorized or non-motorized recreational equipment loaded for transport.

Religious Institutions: Religious institutions primarily provide meeting areas for religious activities. They may be associated with a convent or friary (group housing), provide caretaker housing, or a parsonage on-site (as an accessory use).

Removal of Vegetation: Includes but is not limited to the cutting, pruning, pulling, digging out, chemical treatment, etc. such that a sufficient amount of the plant and or related root structure are removed/destroyed such that the plant will no longer continue to grow and bare soil is exposed.

Repair Services: Establishments that service or repair appliances, electrical equipment or other mechanical equipment or consumer goods. Includes customer drop-off and pick-up as well as off-site service calls.

Replat: The process of changing of the map or plat which changes the boundaries of a recorded subdivision plat or part thereof. The legal dividing of an outlot within a recorded subdivision plat without changing the exterior boundaries of the outlot is not a replat.

Research and Development Establishments: An establishment or other facility for carrying on investigation in the natural, physical or social sciences which may include engineering and product development.

Right-of-Way: A road, street, alley, or other thoroughfare or easement permanently established for passage of persons or vehicles.

Riparian Buffer: The area surrounding all natural waterbodies including creeks, rivers, intermittent waterways and lakes that attenuate and filter overland runoff, provide space for water storage and natural alterations in the pattern and profile of streams, supply natural organic material that supports downstream aquatic ecology, controls water temperature and provide necessary wildlife habitat.

Road: A public or private thoroughfare, easement or right-of-way for the ingress, egress and regress of motor vehicles, which affords the principal means of access to abutting property.

A. **Arterial (Primary) Road:** Designated state and federal highways and those roads of considerable continuity which are designated primary roads or major or minor collectors by the Benzie County Road Commission or which may be used primarily for fast or heavy traffic. See Figure 2-11.

B. **Cul-de-sac:** A minor road of short length having one end terminated by a vehicular turn-around.

C. **Local Road:** A road intended primarily for access to abutting properties and is designated a local road by the Benzie County Road Commission.

D. **Marginal Access Road:** A minor road which is parallel and adjacent to arterial roads and which provides access to abutting properties and protection from through traffic.

E. **Road Width:** The shortest distance between the lines delineating the right-of-way of roads.

Road, Private: Any non-public road serving two (2) or more dwellings or principal uses (See Access Easement).

Road, Public: A road dedicated to the public, such dedication having been accepted by the appropriate public Road Commission or Department of Transportation, which meets the minimum construction standards of said Road Commission or Department of Transportation.

Roadside Stand: A "roadside stand" is a structure for the display and sale of agricultural products, without space for customers within the structure itself.

Roof-Mounted WECS: A wind generating facility which generates original power on site for on-site use by the property owner or home-owner, mounted on the principle building's roof and with a maximum height no greater than 15 feet as measured from the highest point of the roof, excluding chimneys, antennae, and other similar protuberances.

Sale, Garage (or Yard Sale, Moving Sale or Estate Sale): The sale or offering for sale to the general public of items of personal property by the owner or tenant of an improved lot in a residential district, whether within or outside any building.

Satellite Signal-Receiving Antennas: Also referred to as "satellite dish", "earth stations" or "ground stations" shall mean one, or a combination of two or more of the following:

A. A signal-receiving device (antenna, dish antenna, or dish-type antenna), the purpose of which is to receive communication or other signals from satellites in earth orbit and other extraterrestrial sources.

B. A low noise amplifier (LNA) which is situated at the focal point of the receiving component and the purpose of which is to magnify, store, transfer and/or transmit electronic or light signals.

C. "Dish" shall mean that part of a satellite signal receiving antenna characteristically shaped like a saucer or a dish.

D. "Grounding rod" shall mean a metal pole permanently positioned in the earth to serve as an electrical conductor through which electrical current may safely pass and dissipate.

E. "Receiver" shall mean a television set or radio receiver.

Sediment: Solid particulate matter, mineral or organic that has been deposited in water, is in suspension, or being transported by water, or has been removed from its site of origin by the process of soil erosion whether natural or induced.

Sending Area or Preservation Zone – See Preservation Zone and see Figure 2-13.

Sensitive Areas: Grand Traverse Regional Land Conservancy property, the Herring Lakes, Lake Michigan and streams, wetlands and watershed within the township boundaries, including those with important natural resources, as identified by Gilmore Township, Benzie County, state or federal authorities such as:

1. Floodplains
2. Designated environmental areas
3. High risk erosion areas
4. Designated sand dunes
5. Priority habitat areas
6. State/federal/county/township owned lands
7. Lands subject to a conservation easement
8. Known water well location for District Health Department
9. Scenic resources and viewsheds
10. Historic and other cultural resources
11. Migration pathways and feeding areas for migratory waterfowl and birds
12. Land within 3 miles of the Lake Michigan shoreline and 1 ½ miles of Upper and Lower Herring Lakes
13. The Herring Lakes Watershed
14. Existing and future economic and tourist sensitive land

Sensitive Receptor: Places or structures intended for human habitation, whether inhabited or not, public parks, state and federal wildlife areas, the manicured areas of recreational establishments designed for public use, including but not limited to, golf courses, campgrounds and other non-agricultural state or federal licensed businesses, schools, daycare centers, elder care facilities, hospitals, places of seated assemblage, non-agricultural businesses, critical habitat and residences.

Sensitive Riverine Areas are defined as areas on each side of streams that could be subject to flooding or erosion and alterations of land may require a soil erosion and sedimentation control permit under Part 91, Section 324.9101 et seq. of the Michigan Natural Resources & Environmental Protection Act, Public Act 451 of 1994 (formerly, PA 346 of 1972).

Shadow Flicker: The effect produced when the blades of an operating WECS pass between the sun and sensitive receptor casting a readily observable, moving shadow.

Shed: A term used to describe a wide array of accessory structures or accessory buildings used to store equipment, materials or supplies; such as but not limited to a tool shed, garden shed, storage shed or similar small building

Sign Face: That part of a sign structure which is used to graphically communicate a message or announcement.

Sign Regulation Definitions (see Figure 2-13):

A. **Banner:** A sign made of natural, synthetic or plastic material used to call attention to a land use or product, service or activity; however, not including pennants or flags.

B. **Billboard Highway Advertising Sign:** An off-premises sign owned by a person, corporation or the entity that engages in the business of selling the advertising space on that sign.

C. **Business Center Sign:** A sign which gives direction, name, and identification to a business center and which does not contain any additional information regarding individual stores, businesses, institutions, organizations, located within the planned complex or contiguous stores.

D. **Directional Sign:** An on- or off- premises sign which sets forth no advertising display, but is used to direct visitors or customers to a particular land use.

E. **Entrance Way Sign:** A sign that designates the street entrance way to a residential or industrial sub- division, apartment complex, condominium development, or permitted institution, from a public right-of-way.

F. **Flag:** A sign made of natural, synthetic or plastic material having a distinctive size, color and design used as a symbol or emblem.

G. **Flashing Sign:** Any illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color at all times when such sign is in use.

H. **Ground or Pole Sign:** A free standing sign supported by one (1) or more uprights, poles, braces or some other structure, placed in the ground surface and not attached to any building.

I. **Highway Advertising Sign:** See Billboard.

J. **Home Occupation Sign:** A non-illuminated sign announcing a home occupation or

professional service.

K. Identification Sign: A sign containing the name of a business operating on the premises where located, the type of business, owner or resident, and/or the street address and sets forth no other advertisement display.

L. Illuminated Sign: A sign that provides artificial light by either emission or reflection.

M. Informational Sign: A small, non-advertising sign used to identify architectural features of a land use such as building entrances, drop boxes, restrooms, handicapped ramps and similar features.

N. Ingress-Egress Sign: A sign located adjacent to the entrance or exit drives of a development to identify the points of vehicular ingress and egress.

O. Marquee Sign: An "identification or business" sign attached to a marquee, canopy, or awning projection from the building.

P. Off-Premises Advertising Sign: A sign which advertises a business or activity conducted elsewhere than on the premises where the sign is located.

Q. Pennant: A small, often triangular, tapering flag used in multiples as a device to call attention to a land use or activity.

R. Portable Sign: A freestanding sign not permanently anchored or secured to either a building or the ground, but are trailored or similarly mounted signs or signs on parked vehicles where the sign is the primary use of the vehicle or wheeled object while it is parked.

S. Projecting Sign: A sign which is affixed to any building or structure other than a marquee and projects in such a way that the message is not parallel to the wall to which it is attached.

T. Roof Sign: Any sign which is erected above the roof of a building.

U. Sign: Any identification, description, illustration, display or device illuminated or non-illuminated which is visible from any public place or is located on private property and exposed to the public and which directs attention to a product, service, place, activity, person, institution, business or solicitation, including any permanently installed or situated merchandise; or any emblem, painting, banner, pennant, placard or temporary sign designed to advertise, identify or convey information. For the purpose of removal, signs shall also include all sign poles and similar supporting structures.

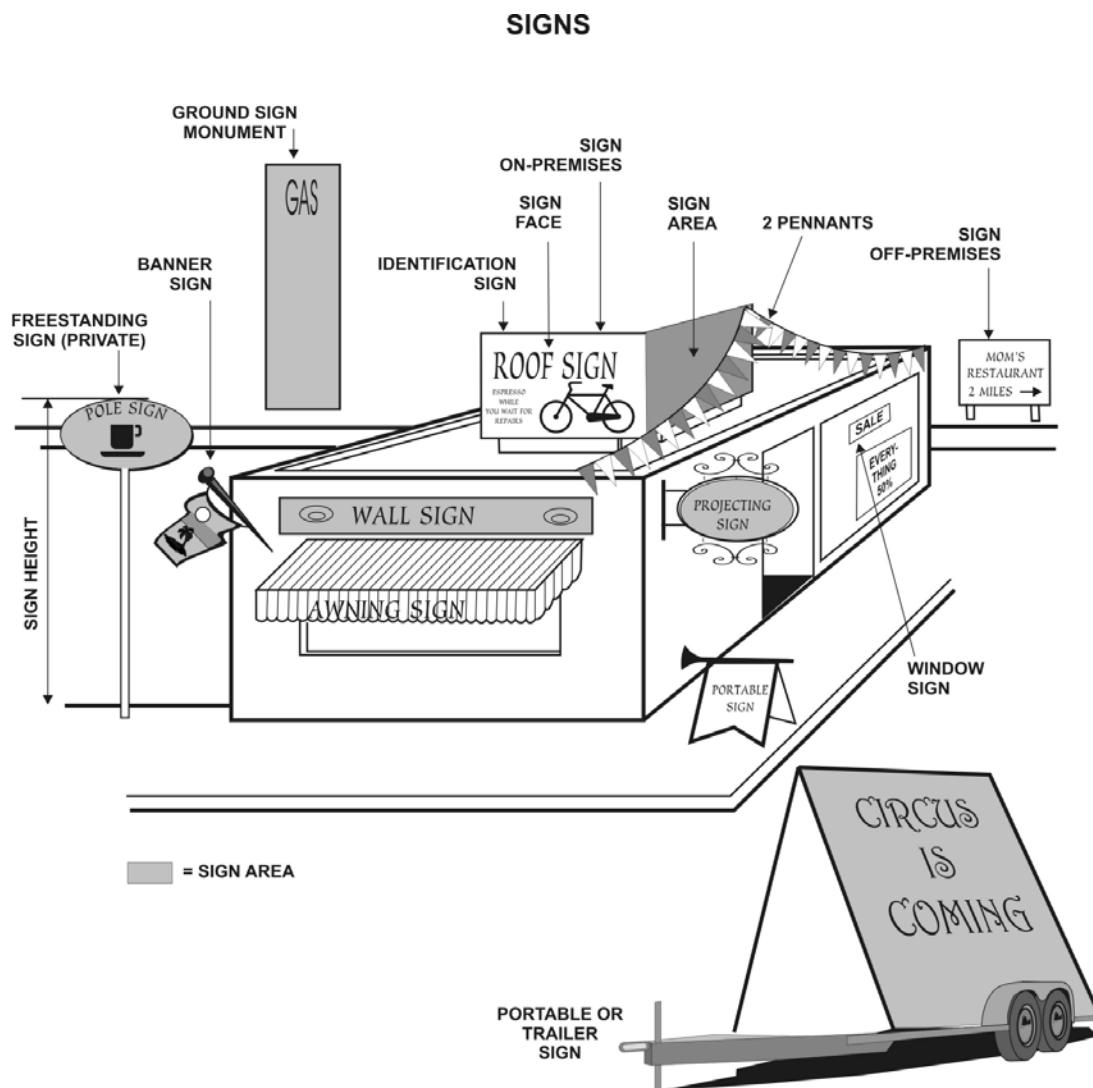
V. Subdivision Sign, Site Condominium Sign or PUD Sign: A free-standing sign used in connection with a subdivision plat, condominium project, or PUD illustrating said plat, condominium project or PUD, for the purpose of indicating the location of lots within the plat or project and/or their availability for purchase.

W. Seasonal Commodity Sign: An on- or off-premise sign which indicates the name of the farm, the sale of farm products produced seasonally on the premises, the location of the premises, and/or the hours open to the public.

X. Temporary Sign: A display sign, banner, or advertising device with or without a structural frame intended for a limited period of display, including displays for holidays or public demonstrations.

Y. Wall Sign: A sign which is attached directly to or painted upon a building wall which does not project more than twelve (12) inches therefrom. The exposed face of the sign must be in a plane parallel to the building wall or structure (such as a water tower). The sign shall not extend above the height of the building, wall or structure.

Figure 2-13



Site Plan - A drawing showing all salient features of a proposed development and accompanying documents that are submitted along with a permit application so that it may be evaluated in order to determine whether it meets the provisions of this Ordinance (see Article 11). A plot plan depicts a subset of the information required by this Ordinance for a site plan

Site Plan Review Committee: Any reference in this ordinance to the Site Plan Review Committee shall mean the Gilmore Township Planning Commission.

Sketch Plan: A pre-preliminary plat or simplified residential site plan.

Slope: A portion of land that has either an upward or downward inclination.

Slope, Steep: A slope that has a topographic grade of eighteen percent (18%) or greater.

Soil Erosion: The wearing away of land by the action of wind, water, gravity or a combination thereof including ice.

Sound: A fluctuation of air pressure which is propagated as a wave through air.

Sound Level, Background (L90): The sound level present at least 90% of the time. Background sounds are those heard during lulls in the ambient sound environment, that is, when transient sounds from flora, fauna and wind are not present.

Sound Power: The total sound energy radiated by a source per unit time. The unit of measurement is the watt (Lw).

Spectrum: The description of a sound wave's resolution into its components of frequency and amplitude.

Statistical Noise Levels: Sounds that vary in level over time, such as road traffic noise and most community noise, are commonly described in terms of the statistical exceedance levels (LNA), where LNA is the A-Weighted sound level exceeded for N% of a given measurement period.

Steep Slopes When the proposed building site has slopes in excess of fifteen (15) percent, questionable soils stability or evidence of erosion, the Zoning Administrator shall require the Applicant to obtain a site analysis and conform with the applicable requirements of Overlay Districts and this Article 10.

Story: That part of a building, except a mezzanine included between the surface of one floor and the surface of the next floor, or if there is no floor above, then the ceiling next above. A basement shall not be counted as a story (see Figure 2-1).

Story, Half: An uppermost story lying under a sloping roof having an area of at least two hundred (200) square feet with a clear height of seven feet six inches (7'-6"). For the purposes of this Ordinance, the usable floor area is only that area having at least four (4) feet clear height between floor and ceiling. See Figure 2-1.

Stream: Any natural flow of water which has a defined bank and bottom, whether it be continuous or intermittent.

Street: See road.

Street Line: The legal line of demarcation between a street right-of-way and abutting land.

Structure: A structure is any production or piece of material artificially built up or composed of parts

joined together in some definite manner; any construction, including dwellings, garages, buildings, mobile homes, signs and sign boards, towers, poles, antennae, swimming pools, decks, fences (4) four feet in height or more or other like objects; but not including fences up to four (4) feet in height, uncovered steps, docks, access steps required to negotiate changes in site elevation, and sidewalks, drives, paved areas and patios which protrude less than twelve (12) inches above the finished grade.

Subdivision: The partitioning or dividing of a parcel or tract of land pursuant to the standards and restrictions on the number, size and shape of lots for sale, lease or building development as provided in the Land Division Act, Public Act 288 of 1967, as amended.

Subdivision Control Act: The former name of the Land Division Act, being State of Michigan Public Act 288, of 1967, as amended.

Substation: Any electrical facility designed to convert electricity produced by an electrical production power facility for interconnection with high voltage transmission lines. Substations include equipment such as transformers, compensators, and circuit breakers.

Supervisory Control and Data Acquisition (SCADA) System: An operations control facility that maintains two-way communications with each wind turbine.

Surveyor: A land surveyor licensed to practice in the State of Michigan.

Survival Speed: The maximum wind speed a turbine and tower is designed to withstand before sustaining damage.

Topographical Map: A map showing existing physical characteristics, with contour lines at sufficient intervals to permit determination of grades and drainage.

Tower Height: The vertical distance measured from the existing ground level prior to construction at the base of the tower to the uppermost vertical extension of any blade, or the maximum height reached by any part.

Township Zoning Act: Any reference in this ordinance to the Township Zoning Act shall mean the Michigan Zoning Enabling Act, 2006 PA 110, as amended [MCL 125.3101 et seq] (MZE).

Trailer Coach: Mobile Home as defined herein.

Trailway: A cleared way for pedestrians and/or bicycles that may or may not be improved.

Transfer Zone: See Receiving Area and Figure 2-13.

Travel Trailer Park: Campground as defined herein.

Traveled Surface of Roadway: For the purpose of establishing setbacks, it is that portion of the roadway surface whose principal function is to provide for the passage of motor vehicles as they traverse the roadway, excluding therefrom the shoulder of the road which is principally used for the emergency stopping or parking of motor vehicles or for the passage of pedestrians and bicycles. On a road with a white "fog line" it shall demarcate the edge of the traveled surface of the roadway. The Township will declare such traveled surface of each lane of the roadway to be no less than eleven (11) feet wide, thereby

having a minimum of eleven (11) feet of traveled surface either side of the centerline of a two (2) lane road; three (3) traveled surfaces of eleven (11) feet each in width for a three (3) lane road or a two (2) lane road with a passing lane or turning lane at an intersection; and four (4) traveled surfaces of eleven (11) feet each in width for a four lane road or a three (3) lane road with a passing lane or a turning lane at an intersection.

Underlying Zone - A zoning district that lies underneath an overlay zone.

Unsafe: A condition which, in the inspector's opinion, poses a significant risk to the personal safety of either the occupants and/or other persons, property or the environment.

Upland: The land area that lies above the ordinary high water mark or wetland.

Use: The purpose for which land or a building is arranged, designed, or intended, or for which land or a building may be occupied.

Utility and Public Service Installation: A building or structure within which a utility or transportation service deemed necessary for the public health, safety or general welfare (an essential service) is provided to the public by an entity under public franchise or ownership; including but not limited to facilities created for the generation, transmission and/or distribution of electricity, gas, steam, communications, television, and water; the collection and treatment of sewage and solid waste; and the provision of roads, rails, air or mass transportation. Accessory uses may include offices, truck and large equipment parking, fueling and maintenance. Also see definition of Essential Services.

Utility Grid Wind Energy System: Wind generating facilities which generate original power on site to be transferred to a transmission system for distribution to customers. This may include wind towers at multiple locations and accessory uses such as but not limited to a SCADA TOWER, and electric substation. This definition shall not include Community WECS or any individual WECS erected and used primarily for private use.

Utility WECS: A wind energy conversion system that is designed and connected to the energy grid.

Vantage Point: A position affording a comprehensive view or perspective.

Vehicle Sales and Service Establishments: Retail sales and service of motorized land and water vehicles. Generally, the customer does not wait at the site while the service or repair is being performed. Accessory uses may include offices, showrooms, sales of parts, and vehicle storage.

Viewshed: The entire view, scene or vista an individual can see from a given point.

Water Body: Any body of water, including any creek, stream, canal, river, lake or bay, or any other body of water, natural or artificial, except a swimming pool or ornamental pool located on a single lot.

Watercraft: Any motorized boat or water vehicle, regardless of size or length, or any nonmotorized boat or water vehicle more than sixteen (16) feet in length.

Water Frontage – The horizontal distance measured along the water front line.

Water Mark, High (or Ordinary High): The highest normal water level of the major lakes, rivers or

streams within the Township based on the water level history of each respective body of water, or as established by the Benzie County Circuit Court.

Watershed: A land area, known as a drainage area, which collects precipitation and contributes runoff and flow to a receiving body of water; the entire region drained by a waterway or watercourse that drains into a lake or reservoir.

Way: A roadway, See Road.

WECS: Shall be the approved form of abbreviation of "wind energy conversion system".

Wetlands are defined by degree of soil wetness, generally including those soils classified by the Michigan Natural Resources & Environmental Protection Act, PA 451 of 1994, Part 303, Section 324.30301 et seq. (formerly, the Goemere-Anderson Wetlands Act , PA 203 of 1979) as being able to support aquatic vegetation regardless of whether it has standing water or not. No activity shall be permitted on a site with regulated wetlands, unless a wetlands permit has been obtained by the applicant from the Michigan Department of Environmental Quality.

Wholesale Trade Establishments: Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users; to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies. There is little on-site sales activity with the customer present. Accessory uses may include offices, truck fleet parking, fueling and maintenance.

Wildlife Habitats: Areas of natural environment upon which wildlife depend for survival as self-sustaining populations in the wild, including land and water needed for cover, protection or food supply. Wildlife may include mammals, birds, reptiles, amphibians, fishes, and invertebrates. Areas may include nesting areas, aquatic habitat, waterfowl staging areas, deeryards and habitat of endangered and threatened species.

Wind Energy Conversion Systems (WECS): A wind energy conversion system designed to convert wind energy into electricity energy through the use of a wind turbine generator and includes the turbine, blades, and tower as well as related electrical equipment. This does not include wiring to connect the WECS to the grid, home or other building.

Yard: An open space on the same lot with a building, unoccupied and unobstructed from the ground upward, except as otherwise provided herein. The measurement of a yard shall be construed as the minimum horizontal distance between the lot line and the building line.

Yard, Front: A yard extending across the front of a lot between the front line of the lot and the nearest point of the main building or land use.

Yard, Rear: An open space on the same lot with a main building, unoccupied, except as herein permitted, extending the full width of the lot and situated between the rear line of the lot and the rear line of the building projected to the sidelines of the lot.

Yard, Side: An open, unoccupied space on the same lot with the building, situated between the building and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a front or rear line shall be deemed a side line.

Yard, Waterside: The open space extending across the full width of a lot between the building line and the ordinary high water mark of any water resource and measured perpendicular to the building at the closest point to the ordinary high water mark. This shall be the rear of the yard for a water front lot.

Zoning Permit: Permit required for any change in use of land, or structure in accordance with the provisions of this Ordinance. See Land Use Permit.

Zoning Ordinance: The Gilmore Township Zoning Ordinance.

Section 2.3 WORDS NOT DEFINED

Any words requiring special interpretation and not listed above shall be used as defined in the dictionary maintained in the office of the Zoning Administrator, unless defined by specific action of the Zoning Board of Appeals.

ARTICLE 3
GENERAL PROVISIONS

Section 3.1 PURPOSE & SCOPE

- A. It is the purpose of this Article to establish supplemental regulations for lots, uses, and activities, that relate to accessory uses, dimensional standards, various exceptions, access and other aspects of land use and design that are not addressed in the remaining Articles of this Ordinance.
- B. Except as otherwise provided in this Ordinance, no lot or parcel of land, no existing building, structure or part thereof and no new building, structure or part thereof shall hereafter be located, erected, constructed, re-constructed, altered or used for purposes other than in conformity with the provisions of this Ordinance.

Section 3.2 LOT AND YARD AREA REQUIREMENT EXCEPTIONS

Nonconforming Lots of Record: In any district in which single family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Ordinance, a single family dwelling and customary accessory buildings may be erected on any lawfully created single lot of record recorded with the Register of Deeds at the effective date of adoption or amendment of this Ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district; provided the use of the lot conforms with the following requirements or a yard requirement variance is obtained through approval of the Zoning Board of Appeals.

- A. Lot Areas and Widths: On a lot of record, the Zoning Administrator is authorized to waive the minimum lot size, width, and width at the building line requirements, provided that the intended structure is in full compliance with all other requirements of this Ordinance.
- B. 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 requirements 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.
- C. 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 Zoning 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 significant health or safety hazard.
- D. Side Yards: On any lot of record where the side yard setback requirements reduce the buildable width to less than twenty-five (25) feet, the Zoning Administrator is authorized to reduce the side yard setback requirements by up to ten (10) percent of the lot width, however, no interior side yard shall be reduced by more than three (3) feet, and no exterior side yard shall be reduced by more than six (6) feet.

Section 3.3 FIRE HAZARDS AND EMERGENCY VEHICLE ACCESS

- A. In order to reduce fire hazards, no building or structures, including roof overhangs, shall be closer than ten (10) feet to any neighboring property line, except as provided in Sec. 3.2, above.

- 49
- 50 B. Each dwelling unit shall be provided reasonable vehicular access by a driveway which may be
- 51 negotiated under normal weather conditions by emergency vehicles serving the Township, or an
- 52 emergency vehicle set up area suitable for accommodating fire fighting apparatus shall be
- 53 provided within a reasonable distance and reasonable pedestrian access provided to the
- 54 structure.
- 55
- 56 C. Driveways shall be clear to a width of fifteen (15) feet and an overhead clearance of fifteen (15)
- 57 feet throughout its length, and shall not exceed ten (10) percent in grade, except with permission
- 58 of the Fire Chief, in which case it may not exceed fifteen (15) percent in grade if paved.
- 59

60 **Section 3.4 STRUCTURE SETBACKS ON ROADWAYS**

- 61 A. Except as provided for in Article 8 for signs, the minimum setback for all principal buildings and
- 62 accessory structures from all state or federal owned and operated highways shall be seventy-five
- 63 (75) feet from the highway right-of-way, whether it be for a front, side or rear yard, regardless of
- 64 setbacks listed in Districts or Table of Dimensional Requirements.
- 65
- 66 B. If the road right-of-way line is readily determinable (by reference to a recorded survey and set
- 67 irons), the setback shall be measured from such right-of-way line. If the road line is not so
- 68 determinable the setback on a road with sixty-six (66) feet of right-of-way shall be measured one-
- 69 hundred (100) feet from the centerline of the traveled surface of the right-of-way. For roads with
- 70 right-of-way more than sixty-six (66) feet, the minimum setback from the centerline shall be one
- 71 (1) foot for each additional foot of right-of-way up to one-hundred (100) feet and then one-
- 72 hundred twenty-five (125) feet of setback for any right-of-way greater than one-hundred (100)
- 73 feet.
- 74
- 75 C. No portion of any structure or freestanding sign may be located closer to any lot line than is
- 76 authorized in the District provisions and Table of Dimensional Requirements.
- 77
- 78 D. All structures, including signs, located on multiple road frontage lots shall observe the minimum
- 79 required front yard setback from all arterial or primary roads.
- 80

81 **Section 3.5 NUMBER OF DWELLINGS AND USE OF LOTS OR PREMISES**

- 82 A. Every dwelling, cottage, cabin, or mobile home erected outside of a mobile home park shall be
- 83 located on a lot or premise, and no more than one (1) such building or structure shall be erected
- 84 on such lot or premise. Provided, however, that in the R-4, R-5 and RP-5 districts an additional
- 85 dwelling may be constructed on a single lot, provided that the lot has double the land area and
- 86 double the width to accommodate the additional dwelling in accord with the required provisions
- 87 of the District.
- 88
- 89 B. A lot having a commercial use may contain more than one principal building and/or principal use
- 90 provided all uses are permitted by right, right with conditions, approved special use permit, or an
- 91 approved PUD, and the buildings and uses meet the cumulative lot area, lot width, parking,
- 92 signage, and lot coverage requirements and that none of the principal buildings violate any of the
- 93 yard size, setback or other dimensional requirements.
- 94
- 95 C. All commercial activity shall take place within an enclosed building, unless specifically authorized
- 96 to be conducted outside as part of the use regulations of the District, or via special land use

standards of this Ordinance.

Section 3.6 UNSAFE, RAZING & MOVING BUILDINGS

- A. Nothing in this Ordinance shall prevent compliance with an order by the Building Inspector, the County Prosecutor, or a judge to demolish, correct, improve, strengthen, or restore to a safe condition any building declared to be unsafe.
- B. No building which requires a demolition permit under the Michigan Building Code shall be razed until a permit has been obtained from the Zoning Administrator who shall be authorized to require a performance guarantee, in any amount not to exceed one thousand dollars (\$1,000) for each one thousand (1,000) square feet or fraction thereof of floor area of the building to be razed. Said bond shall be issued in the name of the Township and shall be conditioned on the applicant completing the razing within such reasonable period as shall be prescribed in the permit and complying with such regulations as to health and safety as the Zoning Administrator may, from time to time, prescribe, including filling of excavations, proper termination of utility connections and the proper removal and closure of any water well and septic system. If the building is safely razed and the site cleaned as specified in the permit, then the bond shall be returned within thirty (30) days of completion of the razing. If razing is not accomplished according to the terms of the approval, then the Township shall cash the performance bond and use the money to restore the site to a safe condition. Costs in excess of the bond shall be charged back to the property owner and placed as a lien on the property if not paid in a timely fashion.
- C. Moving Buildings: No existing building or structure of any type or kind larger than two hundred (200) square feet, shall be moved into the Township or moved from one lot in the Township to another lot in the Township unless authorized by the Zoning Administrator. Before granting or denying such authorization, the Zoning Administrator shall consider the following standards:
1. The type and kind of construction of the existing building in relation to its strength and whether or not the building may be a fire hazard.
 2. Whether or not the type and age of the building is in keeping with adjoining and neighboring buildings.

Section 3.7 WATER ACCESS LOTS

- A. 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, and 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.
- B. Access lots having a minimum width of fifty (50) feet through 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.
- C. Unless the residences having privilege to use an access lot are within three hundred (300) 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.
- D. 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, condominium unit, stock or

membership in a corporation, or by any means.

- E. Access lots to water created after the effective date of the amendment adding this provision to the Ordinance that are less than fifty (50) feet in width shall not be less than twenty-five (25) feet in width from the start of the access to the water's edge, shall not be used for dockage and shall not have any building erected on the access. A temporary structure, like a sunshade or picnic table shall not be placed closer than fifty (50) feet to the water's edge.

Section 3.8 PROHIBITED USES

No building or structure or part thereof shall be erected, altered or used on 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.

Section 3.9 ACCESSORY USES

- A. No construction of an accessory use structure shall be permitted without the foundation for a principal use structure first being in place in the R-1, R-2, R-3, AND R-4 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.
- B. No accessory building or structure on the same lot with a principal building shall be used for dwelling purposes, except as specifically permitted in this Ordinance.
- C. Accessory structures shall meet the same setback requirements as a principal structure.

Section 3.10 MAXIMUM SIZE ACCESSORY STRUCTURES

Storage buildings or other accessory structures shall not be allowed in the R-1, R-2, R-3, R-4, R-5 and RP-5 districts without the presence of a principal use or at least the foundation for a principal structure. See Section 3.10. The total ground level gross square footage of all accessory structures on any single residential lot or parcel in the R-1, R-2, R-3, R-4, R-5 and RP-5 districts shall not exceed the first floor gross square footage of the principal residence on such lot or parcel exclusive of attached accessory structures. The maximum square footage of all accessory structures on a single lot in all other districts is two-thousand (2000) square feet and not more than three (3) accessory structures are permitted in total on any lot. Agricultural use structures are exempt from this provision.

Section 3.11 HEIGHT LIMITATIONS & EXCEPTIONS

- A. Subject to the remaining provisions of this section, structure height limitations in the various zoning districts shall be as indicated on the Table of Dimensional Requirements in Article 5.
- B. Subject to subsection (C), the following features are exempt from the district height limitations 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 Subsection (B) are exempt from the height limitations provided, not more than ten percent (10%) of a total roof area if so located maybe consumed by such features.

Section 3.12 MINIMUM REQUIREMENTS FOR DWELLINGS

A. It is the intent of this Section to provide a wide variety of single family housing options in the Township, including the need for lower cost single family housing while protecting the public health and safety. It is recognized that the modern mobile home and manufactured home compares favorably with existing site constructed dwellings, provided that such mobile homes and manufactured homes are similar in appearance, design, and construction with existing single family dwellings in the vicinity. It is the purpose of this Section to provide standards for the construction, installation, and appearance of all single family homes in order to insure compatibility with existing dwellings located in the surrounding area.

B. The following minimum requirements apply to all dwelling units outside of mobile home parks except as provided in subsection C of this Section.

1. All construction required in this Section shall be commenced only after a building permit has been obtained in accordance with the applicable Michigan Building Code provisions and Ordinance requirements. Mobile homes which do not conform to the standards of this Section shall not be used for dwelling purposes within the Township unless located within a mobile home park or unless used for temporary residence purposes as provided in Section 3.14.
2. All dwelling units located outside of mobile home parks shall comply with the following requirements:
 - a. The wheels, pulling mechanism, and tongue of any mobile home shall be removed prior to placement on a foundation.
 - b. All dwellings shall be connected to a sewer system and water supply system approved by the Benzie-Leelanau District Health Department.
 - c. All dwellings shall provide steps or porch areas, permanently attached to the foundation, where there exists an elevation differential of more than one (1') foot between any door and the surrounding grade. All dwellings shall provide a minimum of two points of ingress and egress.
 - d. The dwelling shall not contain additions or rooms or other areas which are not constructed with similar or better quality work as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein. All additions to dwellings shall meet all of the requirements of this Ordinance and any applicable Codes.
 - e. All dwellings shall be aesthetically compatible in design and appearance with other residences in the vicinity including: a 1:4 roof pitch, with either a roof overhang of not less than six inches on all sides, or alternatively with window sills or roof drainage systems concentrating roof drainage at collection points along sides of the dwelling; not less than two exterior doors with the first one facing the front yard and the second one being in either the rear or side of the dwelling; and, contains permanently attached steps connected to said exterior door areas or to porches connected to said door areas where a difference in elevation requires the same.
 - f. The compatibility of design and appearance shall be determined in the first instance by the Zoning Administrator upon review of the plans submitted for a particular dwelling. An appeal by an aggrieved party may be taken to the Board

of Appeals within a period of fifteen (15) days from the receipt of notice of said Zoning Administrator's decision. Any determination of compatibility shall be based upon the standards set forth in this Section as well as the character, design, and appearance of single family dwellings located outside of mobile home parks within two thousand (2,000) feet of the subject dwelling where such area is developed with dwellings to the extent of not less than 20% of the lots situated within said area or, where said area is not so developed by the character, design, and appearance of one or more single family dwellings located outside of mobile home parks within four (4) square mile area. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from the common or standard designed home.

g. Prior to issuance of a zoning permit for any dwelling unit, construction plans, including a plot plan, adequate to illustrate compliance with the requirements of this Ordinance shall be submitted to the Zoning Administrator. If the dwelling unit is a mobile home, there shall also be submitted adequate evidence to assure that the dwelling complies with all the standards applicable to mobile homes set forth in Section 3.13.B.

h. All mobile homes shall meet the standards for mobile home construction contained in the United States Department of Housing and Urban Development of Housing and Urban Development Regulations entitled "Mobile Home Construction and Safety Standards" effective June 15, 1976, as amended. All other dwellings shall meet the requirements of the construction code adopted by the Township. All dwellings shall meet or exceed all applicable roof snow load and strength requirements.

i. A minimum of one hundred (100) square feet of enclosed storage space, excluding closets, shall be provided for each dwelling. Said enclosed storage space may consist of a basement, garage, shed or other structure, approved by the Zoning Administrator.

j. For legal nonconforming mobile homes that are located outside mobile home parks, mobile home plats, or of places where Temporary Permits for placement of a mobile home have been issued; once that mobile home is removed it must be replaced with a mobile home in good condition that is also certified by the American National Standards Institute or the HUD Mobile Home Construction and Safety Standards or by a site constructed home or manufactured home that meets all applicable code requirements.

C. A single family dwelling in the R-1, R-2, and R-3 districts, including a mobile home except in a mobile home park, shall have a minimum width of twenty (20) feet over fifty (50) per cent of the entire structure length.

D. The minimum gross living area of a dwelling, and the minimum size for the footprint of the living portion of a dwelling shall be seven hundred-twenty (720) square feet.

Section 3.13 TEMPORARY BUILDINGS, STRUCTURES AND USES

Temporary buildings, structures, and uses are permitted in all districts only under the following conditions:

A. Habitation of Accessory Structures, Tents and Travel Trailers as Temporary Dwellings: Except for

tents and recreational vehicles in bona fide campgrounds, no structure shall be used for dwelling purposes for more than fifteen (15) days in succession nor more than sixty (60) days in one (1) year, that does not meet the minimum standards for a dwelling unit as defined in this Ordinance and the State Construction Code Act, Public Act 230 of 1972, with amendments. This means that no garage or other accessory building, cellar, basement, cabin, or partial structure, whether of a fixed or portable construction, nor any tent, travel trailer, recreational vehicle, trailer coach, mobile home, or other structure not in compliance with P.A. 230 of 1972, or the previous sentence, shall be erected or moved onto a lot and used for any temporary dwelling purpose unless authorized by the Zoning Administrator by the issuance of a Temporary Zoning Permit, or by means of a Special Land Use Permit pursuant to Section 7 or unless constructed as a year around dwelling per the applicable requirements of this Ordinance.

B. Temporary Housing: The Zoning Administrator may issue a temporary Zoning Permit for a mobile home or other temporary dwelling unit used for temporary dwelling purposes, subject to the following limitations and procedures:

1. The purpose of the temporary housing is either to provide on-site housing for residents of the lot while a new dwelling unit is being constructed or while rebuilding due to fire, collapse, explosion, act of God or acts of a public enemy;
2. The permit is for a period not longer than one (1) year based on evidence presented by the applicant that he/she can have the foundation and complete building framing in place within six (6) months and the entire residence completed within one (1) year. This period may be extended up to one (1) additional year by the Zoning Administrator when the following standards are met:
 - a. A good faith effort has been shown to build a new or rebuild a destroyed dwelling unit;
 - b. The time extension is reasonably necessary considering the practical difficulties associated with actual construction;
 - c. Occupancy of the structure being rebuilt is reasonably possible within the time extension;
 - d. Granting of the time extension to the applicant and other similarly situated parties will not prohibit enforcement of any provisions of this Ordinance, unduly overburden administration and enforcement resources, or adversely affect general health, welfare and safety of adjacent properties or the general community.
3. The lot or parcel is located in any residential district;
4. A performance guarantee as provided for in this ordinance is collected and said temporary dwelling is removed within fifteen (15) days after construction is complete.
5. The following additional approvals are obtained:
 - a. Any applicable permits from the Building Inspector
 - b. Approval of a septic system and well from the Benzie-Leelanau District Health Department
 - c. A driveway permit from the County Road Commission or Michigan Department of Transportation, as applicable.
6. Any mobile home permitted by temporary permit for purposes other than (a) or (b) above prior to the effective date of this amendment, may be issued a temporary permit by the Zoning Administrator for continuation of use of an existing mobile home by the present occupant, but no other, provided the dwelling remains in good structural condition, the septic system and well remain approvable by the Benzie-Leelanau District Health

Department and a performance guarantee as provided for in this ordinance is collected to insure the temporary mobile home is removed within thirty (30) days of its no longer being used by the present occupant.

- C. Temporary Contractor's Buildings: Temporary structures and temporary uses incidental to construction work, such as contractor storage buildings, semis or mobile homes used for contractor equipment, foreman offices and related activities, but not for habitation are not required to observe setbacks, and no temporary Zoning Permit is needed, provided:
1. Such buildings, structures or uses impede no clear vision area (see Section 3.20); and
 2. are removed upon the completion or abandonment of the construction work or within the period of one (1) year, whichever period of time is the shortest.
- D. Temporary Real Estate Offices: Are permitted within approved development projects. No cooking or sleeping accommodations shall be maintained. The temporary Zoning Permit shall be valid for not more than one (1) year, but is renewable. The office shall be removed upon completion of the development of the subdivision. A model home may be used as a temporary sales office.
- E. Churches & Schools: Temporary buildings incidental to a church or school, provided that all wiring, plumbing, fire protection and exits are approved by the Fire Chief and Building Inspector, and by relevant state agencies and all yard requirements of this Ordinance are met.
- F. Christmas Tree Sales: The display and sale of Christmas trees on a farm in the RP-5 District or at a church in any District, is permitted without a temporary Zoning Permit, provided it is incidental and accessory to the principal use or a temporary use of a vacant lot. The display and sale of Christmas trees is permitted for a period not to exceed forty-five (45) days. All unsold trees must be removed from the property by December 31 of each calendar year. Any Christmas tree sales in a location or under circumstances other than those defined above is permitted only by a Temporary Zoning Permit issued at the discretion of the Zoning Administrator.
- G. Auctions: The public sale of property to the highest bidder shall be permitted for not more than five (5) days and no sales activity shall occur within thirty (30) feet of any street or road right-of-way. Off-street parking areas shall be provided and parking is prohibited within the right-of-way of a major thoroughfare.
- H. Garage Sales: Garage sales, rummage sales, yard sales, moving sales, and similar activities shall be considered temporary accessory uses within any residential zoning district subject to the following conditions:
1. Any garage sale, rummage sale or similar activity shall be allowed without a temporary Zoning Permit for a period not to exceed three (3) days within a six (6) month period.
 2. All such sales shall be conducted a minimum of thirty (30) feet from the front lot line and fifteen (15) feet from a side lot line.
 3. No signs advertising a garage sale or similar activity shall be placed upon a public right of way or other public property. All signs advertising a garage sale shall be placed upon private property with the consent of an owner of said property and shall be removed within twenty-four (24) hours of the conclusion of said garage sale or similar activity.
 4. Signs shall also conform with the requirements of Section 19.4.A.6.
- I. Sawmills (portable): Establishment of a temporary sawmill for cutting of trees from a single parcel

or lot is permitted by Temporary Zoning Permit. The sawmill shall not be located closer than five hundred (500) feet to a dwelling unit other than that of the owner of the property on which the temporary sawmill is established. The Temporary Permit shall be valid for six (6) months, but may be renewed.

J. Firewood Sales: Firewood sales shall be limited to firewood cut from that parcel or lot only. Cutting and splitting by machines shall conform with the location requirements for temporary sawmills above. Storage of firewood for sale and use by persons off the premises shall be restricted to the side and rear yards.

K. Roadside Stands: Roadside stands selling products grown on the premises are permitted in the RP Districts provided the following standards are complied with:

1. Space for the parking of the customers' vehicles shall be furnished off the road right-of-way in the ratio of one (1) parking space for each fifteen (15) square feet of roadside stand floor area with a minimum of three (3) off-street parking spaces.
2. The roadside stand shall be located at least twenty-five (25) feet from the edge of the road.
3. Any roadside stand structure shall be seasonally erected and removed once the growing season is complete or November 1st, whichever comes first.

L. Transient and Amusement Enterprises: Circuses, carnivals, other transient amusement enterprises, music festivals, and similar temporary gatherings of people, may be permitted as a conditional use in specified zoning districts (see Section 5.8) if approved by the Planning Commission and upon the finding by the Planning Commission that the location of such activity will not adversely affect adjoining properties or adversely affect public health, safety, morals, or general welfare. The requirements of Section 10.4 and 10.7 must be met. The Planning Commission may require posting of a bond or other acceptable security payable to Gilmore Township in an amount sufficient to hold the Township free of all liabilities incidental to the operation of such activity and indemnify any adjoining land owners for any damage resulting from operation of such activity. Such damages shall be provable before the court having jurisdiction over the premises upon which the damages occurred and shall be payable through such court.

Section 3.14 LOT FRONTAGE/DEPTH RATIO

In order to conserve land resources and limit inappropriate crowding of land, all lots created after the effective date of this Ordinance with a lot area of less than forty (40) acres, shall have a lot width or frontage which is equal to or greater than 1/4 the depth of the longest side of said lot.

Section 3.15 USE OF OPEN SPACE

A. No 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, disused or rubbish-like materials or structures.

B. The location, parking or storage of recreational vehicles shall be allowed on a lot used for a dwelling, provided; wherever possible, such location, parking, or storage is not in the front yard nor in the minimum setback areas required for structures in the side and rear yards.

- C. No outdoor storage or parking of vehicles or trucks, over one (1) ton rated capacity, or similar heavy equipment or construction equipment, shall be permitted in a yard or on a lot located in R-1, R-2, or R-3 Districts, 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. Such vehicles are permitted on lots in all other districts.

Section 3.16 DAMAGED BUILDINGS

Any building that has been partially destroyed by fire, storm, water, tornado or other disaster 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. In the interim, the site shall be protected or screened from hazards to children.

Section 3.17 KEEPING OF ANIMALS AND LIVESTOCK

The following shall apply to the keeping of animals and livestock:

- A. Except for individual pets or children's projects such as 4-H or FFA, the raising or keeping of a reasonable number of small animals such as rabbits, poultry, goats and sheep shall not occur on a lot or parcel of less than two and ½ (2.5) acres. 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 (2.5) acres in area, and only one (1) such animal, over six (6) months of age shall be allowed per each two and ½ (2.5) acres on parcels under twenty (20) acres in area.
- B. Non-domesticated, wild, or exotic species of animals, or crossbreeds or hybrids thereof, shall be allowed only with written approval of the County Animal Control Officer or supervising agency with jurisdiction.
- C. No storage or unusual accumulation of manure or odor or dust-producing materials shall be permitted within one hundred (100) feet of any side or rear property line abutting a residential district or existing structure used for residential purposes.
- D. The provisions of this section shall not be interpreted to restrict any rights of farmers on land in districts in which agriculture is permitted in this Ordinance from the keeping of livestock in a manner permitted under Michigan's Right to Farm Act, being Public Act 93 of 1981, as amended, or consistent with any management practices established pursuant to that act.

Section 3.18 ACCESS TO PUBLIC ROADS

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 (see definition of "easement" in Section 2.2). The location and characteristics of the private road easement, other access point or driveway to a public road shall conform with the requirements in Section 3.22 as well as with those in Sections 3.3 and 3.20.

Section 3.19 CLEAR VISION CORNERS

These regulations govern the protection of clear vision site distances on property outside of the road right-of-way and are in addition to the site distance requirements of the County Road Commission.

- A. No fence, wall, sign, screen, any planting, berm, boulder, or other structure shall be erected or maintained in such a way as to obstruct clear vision between a height of three (3) and ten (10) feet within the triangular area formed by the intersection of the street right-of-way lines and a line connecting two (2) points which are located on those intersecting right-of-way lines and a line connecting two (2) points which are located on those intersecting right-of-way lines thirty (30) feet from the point of intersection of the right-of-way lines. The three (3) foot height limit shall be measured from the lowest elevation of the segment of the intersecting roads' centerline which lays between the point of intersection of the other centerline and the extension of line drawn through the points thirty (30) feet from the intersection of the right-of-way lines. (See Figure 3-1).
- B. No fence, wall, sign, screen, any planting, berm, boulder, or other structure shall be erected or maintained in such a way as to obstruct vision between a height of three (3) and ten (10) feet within the triangular area formed by the intersection of a street right-of-way line and a driveway and a line connecting two points which are located on the right-of-way line and the driveway twenty (20) feet from the point of intersection of the right-of-way line and driveway. The three (3) foot height limit shall be measured from the lowest elevation of the segment of the intersecting road and the driveways' centerlines which lays between the point of intersection of the centerlines and the extension of the line drawn through the points 20 feet from the intersection of the right-of-way line and driveway. (See Figure 3-2).

Figure 3-1

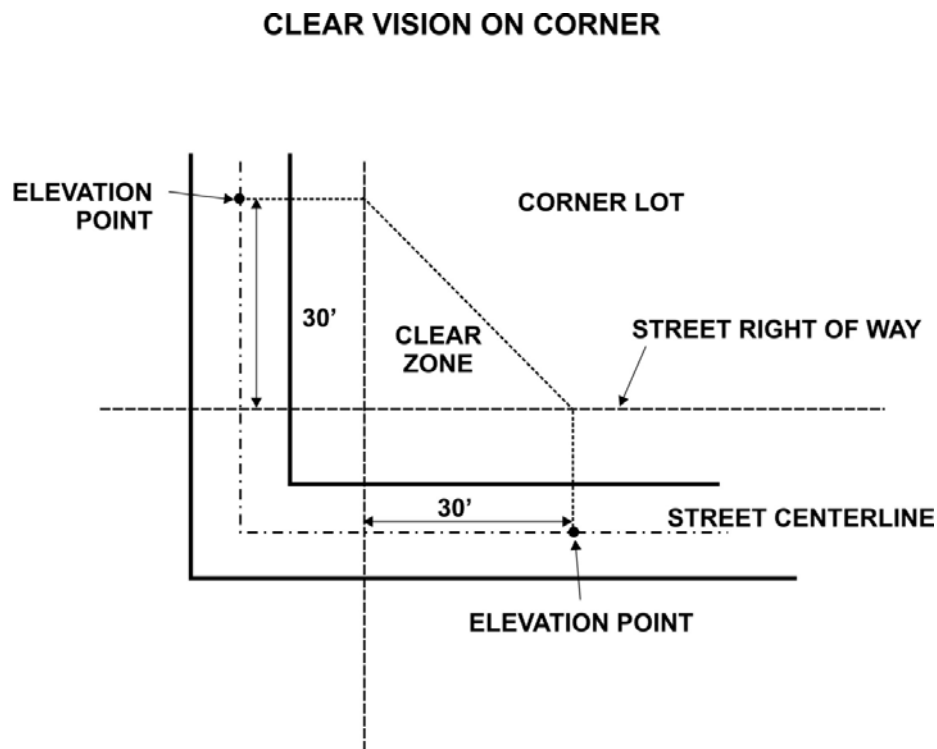
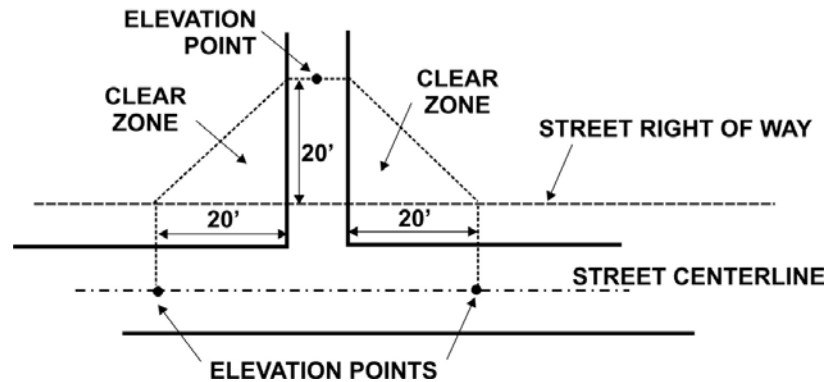


Figure 3-2

CLEAR VISION AT DRIVEWAYS



Section 3.20 VACATED STREET

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.

Section 3.21 ACCESS MANAGEMENT

- A. Purpose: The purpose of this Section is to establish minimum regulations for access to property. These regulations ensure: all newly created lots and existing lots being redeveloped or upgraded have adequate access for emergency vehicles and do not unnecessarily impede traffic flow or create a safety problem on the public road to which they connect. Standards are established for curb cuts and driveways, service roads, and new public and private streets.
- B. Minimum Frontage and Access: No person, firm or corporation shall hereafter divide any land without providing for public access or permanent private easements for access to such divided lands. All lots created after the effective date of this Ordinance, or an amendment thereto, shall have the required minimum frontage along a public street or private road, or at the building line, depending on the Zoning District, and shall have access consistent with the requirements of this Article. A second means of access to a group housing development, subdivision, mobile home park or nonresidential development is not subject to the minimum lot frontage requirement for the second means of access. Pursuant to the Land Division Act, Public Act 288 of 1967, as amended, access shall be reviewed and approved when any land division is reviewed for compliance with this Ordinance. Local Township land division and road maintenance ordinances and agreements pursuant to them may also apply. A traffic impact assessment may be required pursuant to Section 10.7 prior to determining conformance of proposed access to this Section.
- C. Curb Cuts and Driveways: No driveway shall connect to a public street or private road without first receiving approval of the driveway location and cross-section specifications from the County Road Commission on a County Road or the Michigan Department of Transportation on a State or Federal Highway. Provided, however, such approval shall not be given where such curb cuts and driveways will cause an unreasonable increase in traffic hazards, including but not limited to allowing adequate sight distance for ingress and egress.
1. All plans for structures to be erected, altered, moved or reconstructed, and use of

premises within the Township shall contain a plan for the proposed driveway access to the premises. Said plan shall be approved by the Zoning Administrator prior to the issuance of a Zoning Permit. No such plan shall be approved unless such driveway access is onto a dedicated public street, an approved private road or alley. Driveways shall, at a minimum, meet the following standards:

- a. Storm drains, or culverts, if allowed, shall be installed in line with and on the same grade as those being connected with.
 - b. Drives shall enter perpendicular to the existing public street, private road, or alley.
 - c. No portion of the driveway entrance within the right-of-way shall have a grade of greater than ten (10) percent (1 foot vertical rise in ten (10) feet of horizontal distance) unless a greater slope is necessary to meet the sidewalk elevation from the street
 - d. The driveway shall meet clear vision standards of Section 3.20.
 - e. Driveways shall be a minimum of fifty (50) feet from the nearest right-of-way line of an intersecting road or street.
 - f. Driveways shall be designed to minimize runoff and erosion and shall not alter existing drainage unless approved by the Zoning Administrator.
2. The Zoning Administrator shall inspect the driveway as developed for compliance with the above standards prior to issuance of a Certificate of Zoning Compliance.
 3. The new driveways shall align with existing or planned driveways, crossovers, turn lanes or other access features. This shall only be required if the resulting alignment provides safe access and if all other access requirements of this Ordinance are met.
 4. The location of new driveways shall conform with road improvement plans or corridor plans that have been adopted by the County Road Commission or Michigan Department of Transportation.
 5. No single or two-family driveway shall have a width less than ten (10) feet nor more than sixteen (16) feet at the street right-of-way line. The curb cut, including flares, shall not be more than 1.5 times the width of the driveway at the street right-of-way.
 6. A single driveway serving more than one non-residential use is encouraged provided the design meets contemporary engineering standards for safe access and efficient traffic flow. Similarly, shared parking lots between uses with peak uses at different times of the day, or connected parking lots between abutting parcels are encouraged. A shared driveway, shared parking lot and/or connected parking lot agreement shall be prepared and shall be approved by the County Prosecutor, before being signed and recorded with the County Register of Deeds (see Section 14.11). Such agreements shall detail the terms and conditions concerning use and maintenance of a shared driveway, shared parking lot, or connected parking lot.
 7. No driveway shall serve more than one (1) dwelling unit unless the use is a duplex, a multiple family structure, a PUD, an apartment building, or meets the requirements for a joint or common driveway in Section 3.22.H.
 8. A driveway shall be located no closer than fifteen (15) feet from a lot line unless it is a joint driveway serving more than one (1) dwelling unit (see I above); or unless the road authority and Zoning Administrator agree that a closer location is the safest location under the particular circumstances.

D. Business Access: No business access shall cross residentially-zoned property.

- 608
609
610 E. One Driveway per Parcel: All land in each parcel having a single tax code number, as of the date
611 of the amendment adding this provision to the Ordinance, which front on a major thoroughfare
612 shall be entitled to only one (1) driveway access from said street or highway. Subsequent division
613 of each parcel, either as metes and bounds descriptions, as plats created in accord with the Land
614 Division Act, Public Act 288 of 1967 as amended, or as site condominiums in accord with the
615 Condominium Act, Public Act 59 of 1978 as amended, shall provide access by a single subdivision
616 road, other public road or by an approved service drive. No direct additional access to the major
617 thoroughfare shall be permitted with subsequent divisions unless more than thirty (30) residential
618 lots are created, or more than one-hundred (100) dwelling units in an apartment complex are
619 created, then a second access shall be provided to the major thoroughfare only if no other access
620 is possible via another public or private road.
621
- 622 F. Service Drives: Service drives which parallel a major thoroughfare and connect multiple parcels in
623 either the front or the rear of the property are encouraged. The Planning Commission shall review
624 and either approve, deny or approve with conditions all service drives to insure safe and adequate
625 continuity of the service drive between contiguous parcels. The standards for service drives
626 follow:
- 627 1. Width: A minimum of twenty-four (24) feet with construction to standards established by
628 the County Road Commission for base and thickness of asphalt.
 - 629 2. A minimum of fifteen (15) feet snow storage/landscaping area must be reserved along
630 both sides of the service drive with the edge of the service drive located a minimum of
631 fifteen (15) feet from the major thoroughfare right-of-way.
 - 632 3. All driveway radii shall be concrete curbs.
 - 633 4. The entrance to the service drive from a public road other than the major thoroughfare
634 shall be at least one hundred-fifty (150) feet from the centerline of the major
635 thoroughfare to provide for adequate stacking and maneuvering.
 - 636 5. The service drive shall be a public street, or a private road maintained by adjoining
637 property owners or users who shall enter into a formal agreement together for the joint
638 maintenance of the service drive. The County Prosecutor shall approve the terms of the
639 agreement before it is recorded with the County Register of Deeds. No service drive shall
640 be established on existing public right-of-way.
 - 641 6. Landscaping along the service drive shall conform with the requirements of Sections 8.30
642 and 8.36. Installation and maintenance of landscaping shall be the responsibility of the
643 developer or a property owners association.
 - 644 7. All separate parking areas shall use no more than one (1) access point or driveway to the
645 service drive.
 - 646 8. All traffic signage and pavement markings along the service drive shall conform to the
647 current Michigan Manual of Uniform Traffic Control Devices.
648
- 649 G. Existing Road Width: Where a private road or street in existence prior to the effective date of this
650 provision has no recorded width, the width will be considered to be sixty-six (66) feet for the
651 purposes of establishing setbacks and measured equal distance from the midpoint of the road
652 surface.
653
654

H. Common Driveways Serving Two Residential Dwelling Units:

1. The purpose of this Section is primarily to provide for the use of common driveways that serve no more than two (2) dwelling units in situations where sight distance limitations and/or natural features limitations produce a situation where two lots that otherwise meet the minimum lot width requirements of this Ordinance are better served by a common driveway. Common driveways are not intended as the first step in creating a private road nor are common driveways intended to create access to a parcel which does not have access on a public or private road.
2. A Zoning Permit shall be required for the establishment of a common driveway. A single thirty-three (33) foot right-of-way which serves as ingress and egress for no more than two (2) dwelling units or parcels of land may be permitted by the Zoning Administrator.
 - a. The easement shall not be less than thirty-three (33) feet in width.
 - b. The applicant for a common driveway shall provide the Zoning Administrator with certified copies of recorded irrevocable property covenants and/or deed restrictions that limit the driveway easement to serving only two (2) parcels.
 - c. Eligible lots shall conform to the minimum lot width requirements for the zoning district in which they are located.
 - d. A common driveway may straddle two lots or take all its easement for ingress and egress from one or the other.
 - e. The common driveway shall be in compliance with the standards of the Benzie County Road Commission and shall be specifically permitted under rules adopted by the Board of the County Road Commission.
 - f. No common driveway easement shall extend more than five hundred (500) feet from the center line of the public or private road which it accesses.
 - g. The common driveway width, surface condition and adjacent vegetation shall be kept in good passable condition in all seasons sufficient to permit emergency vehicles to safely and easily pass over the common driveway. This means a passable area at least fifteen (15) feet wide and fifteen (15) feet high for the entire length of the common driveway.
 - h. All culverts shall be sized and constructed of materials sufficiently strong to permit safe and convenient passage by emergency vehicles.
 - i. Area at the end of the common driveway shall be sufficient to permit safe and convenient turnaround and set up area for emergency vehicles.

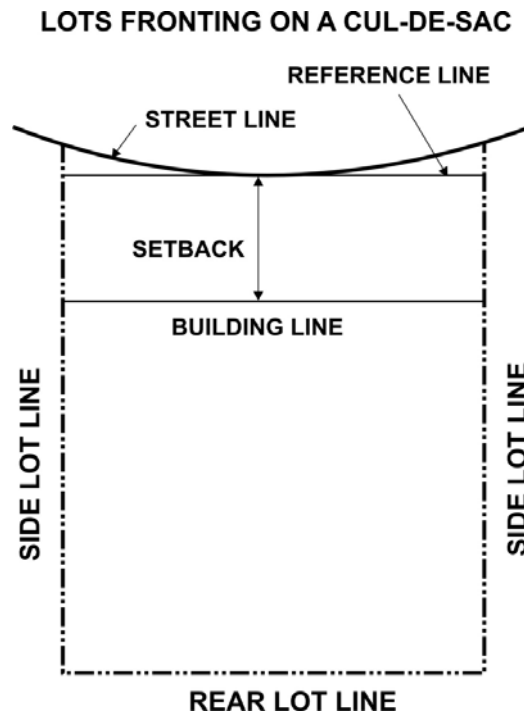
- I. Standards of County Road Commission or MDOT: If the standards of the Benzie County Road Commission or Michigan Department of Transportation are more restrictive than those of this Section, the more restrictive standards shall apply.

Section 3.22 PUBLIC STREET STANDARDS

- A. Requirements to be Met: New public streets or public roads shall conform to the requirements of this Section and those of the County Road Commission.
- B. Construction Standards: The creation of a public street that serves a division of land, a subdivision or a parcel shall meet or exceed the cross-sectional construction standards, site distance, drainage and any other requirements as specified in "Standards and Specifications for Plat Development and Street Construction" or other standards adopted by the County Road Commission.

- C. Proposed new public roads which are not part of a subdivision shall either be developed as private roads pursuant to Section 3.24 or may be approved by the Site Plan Review Committee and the Township Board of Trustees in the township(s) in which the road is (are) located.
- D. Dedication of Rights-of-Ways or Easements: All new public streets shall be dedicated to and accepted by the public, and no structure or development activity shall be established within approved rights-of-ways or easements. All plans as submitted for approval must show the proposed street including a legal description, and must include the grades for these streets.
- E. Connection to County Roads and State Highways: Construction authorization from the County Road Commission is required for connection to Township roads and from the Michigan Department of Transportation for connection to a State or Federal Highway. Interconnection between public roads is strongly encouraged. At the discretion of the Planning Commission, a proposed public street may be disapproved unless it connects to another public street or road when necessary to provide safe traffic flow and emergency vehicle access.
- F. Cul-de-sacs: Cul-de-sacs shall meet or exceed cross-section specifications established by the County Road Commission 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 lot or parcel within the development which lot or parcel fronts upon the cul-de-sac.
 2. Frontage measurements for cul-de-sac lots shall be from the curve tangent that meets both side lot lines. See Figure 3-3.
 3. Not more than four (4) lots or parcels shall have frontage on a cul-de-sac.
- G. Limit on Length: New public or private streets with only one connection to another public street, county road or state highway shall not be longer than one thousand three hundred-twenty (1,320) feet. Dead end roads more than eight-hundred (800) feet in length may require the installation of a water hydrant tank, at the discretion of the Fire Chief with authority in the Township.
- H. Maximum Number of Lots Served: No more than thirty (30) lots may gain access to a single public street if only one point of intersection is provided between the new public street and another existing public street.

Figure 3-3



- I. Application Review and Approval or Rejection:
 1. The Zoning Administrator shall review, and send to the Site Plan Review Committee, the plans of a new public street not a part of a proposed plat for review and comment. If the new street is proposed to connect to a state or federal highway, a copy of the application shall be sent to the Michigan Department of Transportation (MDOT), for review and comment with a date specified as to when comments are needed.
 2. The Site Plan Review Committee shall approve or disapprove the new public street with conditions necessary to ensure conformance with the standards of this Ordinance.
 3. If the application is rejected, the reasons for the rejection and any requirements for approval shall be given in writing to the applicant.
- J. Failure to Perform: Failure by the applicant to begin construction of the new street according to approved plans on file with the Zoning Administrator within one (1) year from the date of approval shall void the approval and a new plan shall be required subject to any changes made by the Township in its standards and specifications for road construction and development.
- K. Issuance of Zoning Permit: No Zoning Permit shall be issued for a structure on any new public street until such street is given final approval by the Board of the County Road Commission.
- L. Posting: All new public streets shall be designated as such and shall be posted by the applicant on a sign meeting standards on file in the office of the County Road Commission. The sign shall be paid for by the applicant. The Zoning Administrator shall check with the County Addressing Designee to avoid a duplicate of names and gain approval of same.

Section 3.23 PRIVATE ROAD DEVELOPMENT

- A. Intent: The purpose of this Section is to provide for the general location, character, and extent of private roads in Gilmore Township. Lot orientation and other development circumstances also are regulated herein. The private road development Section is hereby established to provide for the

proper development and utilization of land abutting private roads while at the same time making proper provision for the present and future health, safety and welfare of the people of the community.

B. Uses Regulated: Except as provided below, any development resulting in the use by one or more lots, parcels or site condominium units of a roadway other than a public road for direct access must be reviewed and the private road approved before any Zoning Permits are issued. In the case of a private road that is part of a development requiring site plan review, the private road may be approved as part of the site plan review process. In those cases, the Planning Commission may require the same information as in this Article for private road approval and shall use the same standards for approval as contained in this Article.

1. If the Township has a private road ordinance in effect which conflicts with this Ordinance, the provisions of such private road ordinance shall control.
2. Private roads in place at the effective date of the amendment which adds this Section are nonconforming and exempt from the provisions of this Section 3.24, provided:
 - a. The private roads were built and have been subsequently maintained in accordance with any regulations, permit or agreement in place at the time they were approved; and
 - b. Any increase in the number of dwelling units served by a nonconforming private road will require the private road serving that lot to be examined in light of these standards, except as provided by B.1 above, and the private road may be required to be upgraded per the standards of this Section 3.24 and prior to issuance of a Zoning Permit for any new dwellings served by the private road, if the private road is found to be substandard.

C. Preliminary Conference with Zoning Administrator: The applicant shall contact the Zoning Administrator to request a preliminary conference prior to any financial investment in the proposed development, in order to ensure it will be compatible with Township Ordinances. There is no extra fee for the preliminary conference.

D. Application for Private Road Development Permit:

1. Following a preliminary conference with the Zoning Administrator, if the applicant wishes to proceed, the applicant must file an application for a Private Road Development Permit with the Zoning Administrator, pay the required filing fee and request placement of the request on the Planning Commission agenda.
2. The applicant must provide proof of ownership or written consent of the property owner to make the application, along with the address of the applicant and owner (if different).

E. Site Plan Submittal Requirements:

1. The information in 2 below shall be on or accompany a site plan depicting the proposed private road unless waived by the Zoning Administrator.
2. Sufficient copies of a site plan in a scale of at least 1" = 100' must be provided to the Zoning Administrator at least forty-five (45) days prior to a Planning Commission meeting. The site plan shall include the following:
 - a. A sketch showing the general relationship of the proposed property division to the surrounding area within one-half (1/2) mile in a scale of not less than 1" = 200'.
 - b. Property lines of existing or proposed parcels to be served by the private road, property lines of adjacent tracts of subdivided and un-subdivided land, shown in

- 835 relation to the proposed property division (if any), including those areas across
836 abutting roads.
- 837 c. Locations, widths, and names of existing or prior easements of record, public
838 and/or private.
- 839 d. Location of existing sewers, water mains, storm drains and other underground
840 facilities within or adjacent to the property.
- 841 e. Existing and proposed drainage patterns and any proposed retention ponds.
- 842 f. For parcels over twenty (20) acres in size, the site plan shall show the topography
843 drawn as contours with the interval available on the U.S. Geological Survey map
844 of the area where the property is located.
- 845 g. The location of significant natural features such as natural water courses, bodies
846 of water, wetlands, and slopes over twelve (12) percent.
- 847 h. Indication of parcels of land intended to be dedicated or set aside for public use
848 or for the use of property owners in the subdivision for dedicated open space
849 easements, or easements for future utilities, if any.
- 850 i. Future divisions, if any.
- 851 j. Layout of the proposed private road, indicating right-of-way widths, surface
852 width, grades, connections to other private roads or public streets.
- 853 k. Proposed private road maintenance agreement and proposed private road
854 easement agreement.
- 855 l. Proposed street name.
- 856
- 857 F. Road Commission Review: A copy of the private road site plan and all attachments shall be
858 transmitted by the Zoning Administrator to the Benzie County Road Commission for review and
859 comment. The Zoning Administrator shall send the proposed road maintenance agreement and
860 road easement agreement to the County Road Commission for review and comment. At least
861 fourteen (14) days shall be provided for their review and comment. A reply shall be provided to
862 the Zoning Administrator. If no response is received, it shall be conclusively presumed that the
863 County Road Commission has no objection.
- 864
- 865 G. Standards for Approval: The following criteria represent minimum standards for approval of
866 private roads. The approving body shall determine if unusual conditions exist that warrant higher
867 standards or conditions of approval. Any unusual conditions shall be set forth in the record of the
868 approving body along with the rationale for higher design standards or conditions of approval.
- 869 1. All private roads serving fifteen (15) or more dwellings shall have a minimum sixty-six (66)
870 foot wide right-of-way and be built to Benzie County Road Commission specifications, as
871 outlined in their publication "Standards and Specifications for Plat Development and
872 Street Construction". Private roads and single access drives that serve one (1) through
873 fourteen (14) single family dwellings shall conform with the requirements in Table 3-1.
- 874
- 875
- 876
- 877
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- 883

Table 3-1
SINGLE ACCESS DRIVE & PRIVATE ROAD STANDARDS

# of Lots Served	Roadway Width or Easement Width	With of Improved Road Surface	Surface Type	Bump Out or Turnaround	Ditch/Utilities Minimum Side Slope	Max Grade
1	20 ft.	10 ft.	Dirt/gravel	18 ft. x 60 ft. at 400 ft. intervals	Min. 2 ft. below shoulder with side slope of 1:3 or 33%	10% or approval of Fire Chief
2-4	33 ft.	18 ft. with 2 ft shoulders on each side	6" gravel/clay mix over 6" granular material	Cul-de-sac min. 120 ft. radius with 12 ft. one-way traveled surface, OR Hammer-Head T, 198 ft. by 66 ft. ROW with 18 ft. of road surface back-in/turn around	Min. 2 ft. below shoulder with side slope of 1:3 or 33%	10% or approval of Fire Chief
5-15	66 ft.	20 ft. with 3 ft shoulders on each side	6" gravel/clay mix over 6" granular material	Cul-de-sac min. 120 ft. radius with 12 ft. one-way traveled surface, OR Hammer-Head T, 198 ft. by 66 ft. ROW with 20 ft. of road surface back-in/turn around	Min. 2 ft. below shoulder with side slope of 1:3 or 33%	10% or approval of Fire Chief
>15	66 ft.	Shall meet requirements of County Road Commission				

2. Building setbacks shall be measured from the outside edge or boundary of the private road right-of-way easement. This will help provide snow storage from plowing and minimum space for storm water runoff.
3. Private roads shall be planned and so constructed in relation to land contours and obstructions as to provide safe, adequate, ingress and egress by private driveway for each parcel. Clearing and grubbing is required for a clear line of sight and passage throughout the corridor, with a minimum of fifteen (15) feet wide and fifteen (15) feet of clear height throughout the corridor. This will accommodate fire fighting equipment, other emergency vehicles, snow plows, school buses, sanitation vehicles and similar service vehicles. See also Section 3.3.
4. Road layout shall fit the general pattern established by adjacent roads and streets. All intersections shall be at ninety (90) degree angles.
5. All road sub-bases shall be designed, constructed and maintained to withstand usage by utility, service and emergency vehicles. The ground for a road shall be prepared as follows:

- a. Fill slopes must not be constructed on natural slopes steeper than one (1) unit vertical in two (2) units horizontal (50% slope). The ground surface must be prepared to receive fill by removing woody vegetation such as shrubs, topsoil and other unsuitable materials and scarifying to provide a bond with the new fill. Where slopes are steeper than one (1) unit vertical in five (5) units horizontal (20% slope) and the height is greater than five (5) feet, stability must be achieved by benching at the toe into sound bedrock or other competent material.
- b. Composition of fill material must follow these requirements:
- i. Detrimental amounts of organic material will not be permitted in fills
 - ii. Rock sizes greater than twelve (12) inches in maximum dimension must be placed two (2) feet or more below grade, measured vertically.
 - iii. Rocks must be placed so as to assure filling of all voids with well-graded soil
 - iv. The upper two (2) feet of fill must be compacted for stability in preparation for placement of surfacing material.
6. Regulation Michigan State Highway stop signs shall be positioned and installed in accordance with the "Michigan State Manual of Uniform Traffic Control Devices" on all private roads where such roads intersect public streets or another private road.
7. Rights-of-way shall connect the private road system of the proposed development to any road or right-of-way of existing abutting developments or subdivisions where an existing road or right-of-way terminates at the boundaries of the proposed development. This requirement may be waived by the Planning Commission for private roads serving more than four (4) lots, or the Site Plan Review Committee for private roads serving four (4) or fewer lots. The waiver may be granted if findings in the record of the approving body show that natural barriers, pre-existing man-made barriers, or other factors result in a practical difficulty which is greater than the public safety and traffic efficiency benefits to be gained by the connection.
8. A private road legal description shall grant easements for installation and maintenance of public utilities.
9. The layout of roads shall provide a continuous circuit of travel. This requirement may be waived by the Planning Commission for private roads serving more than four (4) lots, or the Site Plan Review Committee for private roads serving four (4) or fewer lots. The waiver may be granted upon making finding in the record of the approving body that the lands to be developed are limited in area by purpose or by natural barrier. Granting of the waiver allows the road to terminate in an approved cul-de-sac that meets the design requirements in the Benzie County Road Commission specifications, as outlined in their publication "Standards and Specifications for Plat Development and Street Construction" as modified by this Ordinance, provided a right-of-way is established extending from the end of the cul-de-sac to the development boundary. Road right-of-ways or easements created for this purpose shall be non-exclusive and shall prohibit the construction or placement of buildings or structures within the right-of-way. Where a natural barrier exists or a future tie-in with an existing road in an adjoining development or subdivision is not feasible, this right-of-way requirement may be also waived.
10. All private roads shall be named by the applicant and the name approved by the Benzie County Addressing Designee in the Equalization Department in accordance with established standards, and directives and street signs shall be erected at the cost of the applicant, in the same manner and method, and in accordance with the requirements of the Road Commission.
11. The road maintenance agreement signed by applicant/owner(s) to be recorded with the

- County Register of Deeds shall provide for:
- a. A method of initiating and financing of such road 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 properties served by the private road.
 - c. A notice that if repairs and maintenance are not made, the Township may bring the road up to established County Road Commission standards for public roads and assess owners of parcels on the private road for the improvements, plus an administrative fee in an amount not to exceed twenty-five (25) percent of total costs
12. Road easement agreement signed by the applicant/owner(s) to be recorded with the County Register of Deeds providing for:
- a. Easements to the public for purposes of emergency and other public vehicles for whatever public services are necessary.
 - b. A provision that the owners of any and all of the property using the road shall refrain from prohibiting, restricting, limiting or in any manner interfering with normal ingress and egress and use by any of the other owners. Normal ingress, 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 having a need to use the road.
13. Spacing of Private Roads: No more than one (1) private road may be established for each parcel of land existing at the time of the effective date of this amendment to the ordinance, and it shall have at least the roadway width or easement depicted on Table 3-1, depending on the number of dwelling units serviced. Private roads, or driveways serving an individual parcel, which are created after the effective date of this amendment to the ordinance, must observe at least six hundred (600) feet of separation between the center lines of driveways, private roads and any intersecting public roads as measured along the centerline of the public street to which the driveway or private road connects.
14. Private roads which create four (4) or more lots; or that are located in the RP or Residential Districts may reduce the required minimum lot frontage to one-hundred (100) feet for the lots fronting on the private road.
15. Nothing in this section shall be interpreted to allow residential development that requires platting under the Land Division Act, as amended to occur without first obtaining approval as a platted subdivision.
16. Failure to maintain the private road in compliance with the standards for horizontal and vertical clearance, ditching, road and shoulder grading, and the other dimensional requirements of Figure 3-3 shall constitute a violation of this ordinance.
17. The plan requirements of the County Road Commission publication "Standards and Specifications for Plat Development and Street Constructions" shall be followed in addition to the site plan requirements of Article 11 of this Ordinance for all private roads serving more than fifteen (15) lots. Plans shall be prepared and endorsed by a Michigan registered Civil Engineer. As built plans are required and shall contain the engineer's certification that all specifications have been complied with during construction and that the plans are a true representation of the actual construction.
- H. Application Review and Approval or Rejection:
1. The private road shall be reviewed as part of the review of the development proposal served by the proposed road. Said review may be conducted as part of a site plan review process, or at the applicant's discretion, separately if no other development approvals

- from the Township are needed.
2. If the private road plans are approved by the Site Plan Review Committee, construction authorization will be issued by the Zoning Administrator. One copy of the approved plan shall be returned to the applicant. If the application is rejected, the reasons for the rejection and any requirements for approval shall be given in writing to the applicant.
- I. Issuance of Permit for Structures Served by Private Roads:
1. No building permit or Certificate of Zoning Compliance shall be issued for a structure or use provided access by a private road until such private road is approved pursuant to the requirements of Section 3.24.H.
2. No private road shall be constructed until the Zoning Administrator has issued a Private Road Construction Permit and a soil erosion and sedimentation control permit has been issued by the Soil Erosion and Sedimentation Control officer, when applicable.
- J. Failure to Perform: Failure by the applicant to begin construction of the private road according to approved plans on file with the Zoning Administrator within one (1) year from the date of approval shall void the approval and a new site plan shall be required by the Township subject to any changes made herein or subject to any changes made by the County Road Commission, Planning Commission or Township Board of Trustees in its standards and specifications for road construction and development.
- K. Notice of Easements: All purchasers of property where a private road provides access to the premises shall, prior to closing of the sale, receive from the seller a notice of easement, in recordable form, substantially conforming to the following:
- “This parcel of land has private road access across a permanent easement which is a matter of record and a part of the deed. This notice is to make Purchaser aware that this parcel of land has egress and ingress over this easement only.”
- Section 3.24 RESIDENTIAL USE OF PROPERTY; ADULT FOSTER CARE FACILITIES; FAMILY OR GROUP CHILD CARE HOMES.**
- The residential use of property for adult foster care facilities and/or family or group child care homes shall comply with provisions of 125.3206 of PA 110 of 2006; Michigan Zoning Enabling Act.
- Section 3.25**
- Reserved for future use.*
- Section 3.26**
- Reserved for future use.*

ARTICLE 4
ZONING DISTRICTS AND ZONING MAP

4.1 Relationship of Zoning Ordinance to Community Master Plan

The zoning ordinance is enacted to regulate the use of private and public property and structures with the purpose of protecting public health, safety and welfare. Standards and regulations within the ordinance regulate the amount, type and use of a building allowable on a piece of land. The zoning ordinance is a tool used by the community to effectuate the recommendations of the Township Community Master Plan, which is a guide for the long-term physical development of the Township.

4.2 Districts Established

The Township is hereby divided into the following districts (see Zoning Map), which shall be known as:

- R-1: Lakeshore Residential (12,000 square feet)
- R-2: Single Family Residential (15,000 square feet)
- R-3: Rural Residential (1.0 Acre)
- R-4: Residential – Multiple Family (20,000 square feet)
- R-5: Recreational Residential (21,780 square feet)
- RP-5: Rural Preservation (5.0 Acre)
- L1: Light Industrial (2.5 Acres)
- PL: Public Lands (no minimum)

4.3 Lakeshore Residential (R-1)

It is the intent and purpose of the R-1 District to regulate land uses in the immediate vicinity of the shores of lakes. Generally, the area available for development along the lake shores is limited by the natural characteristics of the land, i.e.: bluffs, swamps, etc. This district recognizes the high scenic and economic values of lake shore properties, establishing land uses and development standards which are intended to allow the reasonable use of the lake shore. The district recognizes that smaller lot sizes frequently already exist. It also recognizes that undersized lots in the district have uses, especially along the lake edge, which give them value even if not suited to the construction of a residential use. Such uses may include beach access, parking, storage of beach equipment, etc

4.4 Single Family Residential (R-2)

It is the intent of the R-2 District to establish standards for the development of low-medium density residential uses within the Township, or within areas of the Township where anticipated public services, such as public water and sewer facilities, may be provided in the future. This district also includes existing one-family developments within the Township which have similar lot area and character, as well as areas within which such development appears likely and desirable.

4.5 Rural Residential (R-3)

This R-3 District is established to accommodate the development of residential properties of a semi-rural character within the following general areas of the Township: (1) Much of this district parallels Lake Michigan. Typically, the land rises from the lake plane to the higher ridges above

and will likely never be provided with public services including water and sewer. (2) This district also includes existing one-family developments within the Township which have a similar lot area and character, as well as areas within which such development appears likely and desirable.

4.6 Residential – Multiple Family (R-4)

The multi-family dwelling district is intended to permit single family, two family, and multi-family dwelling units in an area developed and reserved for medium to high density residential purposes providing suitable areas of protected residential character and the physical and social amenities of a stable, healthy living environment, open space, recreational area, compatibility with other residential land uses, and to prevent the use or encroachment of land uses and structures which would tend to adversely affect the residential character of the district.

4.7 Recreational / Residential (R-5)

The Recreational/Residential District recognizes the need for organized large scale outdoor recreational activities and their compatibility with residential uses, which, when combined with environmental concerns, such as soils, slopes, etc., which dictate only minimum density, lays the groundwork for clustered residential development in concert with said recreational uses.

4.8 Rural Preservation (RP-5)

The Rural Preservation (RP) District is intended to recognize the unique rural character of Gilmore Township and to preserve, enhance and stabilize existing areas which are presently being used predominately for farming, forestry and other open space uses, are recognized as important to established large acreage holdings and such holding are deemed desirable and appropriate by current owners. It is further recognized that there are lands within the district which are not suited to agriculture, forestry or other open space uses, therefore other limited uses are allowed as more intense development under PUD provisions.

4.9 Light Industrial (LI)

The Light Industrial (LI) District is intended to accommodate those industrial uses, storage, and related activities that generate a minimum of noise, glare, odors, dust, vibration, air and water pollution, fire and safety hazards, or any other potentially harmful or nuisance characteristics. It is designed to accommodate wholesale, warehouse and industrial activities, whose operational and physical characteristics do not detrimentally affect any of the surrounding districts. The LI District is established to permit the manufacturing, compounding, processing, packaging, assembly and/or treatment of finished or semifinished products from previously prepared material. It is also intended to permit limited retail enterprises if they are directly related to the distribution of products manufactured or warehoused which are not suitable for wholesale distribution.

4.10 Public Lands (PL)

All government owned lands zoned in the Public Lands District are primarily used for recreation, forest and wildlife management and use shall be guided by management plans for the property in question.

4.11 Compliance with District Regulations

Compliance with District regulations shall be required as follows:

- 96 A. No building or structure shall be erected, converted, enlarged, reconstructed,
97 relocated or structurally altered, nor shall any building or land be used, except for a
98 purpose or use permitted in the district in which the building or land is located, nor
99 in excess of the height and bulk limits established for such district.
100
- 101 B. No building or structure intended for a dwelling use shall be erected, converted,
102 enlarged, reconstructed or structurally altered except in conformity with the floor
103 area regulations of the district in which it is located.
104
- 105 C. No building or structure shall be erected, converted, enlarged, reconstructed,
106 relocated or structurally altered except in conformity with the yard and lot area
107 regulations and the off-street parking and loading regulations of the district in which
108 such building is located.
109
- 110 D. The minimum yards, parking space and other open spaces, including lot area per
111 family, required by this Zoning Ordinance for any building hereafter erected or
112 structurally altered, shall not be encroached upon or considered open space or lot
113 area requirement for any other building, nor shall any other lot area be reduced
114 beyond the district requirements of this Zoning Ordinance.
115
- 116 E. Every building or structure hereafter erected or structurally altered shall be located
117 on a lot as defined, and in no case shall there be more than one (1) main building on
118 one (1) lot, except as provided in parts of this ordinance.
119

120 **4.12 Properties with Multiple Zoning Designations**

121 When an individual recorded parcel, which exists at the time of adoption of this ordinance, has
122 more than one zoning classification, the zoning designation which comprises the majority of the
123 parcel area shall be applied to the entire parcel.
124

125 **4.13 Uses Contrary to Federal, State or Local Statutes, Laws, and/or** 126 **Ordinances**

127 Uses for enterprises or purposes that are contrary to Federal, State, and Township statutes, laws,
128 and/or ordinances are prohibited.
129

ARTICLE 5
REGULATED USES AND DIMENSIONAL REGULATIONS

5.1 Land Use and Zoning District Table

The Use Table in this Article lists by Land Use Type (i.e. residential, commercial, etc.) where a particular land use is allowed in a respective base-zoning district.

5.2 Permitted Uses [P]

If a land use is permitted by-right in a Base Zoning District, it is identified by the symbol "P."

5.3 Special Land Use [S]

The symbol "S" is noted if a land use is permitted after review and approval as a Special Land Use in accordance with this Zoning Ordinance.

5.4 Conditional Use [C]

The symbol "C" is noted if a land use is permitted after review and approval as a Conditional Land Use in accordance with this Zoning Ordinance.

5.5 Accessory Use [A]

The symbol "A" is noted if a land use is permitted after review and approval as an Accessory Use in accordance with this Zoning Ordinance.

5.6 Uses Not Allowed

If a land use type is not allowed in a Base Zoning District, it is blank without a "P," "S," "C," or "A."

5.7 Site-Specific Standards

Land use types that are further regulated with site-specific standards are identified in Article 5, Special Land Uses.

5.8 Unlisted Uses

If an application is submitted for a use type that is not classified in the Land Use Table of this Article, the Planning Commission is authorized to classify the new or unlisted use type into an existing land use category that most closely fits the new or unlisted use. If no similar use determination can be made, the Planning Commission may initiate an amendment to the text of the Zoning Ordinance.

5.9 Land Use Type

Land use types listed in the Land Use and Base Zoning District Table are defined in Definition Article 2: Definitions of this Zoning Ordinance.

5.10 Land Use and Base Zoning District Table

LEGEND

<u>District Code</u>	<u>District Name</u>		<u>Code</u>	<u>Condition</u>
R-1	Lakeshore Residential	12,000 sq.ft.	P	Permitted by Right
R-2	Single Family Residential	15,000 sq.ft.	S	Permitted Special Uses
R-3	Rural Residential	1 Acre	C	Conditional Use
R-4	Multi-Family Residential	20,000 sq.ft.	A	Accessory Use
R-5	Recreational Residential	21,780 sq.ft.	(blank)	Not a permitted use
RP-5	Rural Preservation 5 Acres	5.0 Acres		
LI	Light Industrial	2.5 Acres		
PL	Public Lands	no minimum		

Uses

Zoning Districts

R-1 R-2 R-3 R-4 R-5 RP-5 LI PL

Agricultural Land Uses

Agriculture - Crops					A		P
Agricultural, Forestry						P	
Botanical & Zoological Gardens						P	
Gun and Skeet Clubs, Shooting Ranges						S	
Hunt Clubs							
Agricultural Services							P
Forestry							P

Residential Land Uses

Model Homes	C	C	C	C	C	C	
Home Occupations	C	C	C	C	C	C	
Mobile Homes	C	C	C	C	C	C	
Single Family Dwelling	P	P	P	P	P	P	C
Bed & Breakfast	S	S	S	S	S	S	
Boarding Houses		S	S	P	S	S	
Maintenance and management buildings associated with a multi-family units				A			
Private garage or community garage for the storage of non-commercial vehicles				A			
Two Family Dwellings				P	P		
Multiple Family Dwellings				P			
Mobile Home Parks and Subdivisions						S	

Commercial Land Uses

WECS	S	S	S	S	S	S	S
Animal Care Institutions			S		S	S	S
Human Care Institutions			S		S	S	S
Social clubs and community recreation facilities, including restaurants				A			
Golf Courses					S	S	
Hotels, Motels, and Tourist Courts						S	
Campgrounds, Trailer Parks						S	
Contractors, Building Material Dealers						S	S
Marinas						S	S
Administrative, Professional and Business Offices							
Eating and Drinking Places							P
Health spas, Gymsiums and other Personal Fitness							
Amusement Arcades							
Automotive Service Stations							
Marinas and Canoe Liveries							
New and Used Autos							
Sexually Oriented Businesses							
Shopping Centers							
Auto, Truck and Equipment Dealers							S
Automotive Service Installations							S
Gasoline Service Stations							S

Institutional Land Use

Educational and Social Institutions	S	S	S	S	S	S	S
Religious Institutions	S	S	S	S	S	S	S
Institutional Structures	S	S	S	S	S	S	
Public Buildings	S	S	S				S
Serving meals from a community dining room				A			
Local Government						P	P
Airports and Heliports						S	
Parks, Recreation Facilities, and Conservation Areas							P

Uses	Zoning Districts							
	R-1	R-2	R-3	R-4	R-5	RP-5	LI	PL
Light Industrial Land Uses								
Light Manufacturing, Warehousing, Commercial Storage						S	P	
Sand/Gravel Pits, Quarries						S	S	
Junk Yards							S	
Sanitary Landfills and Transfer Stations							S	
Sewage Treatment and Disposal							S	
Wholesale and Retail Sales							S	

Accessory Land Uses

Agriculture - Limited to Personal Gardens	A	A	A		A	A		
Green House	A	A	A		A	A		
Private Garage	A	A	A		A	A		
Solar Collector	A	A	A		A	A		
Tool Shed	A	A	A		A	A		
Compatible Non-Commercial Recreational Facility	A	A	A			A		
Antennas & Satellite Dishes	C	C	C	C	C	C	C	
Livestock and Pets	C	C	C	C	C	C	C	
Swimming Pools	C	C	C	C	C	C	C	
PRD	S	S	S	S	S	S		
Non-Commercial Storage			C	C	C	C	C	
Accessory Buildings customarily incidental to the principle use								A

5.11 Dimensional Regulations

The placement of Land uses (permitted, special use or conditional) are regulated by the zoning district. The table below enumerates by zoning district the dimensional requirements.

	Minimum Lot Area sq.ft or acres	Minimum Lot Width feet	Non-Riparian Lot			Riparian Lot			Percent Lot Coverage percent	Height feet
			Front (1) feet	Side feet	Rear feet	Front (1) feet	Side feet	Rear feet		
R-1	12,000	100	25/58/50	10	15	25/58/50	10	35	30%	28
R-2	15,000	100	25/58/50	10	15	25/58/50	10	35	30%	28
R-3	43,560	125	25/73/50	15	40	25/73/50	15	40	20%	28
R-4	20,000	100	25/73/50	15	25	25/73/50	-	-	50%	28
R-5	21,780	100	25/73/50	10	15	25/73/50	10	25	30%	28
RP 5	5.0 Acres	300	25/73/50	25	50	25/73/50	25	50	-	28
LI	2.5 Acres	330	50/83/50	25	50	50/83/50	25	50	40%	28
PL	Lot area, minimum lot width and setbacks are not applicable for this District									

Notes

- 1 XX/XX/XX
- Frontage on a State or Federal Highway
 - Frontage on a surfaced road
 - Frontage on a non-surfaced road

1
2
3
4

**Article 6
RESERVED**

ARTICLE 7
SPECIAL USE PERMIT and CONDITIONAL USES

7.1 Purpose – Special Land Use Permit

The formulation and enactment of this Ordinance is based upon the division of the Township into districts, each which may permit specific uses, which are mutually compatible, and special land uses. Special land uses are those uses of land which are not essentially incompatible with the uses permitted in a zoning district, but possess characteristics or locational qualities which require individual review and restriction in order to avoid incompatibility with the natural environment of the site, the character of the surrounding area, public services and facilities, and adjacent uses of land. The purpose of this section is to establish equitable procedures and criteria, which shall be applied in the determination of requests to establish special land uses. The standards for approval and requirements provided for under the provisions of this section shall be in addition to others required elsewhere in this Ordinance and at the same time provide to the Township Planning Commission and the property owner some latitude to address site issues in an innovative manner.

7.2 General Provisions

- A. Authority to Grant Permits: The Township Planning Commission as hereinafter provided shall have the authority to approve, deny, or approve with conditions as specified in Section 5.3, special land uses.
- B. Application: Application for any special land use permit permissible under the provision of this Ordinance shall be made to the Township through the Zoning Administrator by filing an official special land use permit application form and submitting a site plan.
- C. Public Hearing for Special Land Uses: After a preliminary review of the site plan and an application for a special land use permit, the Township Planning Commission shall hold a hearing on the site plan and special land use permit in accord with the Michigan Zoning Enabling Act, PA 110 of 2006, MCL 125.3103 and MCL 125.3502.

7.3 Required Standards and Findings for Making Determinations

The Township Planning Commission shall review the particular circumstances of the special land use request under consideration in accordance with the requirements for a Site Plan Review, and shall approve the special land use request only upon approval of the site plan and finding of compliance with the following standards:

A. Standards for Approval

- 1. Be designed to protect natural resources, the health, safety, and welfare, as well as, the social and economic well-being, of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
- 2. Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.

3. Be necessary to meet the intent and purpose of the zoning requirements, be related to the standards established in the zoning ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.
 4. Be consistent with the intent, purpose and recommendations in the Township Master Plan.
 5. The proposed use will not be hazardous or disturbing to existing or future neighboring uses.
 6. The proposed use will not create excessive additional requirements at public cost for public facilities, utilities and services.
 7. Meet the standards of other governmental agencies where applicable, and that the approval of these agencies has been obtained or is assured in writing.
- B. Public Hearing: On the appointed date and time the Township Planning Commission shall conduct the public hearing on the proposed special use. The hearing may be adjourned to a date certain within a reasonable time for additional fact finding.
- C. Action of the Planning Commission: Upon completion of the Township Planning Commissions review and upon completion of the public hearing the Commission may consider a motion for approval, approve with conditions, or denial of the special use application and site plan request. The Commission may postpone a request to a date certain to allow verification, compilation or submission of additional or supplemental information or to address other concerns or issues. Announcement of the date for the Commission to decide upon the matter shall be announced in accord with the provisions of this Article and the Open Meeting Act, PA 267 of 1976, as amended.
- D. The conditions imposed with respect to the approval of a land use or activity shall be recorded in the record of the approval action and remain unchanged except upon the mutual consent of the approving authority and the landowner. The approving authority shall maintain a record of conditions which are changed.
- E. The Township Planning Commission may recommend the imposition of the conditions in approving special uses that it deems necessary to fulfill the purpose and requirements of this Article. The conditions may include those necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating any increased service and facility loads caused by the special land use or any activity connected with it, to protect the natural environment, conserve natural resources and energy, to ensure compatibility with adjacent uses of land, and to promote the arrangement of the use of land in a socially and economically desirable manner.
- F. The discontinuance of a special use, after a specified period of time or by a specified date, may be a condition placed upon the issuance of the approved special use. Renewal of a special use may be granted after a review and determination by the Township Planning Commission that continuing private need and public benefit will be served by such renewal, provided that

the renewal application shall be in accord with Article provisions, standards and requirements in effect at the time the renewal is requested.

7.4 Amendments, Denial or Appeal of a Special Land Use

Determination and Imposition of Conditions: A review of an application and site plan requesting a special land use permit shall be made by the Township Planning Commission in accordance with the procedures and standards specified in this Ordinance. If a submitted application and site plan does not meet the requirements of the Ordinance, they shall not be approved. However, if the applicant agrees to make changes to the site plan and application in order to bring them into compliance with the Ordinance, such changes shall be allowed and shall be either noted on the application or site plan itself, or attached to it, or these documents shall be resubmitted incorporating said changes. If the facts in the case do not establish competent material and substantial evidence that the standards set forth in this Ordinance will apply to the proposed special land use, the Township Planning Commission shall not grant a special land use permit. The Commission may impose conditions with the approval of a special land use permit application and site plan which are necessary to ensure compliance with the standards for approval stated in this section and any other applicable standards contained in this or other applicable ordinances and regulations. Such conditions shall be considered an integral part of the special land use permit and approved site plan and shall be enforced by the Zoning Administrator. These conditions may include conditions necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity to protect the natural environment and conserve natural resources and energy, to ensure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner.

A. Approval, Granting of Permit: Upon holding a public hearing and the finding that the requirements of this Ordinance have been satisfactorily met by the applicant, the Township Planning Commission shall within thirty (30) days approve, disapprove, or approve with conditions the special land use permit. Approval and issuance of a special land use permit by the Township Planning Commission shall signify prior approval of the application and site plan, therefore including any modifications and any conditions imposed where necessary to comply with this Ordinance. The site plan, as approved, and any statements of conditions and modifications shall become part of the special land use permit and shall be enforceable as such. The decision to approve or deny a request for a special land use permit shall be retained as a part of the record of action on the request and shall incorporate a statement of conclusions which specify: the basis for the decision, any changes to the originally submitted application and site plan necessary to ensure compliance with the ordinance, and any conditions imposed with approval. Once a special land use permit is issued, all site development and use of land on the property affected shall be consistent with the approved special land use permit, unless a change conforming to Ordinance requirements receives the mutual agreement of the landowner and the Township Planning Commission and is documented as such. When the Commission gives final approval, a special land use permit shall be issued to the applicant. The Commission shall forward a copy of the permit to the applicant, Zoning Administrator, and the Zoning Board of Appeals. The Zoning Administrator shall not issue a zoning compliance permit until he or she has received a copy of the special land use permit approved by the Township Planning Commission.

B. Voiding of Special Land Use Permit: Any special land use permit granted under this Ordinance shall become null and void and fees forfeited unless construction and/or use is commenced within two hundred and ten (210) days and completed within five hundred and seventy-five

(575) days of the date of issuance. Extension of these time limits may be given by the Township Planning Commission if conditions can be shown to justify an extension. A violation of requirement, condition, or safeguard shall be considered a violation of this Ordinance and grounds for the Township Planning Commission to terminate and cancel such special land use permit.

C. Appeal: Any party aggrieved by a decision of the Township Planning Commission resulting from the approval or denial of a special land use permit may appeal to the Circuit Court. The Appeal may be taken by any person, firm or corporation and must be in writing and filed with the Zoning Administrator.

D. Amendments and/or Modifications to a Special Land Use Permit.

1. The Zoning Administrator may authorize insignificant deviations in special use permits if the resulting use will still meet all applicable standards and requirements of this ordinance. A deviation is insignificant if the Zoning Administrator determines it will result in no discernible changes to or impact on neighboring properties, the general public, or those intended to occupy or use the proposed development and will not noticeably change or relocate the proposed improvements to the property.
2. The Planning Commission may permit minor modifications in special use permits if the resulting use will still meet all applicable standards and requirements of this ordinance. The Planning Commission may decide minor modifications without a formal application, public hearing, or payment of an additional fee. For purposes of this section, minor modifications are those the Zoning Administrator determines have no substantial impact on neighboring properties, the general public, or those intended to occupy or use the proposed development.
3. All other requests for amendments to special use permits shall be processed in the same manner as new special use permit applications. The Township may impose new conditions on the approval of an amendment request if such conditions are warranted. The holder of the special use permit may reject such additional conditions by withdrawing the request for an amendment and proceeding under the existing special use permit.
4. The holder of a special use permit may request changes under this section by making the request in writing to the Zoning Administrator. Approval of all changes must be given in writing

Sec. 7.5 Land Uses Requiring Additional Standards

The following land uses have been determined to be those that serve an area larger than the Township and as a result require additional standards for approval in addition to those addressed in Sec. 7.3.A.

Section 7.6 Reserved for future use

Sec. 7.7 Sanitary Land Fills, Incinerators and Transfer Stations

All installations shall be in conformity with PA 641 of 1978 -Solid Waste Management Act and the County Solid Waste Management Plan.

192
193
194 **Sec. 7.7 Junk Yards**
195

- 196 A. All uses shall be established and maintained in accordance with all applicable State of Michigan
197 statutes.
198 B. The site shall be a minimum of ten (10) acres in size.
199 C. A solid fence or wall at least eight (8) feet in height shall be provided around the entire periphery
200 of the site.
201 D. All activities, equipment, or material shall be confined within the fenced-in area and there shall
202 be no stacking of material above the height of the fence, or wall.
203 E. All fenced-in areas shall be set back at least one hundred (100) feet from the front street or
204 highway right-of-way line. Such front yard setback shall be landscaped with plant materials as
205 approved by the Planning Commission to minimize the appearance of the installation.
206 F. No open burning shall be permitted.
207 G. Whenever the installation abuts upon property within a residential district, a transition strip at
208 least two hundred (200) feet in width shall be provided between the fenced-in area and the
209 property within a residential district. Such strip shall contain plant materials, grass, and structural
210 screens of a type approved by the Planning Commission to effectively minimize the appearance
211 of the installation.
212 H. The use shall not be located in such a manner that the yard is below the grade of the highway
213 where the fence specified in C above is rendered useless for screening the junk yard.
214

215 **Sec. 7.8 Reserved for future use**
216

217 **Sec. 7.9 Sand or Gravel Pits, Quarries**
218

- 219 A. All uses shall be established and maintained in accordance with all applicable State of Michigan
220 Statutes.
221 B. The applicant shall be required to file a cash bond, performance bond or irrevocable letter of
222 credit of sufficient amount, or other guarantees, to assure
223 reclamation of the site following excavation, as required by item (J) of this Section.
224 C. The minimum allowable lot size shall be twenty (20) acres. No machinery shall be erected,
225 maintained, or operated within two hundred (200) feet of any property line.
226 D. All uses shall be enclosed by a fence or suitable plantings six (6) feet or more in height for the
227 entire periphery of the property.
228 E. All slopes and banks shall be graded and treated to prevent erosion or any other potential
229 deterioration.
230 F. No building shall be erected on the premises except as temporary shelter for machinery or field
231 office.
232 G. Routes shall be established for truck movement to and from the site in order to minimize the wear
233 on public streets and to prevent hazards and damage to properties in the Township. That portion
234 of access roads within the area of operation shall be constructed or treated to minimize dust.
235 H. All installations shall be maintained in a neat, orderly condition so as to prevent injury to property,
236 any individual, or the Township in general.
237 I. Proper measures shall be taken to minimize the nuisance of noise (see Section 22.4.D Noise
238 Standard) and flying dust or rock. Such measures may include limitations upon the practice of

stock-piling excavated materials on the site.

- J. When excavation and removal operations are completed, the excavated area shall be graded so that no gradients in disturbed earth shall be steeper than a slope of three (3) to one (1) in horizontal-vertical gradient. A layer of arable top soil shall be spread over the excavated area, in accordance with an approved contour plan furnished by the applicant. The area shall be seeded with a perennial grass, or other similar soil-holding material, and maintained by the applicant until the area is stabilized.

Sec. 7.10 Sewage Treatment and Disposal

- A. All uses shall be established 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.
- D. All operations and structures shall conform to the performance requirements of Section 7.21.

Sec. 7.11 Airports and Heliports

All airports shall be constructed or expanded in conformance with all F.A.A. regulations and PA 23 of 1950.

Sec. 7.12 Wind Energy Conversion Systems

A. Purpose.

Gilmore Township is a rural preservation (including agricultural), and residential township which is made up of rolling hills, wooded hillsides, ridges, sand dunes, valleys, M-22 Scenic Highway, two inland lakes, and Lake Michigan lake shoreline. The residents consist of permanent and seasonal residents, with many retirees and second homes.

The purpose of Section 7.26 is to define specific regulations to protect the public health, safety and general welfare of the residents of Gilmore Township through regulations governing the installation and operation of all Wind Energy Conversion Systems (WECS). The purpose behind the standards and procedures necessary to insure this are as follows:

1. Ensure that the location, scale and design of WECS within the Township are protective of public health, safety, welfare, and individual's use and quiet and peaceful enjoyment of their properties to maintain the current quality of life;
2. Protect all areas of the Township and the Township's natural resources from potential adverse impacts of WECS, including adverse visual, wildlife, avian, bat, and environmental impacts;
3. Avoid potential damage to adjacent property from hazards associated with and/or failure of wind energy conversion systems;
4. Ensure the compatibility of adjacent land uses;
5. Protect property values;
6. Protect aesthetics, scenic views and viewsheds, and tourism based economy;
7. Protect sensitive receptors and wildlife habitat;

8. Define regulatory requirements and procedures for;
- a. Permit application and review
 - b. Monitoring and compliance
 - c. Revocation and/or decommissioning

B. Applicability.

WECS shall not be regulated or permitted as essential services, public utilities or private utilities.
WECS are allowed as SLUP provided that they meet all requirements of this Ordinance.

C. General Application Requirements.

Table 1

Permit Requirements

Zoning permit required	Roof-Mounted WECS. Small onsite WECS less than 95ft. for residential use in all districts.
Zoning permit required	Anemometers 95ft. or less
Special land use permit Minor site plan	WECS not designed primarily to supply energy to the power grid with a tower over 95ft. but less than 199 ft.
Special land use permit Minor site plan	Anemometers 199ft. or less
Special land use permit Major site plan	WECS over 95ft. but less than 199 ft. designed primarily to supply energy to the power grid

1. **ACCESS:** All ground mounted electrical and control equipment of structures shall be labeled and secured to prevent unauthorized access. All anemometer and WECS towers shall be designed and installed so as to not provide step bolts or a ladder readily accessible to the public for a minimum height of 12 feet above the ground. Lattice-type or guyed towers shall be enclosed by security fencing not less than six (6) feet in height and shall also be equipped with an appropriate anti-climbing device.
2. **ACCESS ROADS:** A private road or drive shall be constructed according to applicable Zoning Ordinance requirements as specified in Section 3.19 Access to Public Roads, Section 3.3 Fire Hazards and Emergency Vehicle Access, Section 3.20 Clear Vision Corners, and Section 3.22 Access Management. Such regulations or standards provide for adequate access, egress, and protection of emergency service vehicles and personnel. Further regulations may restrict construction of private drives or roads in environmentally sensitive areas such as those in identified wetlands or steep slopes such as in Article XXII. These standards apply to all WECS requiring SLUP. Where these standards apply, these roads will conform to the above standards and other regulations or standards for private

road construction specified in the Gilmore Township Zoning Ordinance and all County Road Commission requirements.

3. ANEMOMETER REQUIREMENTS: The construction, installation, or modification of an anemometer tower shall require a building permit and shall conform to all applicable local, state and federal applicable safety, construction, environmental, electrical, communications, and FAA requirements. Three years of data is required prior to the permit application for WECS designed primarily to supply energy to the power grid and requiring SLUP. The Township Planning Commission or its designee shall have access to the anemometer data. Anemometers shall be removed when there is no longer a need for meteorological data. The time limitations can be waived by the Zoning Administration if the anemometer also serves as Supervisory Control And Data Acquisition (SCADA) System for on-going operations for the WECS.
4. APPEARANCE, COLOR, AND FINISH: WECS requiring SLUP, the wind generator and tower shall be non-reflective and shall be non-obtrusive, neutral color that is compatible with the natural environment. No advertising or markings other than the manufacturer and model shall be anywhere on the tower, nacelle or blades. The Gilmore Township Planning Commission must approve the color.
5. BLADE CLEARANCE: For towers 95 feet or greater in height, blade clearance shall conform to the manufacturer's standard. For towers of less than 95 feet in height or for any towers without a manufacturer's standard, blade clearance shall be no less than 15 feet from ground level and a safe distance from walkways and common areas.
6. BLADE SHADOW, FLICKER AND GLINT: A WECS shall be designed to minimize shadow flicker from moving blades or reflected blade glint. Shadow flicker or blade glint shall not fall on any land beyond the Lease Unit boundary line. On participating property the system may be operated within the following conditions:
 - a. If flicker or glint falls one hundred (100) feet or more from the existing residence.
 - b. If the flicker or glint falls closer than one hundred (100) feet to an occupied home it will not exceed thirty (30) hours per year.
 - c. The property owner must sign a written agreement with the applicant/owner/operator and sign a hold harmless agreement to indemnify Gilmore Township for adverse impacts from the flicker or glint.
7. BRAKING SYSTEM: All WECS shall be equipped with an automatic braking, governing or feathering system to prevent uncontrolled rotation, over-speeding, and excessive pressure on the tower structure, rotor blades and other wind energy components.
8. ENGINEERING SAFETY: The structural integrity of the WECS shall conform to the design standards of the International Electro Technical Commission; specifically IEC 61400-1 "Wind Turbine Safety and Design," IEC 61400-2 and IEC 61400-23 "Blade Structural Testing," as amended or succeeded.

9. ENVIRONMENTAL PROTECTION REQUIREMENTS: Before a permit can be issued for WECS requiring a Special Land Use Permit, the site plan documents and drawings shall include the following environmental studies:

- a. Environmental Impact Study for the entire project footprint area. It shall include all environmentally sensitive areas identified in Article XXII of the Gilmore Township Zoning Ordinance. The studies must demonstrate that the minimum setbacks in this Ordinance, Section 7.26.C.17 - SETBACKS FOR WECS and ANEMOMETER TOWERS REQUIRING A SLUP, are sufficient to protect the wildlife and the Environmentally Sensitive Areas. The Study shall determine the environmental and wildlife impact of construction activities, operation through all four seasons and decommissioning. The Environmental Impact Study must include wildlife refuges, other areas where birds and/or bats are highly concentrated, such as wooded ridge tops that attract birds and bats, sites that are frequented by federally and/or state endangered species of birds and bats, significant bird migration pathways, and areas that have landscape features known to attract large numbers of raptors. If there are environmental impacts, the Study must identify mitigation efforts, estimated impact of mitigation and what will be done if mitigation efforts are not effective. The analysis shall include the potential effects on species listed under the federal Endangered Species Act and Michigan's Endangered Species Protection Law.
- b. 1-3 year Bat and Avian Study which follow "Guidelines for Conducting Bird and Bat Studies at Commercial Wind Energy Projects" New York State DEQ, 2009 or US Fish and Wildlife Service Guidelines to Avoid and Minimize Wildlife Impacts from Wind Turbine, (2003), the US Fish and Wildlife Service Wind Turbine Guideline Advisory Committee, 2010 recommendation. Mitigation design must be identified for impacts on birds and bats if mortality estimates exceed 2 birds or bats per month for all turbines in Gilmore Township. A one year post construction mortality study shall be conducted to determine if the pre-construction mortality estimates were accurate. Based on the one year post construction mortality study the Gilmore Township Planning Commission may require an extension of the mortality study.
- c. Permit Applicants shall also submit a complete Life Cycle Assessment compliant with ISO 1440 for the wind project including infrastructure. Environmental Impact Studies will adhere to ASTM Guidelines.
- d. All environmental and wildlife study plans shall be approved by the MI DEQ. Any additional study recommended by the DEQ shall be required to be included in the Environmental Impact Study.
- e. Groundwater water quality study to demonstrate the installation of the industrial wind turbines will not impact the quality or volume of the groundwater. The study plan must be approved by a qualified hydro-geologist approved by the Gilmore Township Planning Commission.

All environmental and wildlife study designs must be reviewed and approved by a qualified Wildlife Biologist, Ornithologist, or Chiropterologist. All completed studies must be reviewed by a Wildlife Biologist, Ornithologist, or Chiropterologist approved by the Gilmore Township Planning Commission and US Fish and Wildlife Service and the MI DEQ. All fees for the Wildlife Biologist,

Ornithologist, or Chiropterologist, MI DEQ and US Fish and Wildlife Service will be paid for by the applicant/owner/operator.

All WECS requiring a SLUP must comply with the guidelines included in the US Fish and Wildlife letter to Citizens for Responsible Wind Development (March 30, 2011) which includes a three (3) mile setback from the Lake Michigan shoreline and a five (5) mile setback from nesting eagles.

All WECS requiring a SLUP must be in compliance with Article XXII of the Gilmore Township Zoning Ordinance.

10. GUY WIRES: Anemometer towers may not exceed 199 feet. Visible and reflective objects, such as plastic sleeves, reflectors or tape, shall be placed on the guy wire anchor points and along the outer and innermost guy wires up to a height of eight (8) feet above the ground. This must be reflected in the site plan drawing.
11. ICE THROW: The ice throw or ice shedding of the WECS shall not cross the Lease Unit Boundary/property line of the participating site on which the facility is located and shall not impinge on any public right-of-way, overhead utility line or occupied structure. Maximum ice throw in compliance with this section shall be provided in the application.
12. LIGHTING: No WECS shall exceed the height which requires lighting to be in compliance with Federal Aviation Administration requirements, the Michigan Airport Zoning Act (Public Act 23 of 1950, MCL 259.431 et seq.), the Michigan Tall Structures Act (Public Act 259 of 1959, MCL 259.481 et seq.), and local jurisdiction airport overlay zone regulations, as amended or succeeded by FAA. Night time lighting shall not be permitted. Lighting shall be used only as needed for maintenance, inspection or emergencies.
13. MAINTENANCE FACILITY: A WECS may include a maintenance facility for storing trucks, service equipment, spare parts, lubricants, and other supplies. The maintenance facility may be located in appropriate zoned districts. Turbine control and maintenance functions may be in one building. Maintenance facilities built in Gilmore Township require building and zoning permits and must meet all other applicable requirements.
14. MAXIMUM TOTAL WECS HEIGHT: The maximum height of any WECS is 199 feet. See table 7.26.C, Table 1.
15. SAFETY: All WECS requiring a SLUP shall be designed to prevent unauthorized access to electrical and mechanical components and shall have access doors that are kept securely locked at all times when service personnel are not present. All spent lubricants and cooling fluids shall be properly and safely removed in a timely manner from the WECS site. Applicant/owner/operator must demonstrate compliance with RCRA (Resource Conservation and Recovery Act) if hazardous waste is generated. Applicant/owner/operator must have an emergency plan, acceptable to Gilmore Township or its third party expert for fire to prevent the discharge of hazardous air pollutants, hazardous waste, to prevent the spread of fire to the surrounding environment and remediation of all hazardous material generated from the fire. The emergency plan will also address tower collapse, blade disintegration and other

emergency situations associated with WECS. Each turbine must have a fire suppression system adequate to extinguish all fires. All of the provisions above shall be provided for and depicted in the application.

16. SPACING: ADJACENT WECS: All WECS requiring an SLUP must be spaced a minimum of 2640 feet apart. This must be depicted on the site plan with the application.
17. SETBACKS FOR WECS and ANEMOMETER TOWERS REQUIRING A SLUP: The setbacks set forth herein are minimum setbacks for single and multi tower WECS. These setbacks may be greater based upon the noise regulatory standards set forth within this Ordinance, but in no case may they be less than set forth herein.
 - a. Property line and road setback: The setback of a WECS and anemometer tower requiring a SLUP from a Lease Unit Boundary property line or any public or private road shall be no less than or five (5) times the tower height.
 - b. Wetland setback: The setback of an anemometer tower or a WECS from the delineated boundary of wetlands shall be 2640 feet.
 - c. Setbacks to other sensitive areas: The setback of an anemometer tower or a WECS from other sensitive areas, including conserved lands owned publicly or privately when funded publicly or lands that contain a conservation easement shall be no less than 2640 feet.
 - d. Upper and Lower Herring Lakes setback: The setback of a WECS from the boundary of Upper and Lower Herring Lakes shall be a minimum of two miles. Most residential areas in Gilmore Township surround our lakes. It is important that we provide space to meet the needs of future residential desires. The Herring Lakes are part of a migratory flyway for birds and waterfowl that extends from the Platte Lakes to Crystal Lake, Betsie Bay, Betsie River, Arcadia Lake, Herring Lakes, Bear Lake and Portage Lake.
 - e. Active eagles nest(s) setback: The setback of an anemometer tower or wind energy system from a known **active** eagle's nest shall be five (5) miles in accordance with the recommendations of the US Department of the Interior, Fish & Wildlife letter of recommendation to Citizens for Responsible Wind Development (March 30, 2011).
 - f. Great Lakes shoreline setback: Gilmore Township has significant scenic Lake Michigan shoreline which provides migratory flyways for many birds and waterfowl. WECS shall not be permitted within three (3) miles of Lake Michigan as recommended by the US Fish & Wildlife Service letter of recommendation to Citizens for Responsible Wind Development (March 30, 2011).
 - g. Zoned residential areas: The setback for WECS requiring SLUP from zoned residential areas shall be one and one half (1.5) miles.
18. SIGNAGE: WECS requiring SLUP shall have only one sign, not to exceed four (4) square feet in area posted at the base of the tower and on a security fence, if applicable. The sign shall contain: a) Warning of high voltage; and b) Address and telephone number that allows a caller to directly contact an individual to deal with emergencies at any time during or after business hours, on weekends and holidays, 24/7. Signage must be depicted on the site plan in the application. Signs no more than four (4) feet square in area without advertising or promotional material shall be posted at each WECS tower and

at substations. Proper signage addressing warnings or safety issues shall be displayed per this Ordinance.

Signs shall display:

- a. Address and telephone numbers that allows a caller to directly contact a responsible individual to deal with emergencies at any time during or after business hours, on weekends and holidays, 24/7.
- b. Warns about the dangers of ice throw and falling ice.

19. SIGNAL INTERFERENCE: Operation of a WECS shall not interfere with communication systems such as, but not limited to, radio, telephones, cell phones, television (both broadcast and satellite), internet, satellite or emergency communication systems. The applicant/owner/operator must demonstrate no interference will occur with the communications listed.

20. SOIL CONDITIONS: A proposal for any WECS requiring a SLUP shall be accompanied by a hydrologic study and report prepared by a qualified professional. A soil erosion plan must be submitted with the SLUP application. The soil erosion plan must be approved before the construction can start. Any soil erosion into the Herring Lakes Watershed must be mitigated within five (5) working days.

21. PRE-CONSTRUCTION BACKGROUND NOISE SURVEY: A pre-construction background noise survey is required for each proposed wind turbine location conducted per procedures provided in 7.26.F (Noise Measurement Protocols) showing long-term background sound levels. This must be completed and accepted prior to approval of the final layout and issuance of project permits.

The pre-construction baseline studies shall be conducted by a Qualified Acoustical Consultant/Engineer.

At his or her discretion, the Gilmore Township Zoning Administrator, or its consultant, may refer the application to a qualified acoustical consultant for further review and comparison of the long-term background sound levels against the predicted sound levels reported for the model. The reasonably necessary costs associated with such a review shall be the responsibility of the applicant, in accordance with the terms of this Ordinance.

All WECS requiring a SLUP shall provide in the application evidence of compliance with the following maximum sound levels:

- a. Audible Noise Standard: From 9:00 a.m. until 9:00 p.m. for wind speeds from cut-in to cut-out power for the WECS the A scale equivalent noise level due to WECS at the Lease Unit Boundary property line and beyond shall not exceed the established outdoor background (residual) sound level LA90 by more than five (5) dBA..
- b. From 9:00 p.m. until 9:00 a.m. for wind speeds from cut-in to cut-out power of the WECS the A scale equivalent noise level due to WECS at the Lease Unit Boundary property line and beyond shall not exceed the established outdoor residual sound level LA90. Background sound levels shall be established separately for daytime (9:00 a.m. to 9:00 p.m) and nighttime (9:00 p.m. to 9:00

- a.m.) values.
- c. Low Frequency Noise or Infrasound: No low frequency noise or infrasound noise from WECS operations shall exceed pre-construction noise levels and 50 dBC maximum beyond the Lease Unit Boundary property line.
- d. Tonality and/or Repetitive, Impulsive Tone penalty: In the event the audible noise due to WECS operation exhibits tonality between 20-60 Hz, contains a pure tone and/or repetitive, impulsive noise, the Audible Noise Standard shall be reduced by a total of five (5) dBA at the Lease Unit Boundary property line.

22. DOCUMENTATION FOR WIND ENERGY SYSTEMS REQUIRING SLUP:

- a. Site Plan: Each application for Site Plan Review shall contain the requirements set forth in Article XIV, Section 14.21.2. The required quantity of drawings is set forth in Table 14-1. The following documentation must also be included in the application:
- i. The site plan shall show locations of equipment identified as a source of sound, how that equipment is placed, and the sound levels based on the analysis, so that the WECS will not exceed the maximum permitted sound levels. Measurements, modeling and analysis shall follow the " Noise Measurement Protocols" and shall conform to the most current version of ANSI S12.18, IEC 61400 and ISO 9613. All sound models and studies must be reviewed and approved by the Gilmore Township Planning Commission and their Acoustical Engineering Consultant. A copy of a sound modeling analysis report must be submitted with the application.
 - ii. The shadow flicker and glint analysis report for each turbine.
 - iii. Final reports for all Environmental Protection Studies required in Section 7.26.C.9 and Section 22.
 - iv. A copy of that portion of the applicant's lease(s) with the land owner(s) granting authority to install the anemometer tower and/or WECS; legal description of the property(ies); Lease Unit(s); and the site plan showing the boundaries of the lessees as well as the boundaries of the Lease Unit Boundary(ies).
 - v. Phases, or parts, of construction, along with a construction schedule.
 - vi. The project area boundaries, including Lease Unit Boundaries.
 - vii. The location (including GPS coordinates), grades, average cross-section and dimensions of all temporary and permanent on-site and access roads from the nearest county or state maintained road.
 - viii. Any new infrastructure above or below ground related to the project not specified in Section 14 of the Ordinance.
 - ix. A copy of the Manufacturers' Material Safety Data Sheet(s) which shall include the type and quantity of all materials used in the operation of all equipment including, but not limited to, all lubricants and coolants.
 - x. The contact information of owners/operators as well as contact information for all property owners on which the WECS are located.
 - xi. If any information, studies, or data submitted by the applicant/owner/operator in support of the permit is found to be misrepresented or fraudulent, the application shall be denied or the permit shall be revoked.

- xii. Engineering data concerning the construction of the WECS and its foundation which will include but not be limited to soil boring data and hydrological study.
- xiii. Verification that a Michigan Certified Engineer has certified that the WECS meets or exceeds the manufacturer's construction and installation requirements.
- xiv. A copy of a microwave analysis of possible interference with aeronautic and/or cell phone, internet, local broadband networks, WiFi, TV (both broadcast and satellite) and emergency communication signals shall be submitted.
- xv. Property value and economic impact study on Gilmore Township.
- xvi. Documented compliance with all applicable local, state and federal regulations.
- xvii. A description of the traffic logistics associated with transportation and construction of the WECS components and equipment including construction transport routes.
- xviii. Written description of how the applicant/owner/operator will meet decommissioning requirements of this Ordinance.
- xix. Balloon test each WECS location as described in Section 26.7.B.1.
- xx. Power Purchase Agreement with a Michigan Public Utility Company.
- xxi. Interconnectivity Agreement.
- b. A copy of an Environmental Analysis by a qualified professional to identify and assess any potential impacts on the natural environment, including but not limited to, wetlands and other fragile ecosystems, historical and cultural sites, antiquities following the guidelines in Section 7.26.C.9. The applicant/owner/operator shall take appropriate measures to minimize, eliminate or mitigate adverse impacts identified in the analysis and shall show those measures on the site plan. If mitigation efforts are required to minimize adverse impacts the applicant/owner/operator must obtain approval of the mitigation plan from the Gilmore Township Planning Commission and their independent environmental consultant. The applicant/owner/operator shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts. After WECS operations commence, the applicant/owner/operator must demonstrate the mitigation efforts provided the effects modeled. If mitigation does not eliminate the adverse effects, the WECS may be shut down until further mitigation is evaluated and implemented.
- c. A one to three year Avian and Wildlife Impact Analysis following the guidelines listed in Section 7.26.C.9 by a qualified professional to identify and assess any potential impacts on wildlife and endangered species that must be completed, reviewed and approved by the Gilmore Township Planning Commission and their independent environmental consultant. If the applicant/owner/operator identifies adverse impacts they must develop an appropriate plan to minimize, eliminate or mitigate adverse impacts identified in the analysis, and shall show those measures on the site plan. The mitigation plan must be approved by the Gilmore Township Planning Commission and their independent environmental consultant. After WECS operations commence, the applicant/owner/operator

must demonstrate the mitigation efforts provided the effects modeled. The applicant/owner/operator shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts. If mitigation does not eliminate the adverse effects, the WECS' may be shut down until further mitigation is evaluated and implemented. Post operation monitoring programs shall be established for the impact on birds and bats, bird migration for a minimum of one (1) year and may be extended by the Gilmore Township Planning Commission.

d. Sites requiring special scrutiny include wildlife refuges, other areas where birds and/or bats are highly concentrated, such as wooded ridge tops that attract birds and bats, sites that are frequented by species listed under the federal Endangered Species Act and Michigan's Endangered Species Protection law, bird migration pathways, and areas that have landscape features and inland lakes that known to attract large numbers of raptors shall be specifically identified. Setbacks specified in Section 7.26.C.17 shall be strictly followed in order to protect these areas and species. The analysis shall include the potential effects on all wildlife, birds and bats, migration and sound impact on wildlife.

e. The Gilmore Township Zoning Administrator, or, as applicable, the Gilmore Township Environmental Consultant, and the applicant/owner/operator and their environmental consultant shall develop and implement a post construction wildlife mortality study based on the Environmental Impact Study, wildlife, avian and bat which will meet the guidelines in Section 7.26.C.9. The post construction monitoring shall be a minimum of one (1) year or until adequate mitigation has been proven.

f. The applicant/owner/operator must submit interactive digital 3-D modeling showing:

- i. Each WECS location.
- ii. Substations,
- iii. Underground or overhead infrastructure.
- iv. All topography.
- v. General tree lines at proper heights through out project to a radius of 5 miles from each turbine.
- vi. Existing roads and manmade structures to a radius of 5 miles from each turbine.

The project modeling shall demonstrate the visual impact of the wind turbines on the landscape. The wind turbines must be accurately scaled and represent the true visual impact to the project area. The project area model shall be viewed interactive and viewable from any position with five (5) miles.

g. In addition to site plan requirements which includes all the information found in Section XIV of this Ordinance, the applicant/owner/operator shall provide the following:

- i Documentation confirming manufacturer's specifications for each WECS.
- ii. GPS coordinates for each WECS
- iii. A copy of the maintenance and operation plan.
- iv. Description of the procedures for lowering or removing nacelle or blade for maintenance.
- v. A description of the traffic logistics associated with transportation and

construction of the WECS components and equipment including:

- * Construction transport routes.
- ** Intersection reconstruction.
- *** Restoration of roads, curbing, culverts, signage, land features, buildings or other infrastructure.
- **** Construction timetable.
- ***** Description of at least one alternative transport route and the rationale for the one chosen.

23. POST CONSTRUCTION SOUND REQUIREMENTS: Background sound pressure level measurements and post-construction sound pressure level measurements must be made after installation of the WECS and shall be done by a qualified professional at the applicant/owner/operator's expense and shall follow Noise Measurement Protocols (Section 7.26.F). Documentation of the sound pressure level measurements shall be provided to the Gilmore Township Zoning Administration within 60 days of the commercial operation for the project.

D. Review and Approval Standards, Additional Requirements for WECS Development

1. APPROVAL STANDARDS. The Gilmore Township Planning Commission shall not approve a Special Land Use Permit (SLUP) for a WECS unless it finds that the applicant/owner/operator has demonstrated compliance with the Purpose and Intent, General Provisions, Performance and Regulatory Standards, Application Requirements and Provisions for Granting Site Plan Review under the Gilmore Township Zoning Ordinance and shall meet all of the following standards:
- a. The WECS will not pose a risk to the health, safety and welfare of the Township residents.
 - b. The WECS will not pollute, impair or destroy the Township's natural resources and environment.
 - c. The WECS will not cause damage or harm to any sensitive area within Gilmore Township as defined and set forth herein based upon the reports of qualified experts and the recommendations of the US Fish and Wildlife Service and/or other State or federal agencies.
 - d. The WECS will not destroy or impair the aesthetics and vistas of the community.
 - e. The WECS will not destroy or impair the current and future tourism-based economy.
 - f. The WECS will not have a negative impact on non-participating land or residential property values within a two (2) mile radius of a turbine.
 - g. All required studies have been completed and the project meets with findings of the studies and this Ordinance.

Issuance of Special Land Use Permit (SLUP) for Construction and Operation: If the Gilmore Township Planning Commission finds that the applicant/owner/operator has met the approval standards, it shall issue a Special Land Use Permit (SLUP) for construction of a wind energy system.

Upon completion of construction, the applicant/owner/operator shall submit to the Gilmore Township Zoning Administrator proof of compliance with all requirements of the Ordinance. If such submission does not occur within two (2) years, the SLUP shall be revoked.

2. CONSTRUCTION ACTIVITIES. Construction activities shall be organized and timed to minimize impacts on township residents and wildlife from noise disruption (including disruption of wildlife habitat) and the presence of vehicles and people. Construction activities shall not take place from sun down to sun up or not between the hours of 9:00 p.m. and 7:00 a.m. No roads or highways shall be closed for more than one (1) hour without providing limited access to residents or providing a detour route. The applicant/owner/operator must coordinate with Benzie County Emergency Officials to insure emergency vehicles have access to residents, businesses and the construction site at all times including during construction activities.
3. CONSTRUCTION CODES: TOWERS & INTERCONNECTION STANDARDS: All WECS shall comply with all applicable state construction and electrical codes and local building permit requirements. All electrical components of the wind energy facility shall conform to relevant and applicable local, state and federal codes, and relevant and applicable international standards. All on-site WECS expected to engage in net-metering or some version of a feed-in tariff, utility grid WECS, and community WECS will comply with Michigan Public Service Commission and Federal Energy Regulatory Commission standards. All Off-grid WECS are exempt from compliance with MPSC and FERC requirements.
- All WECS requiring a SLUP shall comply with Federal Aviation Administration requirements, the Michigan Airport Zoning Act (Public Act 23 of 1950, MCL 259.431 et seq.), the Michigan Tall Structures Act (Public Act 259 of 1959, MCL 259.481, et seq.), and local jurisdiction airport overlay zone regulations, as amended or succeeded.
4. DISPOSAL OF HAZARDOUS MATERIALS: All spent lubricants, cooling fluids, and any other hazardous materials shall be properly and safely removed in a timely manner. All hazardous waste as defined by the Resource Conservation and Recovery Act (RCRA) must be disposed in compliance with all appropriate regulations.
5. ENGINEERING SAFETY: The structural integrity of the WECS shall conform to the design standards of the International Electro Technical Commission; specifically IEC 61400-1 "Wind Turbine Safety and Design," IEC 61400-2 and IEC 61400-23 "Blade Structural Testing," as amended or succeeded.
6. POST CONSTRUCTION PERMITS. Construction codes, towers and interconnection standards shall comply with all applicable State construction and electrical codes and local building permit requirements.
7. SOUND REGULATIONS COMPLIANCE. A WECS shall be considered in violation of the use permit unless the applicant/owner/operator demonstrates that the project complies with all the sound level limits using the procedures specified in this Ordinance. Sound levels in excess of the limits established in this Ordinance shall be grounds for the Gilmore Township Board to order immediate shut down of all noncompliant wind turbine units.
8. SURVIVAL SPEED. Neither the turbine nor tower shall be erected unless the survival speed as certified by the manufacturer is 10% greater than the highest winds on record for the area.

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9. UTILITIES. Power lines between WECS and substations must be placed underground. After substations all above ground lines, transformers or conductors should comply with the Avian Power Line Interaction Committee published standards to prevent avian mortality.
10. COMPLAINT RESOLUTION. For WECS requiring a SLUP the applicant/owner/operator of the WECS shall provide a 24/7 Complaint Hotline to document and respond to complaints. The applicant/owner/operator shall notify Gilmore Township Zoning Administrator in writing of the complaint within two (2) business days. The applicant/owner/operator will attempt to mitigate the complaint within two (2) business days after being notified of a complaint by any property owner.
- a. A non-participating property owner shall be allowed four (4) complaints assumed to be valid. After the fourth invalid complaint, the non-participating property owner may have to share in fifty percent (50%) of the cost of the complaint investigation.
 - b. Operational Complaints: Gilmore Township shall undertake an investigation of the alleged operational violation by a qualified individual acceptable to Gilmore Township.
 - c. Noise Complaints: Gilmore Township shall undertake an investigation of the alleged noise violation. All required testing shall be performed by a qualified independent acoustical consultant acceptable to the complainant and Gilmore Township.
 - d. For all complaints;
 - i. Any testing required for the complaint resolution shall commence within ten (10) business days of the request. If required testing cannot be initiated within ten (10) business days, the WECS(s) in question shall be shut down until testing can be started.
 - ii. A copy of any required test results shall be sent to the applicant/owner/operator of the WECS, the property owner, the Gilmore Township Zoning Administrator, or the Township's designee within ten (10) days of test completion.
 - iii. The reasonable cost and fees incurred by Gilmore Township in retaining said qualified individual shall be reimbursed by the applicant/owner/operator of the WECS or complainant as designated in paragraph 1 above.
 - iv. Funds for this assessment/investigation shall be withdrawn from the administrative escrow account prior to the complaint investigation and payment shall be independent of the investigation findings.
 - v. After the investigation, if Gilmore Township reasonably concludes that noise violations are shown to be caused by the WECS, the applicant/owner/operator shall use every effort to mitigate such problems on a case-by-case basis. The applicant/owner/operator shall take measures such as not operating during the night time or other noise sensitive periods if such operation was the cause of the complaint(s). If the WECS is in violation both night and day and mitigation efforts are not successful, the Township may require the WECS be shut down and

- 835 decommissioned.
- 836 vi. If such resolutions cannot be obtained, the Township may take action as
- 837 authorized by the Enforcement Section (14.4.8) of this Ordinance. If
- 838 mitigation efforts are not successful, the Township may require the WECS
- 839 be shut down and decommissioned.
- 840 e. The applicant/owner/operator shall document each complaint by maintaining a
- 841 record including at least the following information:
- 842 i. Name of the WECS and the applicant/owner/operator
- 843 ii. Location of the WECS
- 844 iii. Name of complainant, address and telephone number
- 845 iv. Date and time of the complaint
- 846 v. Date and time of response to complaint
- 847 vi. Date and time complaint mitigated
- 848 vii. Copy of the written complaint
- 849 viii. Specific property description (if applicable) affected by complaint
- 850 ix. Nature of the complaint including weather conditions, if germane
- 851 x. Name of the person receiving the complaint
- 852 xi. Person/company responding to complaint
- 853 xii. Person/company investigating complaint
- 854 xiii. Date reported to Gilmore Township Zoning Administrator
- 855 xiv. Initial response, testing if applicable, action plan or mitigation
- 856 xv. Final resolution, date and signature of complainant, signature of Gilmore
- 857 Township Zoning Administrator
- 858 f. Applicant/owner/operator must maintain a chronological log of complaints
- 859 received summarizing the above information. A copy of the log shall be
- 860 submitted April 15, July 15 and October 15 to the Zoning Administrator. An
- 861 annual summary shall be submitted on or before January 15.
- 862 g. The Township may designate a person to seek a complaint resolution that is
- 863 acceptable to complainant, the Township and the applicant/owner/operator. If
- 864 such a resolution cannot be obtained, the Township may: a) seek arbitration or
- 865 b) take action as authorized by the enforcement section of this Ordinance.
- 866 h. The Township may at any time determine the complaint is subject to enforcement
- 867 and penalties as defined in this Ordinance.
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869 11. DISCONTINUATION, DECOMMISSIONING and ABANDONMENT.

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- 871 a. Removal Cost Guarantee: The cost of removal and site restoration is the full
- 872 responsibility of the applicant/owner/operator and land owner. In order to
- 873 provide the greatest possible financial assurance that there will be sufficient
- 874 funds to administrate the removal of the WECS and to restore the site, the
- 875 following steps shall be followed:
- 876 i. For each WECS, the applicant/owner/operator and land owner shall
- 877 determine an amount of money equal to the estimated removal and
- 878 restoration costs plus 50%. Recycle or salvage value cannot be included
- 879 as a credit in the estimate.
- 880 ii. The Planning Commission shall require independent verification of the
- 881 adequacy of this amount.

- iii. This money shall be deposited in an escrow account specified by Gilmore Township which may be an interest bearing account. There shall be no alternative to such account. For administration of the Escrow Account, see Section 14.6.E.3.
- iv. Withdrawals from the Escrow Account will be monitored by the Township or its designee, only to pay for removal and site restoration of the WECS as provided for in this Ordinance.
- v. If the applicant/owner/operator abandons, goes into bankruptcy or is unable to fund the decommissioning, the land owner will be responsible for the decommissioning.
- vi. If the applicant/owner/operator or land owner defaults, Gilmore Township will use the Escrow Account to fund the WECS removal and restoration of the land.

- b. Separation and Management of each Removal Cost Account: If more than one WECS is owned by the same applicant/owner/operator or landowner, the removal/restoration guarantee accounts may be joined together by Gilmore Township into a single account for that applicant/owner/operator or landowner. However, accounts for different applicant/owner/operators or landowners shall be kept separate. Gilmore Township may, from time to time, change the financial institution in which such accounts are deposited.

After the WECS has been removed and site restoration has been completed, as defined in this Ordinance, any balance remaining in this account shall be returned to the applicant/owner/operator or landowner.

- c. Insufficiency of Removal and Administrative Cost Accounts: During the useful life and operation of the WECS, every three (3) years Gilmore Township shall determine, whether the amounts deposited for removal, site restoration and administration costs are adequate for these purposes. (Costs of removal, restoration and administration may change due to technology, environmental considerations, inflation and many other causes.) If the Township determines that these amounts, including any interest earned to date, are not adequate, the Township shall require the applicant/owner/operator or landowner to make additional deposits to the escrow accounts. The Township shall consider the WECS in violation of the Ordinance if the applicant/owner/operator fails to cure the inadequacy within sixty (60) days of notification.

- d. Abandoned, Inoperable and Unsafe WECS(s) and Adverse Impacts:

- i. Abandoned: Any WECS or anemometer tower that is not operated for a continuous period of six (6) months shall be considered abandoned and subject for removal.
- ii. Unsafe: Any WECS or anemometer tower that is found to present an imminent physical threat of danger to life, health or a significant threat of damage to property shall be shut down immediately and removed or repaired or otherwise made safe. A third party Michigan professional engineer selected by the Township shall certify its safety prior to resumption of operation. The applicant/owner/operator or landowner shall notify the Gilmore Township Zoning Administrator or the

Township's designee within twenty-four (24) hours of an occurrence of tower collapse, turbine failure, fire, thrown blade or hub, collector or feeder line failure or injury.

e. Removal and Site Restoration:

i. Within ninety (90) days of receipt of written notification from the Township, the applicant/owner/operator and landowner shall begin to remove any WECS or anemometer tower. The following shall be cause for removal of WECS and site restoration:

* if the applicant/owner/operator and landowner determines the system is at the end of its useful life; or

** if the Township determines that the system is subject for removal because it is unsafe or abandoned; or

*** if the Township determines the SLUP is expired or has been revoked.

ii. Failure to begin to remove a WECS or anemometer tower within the ninety (90) day period provided in this subsection shall be grounds for the Township to remove the wind turbine generator or anemometer tower at the applicant/owner/operator and/or landowner's expense.

iii. All equipment associated with the WECS or anemometer tower including all materials above and below ground shall be removed and the site shall be restored to a condition that reflects the specific character of the site, including topography, vegetation, soils, drainage and any unique environmental features. The restoration shall include: road repair, if any, and all re-grading, soil stabilization, and re-vegetation necessary to return the subject property to a stable condition consistent with conditions existing prior to establishment of the WECS. The restoration process shall comply with all State, county, or local erosion control, soil stabilization and/or runoff requirements or ordinances and shall be completed within one (1) year of removal notification.

12. CERTIFICATION OF INSURANCE. The applicant/owner/operator and landowner shall indemnify and hold harmless Gilmore Township Trustees, Planning Commission members, Zoning Administrator and the non-participating township residents. All of the aforementioned shall be named as additional insured against any and all claims arising out of the existence and installation, operation and decommissioning of the WECS. Applicant/owner/operator and WECS lessee land owner shall procure comprehensive general liability, casualty, wrongful acts insurance policies, and any other policies customary to the wind energy system industry. This insurance shall be in the amount of \$3,000,000.00 (Three Million and 00/100 Dollars) per wind energy system, but not to exceed \$100,000,000.00 (One Hundred Million and 00/100 Dollars) in the aggregate if the applicant/owner/operator owns more than one wind energy system in Gilmore Township. The Gilmore Township Board may adjust these amounts periodically to reflect inflation. The applicant/owner/operator and land owner shall maintain these insurance coverages for the duration of the construction, operation, decommissioning, removal and site restoration of the WECS. The insurance carrier shall be instructed to provide Gilmore Township with certificates of the existence of such insurance coverages (annually), and shall be instructed to notify the Township if such insurances expire for any

reason. The applicant/owner/operator and land owner shall continuously meet the conditions of the insurance policy (policies) to ensure that any future claims on the insurance policy will be paid in full. Failure of the applicant/owner/operator and land owner to maintain these insurance coverages at all times and to meet the conditions to ensure full reimbursement of a claim shall result in termination of the permit. A copy of the full insurance policy (policies) including all attachments, endorsements, waivers, or other special conditions associated with the policy (policies) shall be provided to the Gilmore Township Zoning Administrator (or other Township designee) upon request.

E. Small Roof-Mounted or Single Tower WECS less than 95ft in Height.

1. Purpose

Gilmore Township is an rural preservation (including agricultural), and residential township which is made up of rolling hills, wooded hillsides, ridges, sand dunes, valleys, two inland lakes and Lake Michigan lake shoreline. The residents consist of permanent and seasonal residents, with many retirees and second homes. The purpose of this Ordinance is to define standards and procedures governing installation and operation of roof-mounted and single tower small Wind Energy Conversion Systems (WECS), including WECS 95ft. or less that do not require a Special Land Use Permit in Gilmore Township. These standards and procedures are necessary to:

- a. Ensure that the location, scale and design of small WECS within the Township are protective of public health, safety, welfare, and individual's use quiet and peaceful enjoyment of their properties and quality of life.
- b. Avoid potential damage to adjacent property from hazards associated with and/or failure of WECS.

2. General Requirements

Roof-Mounted and small WECS are permitted in all districts with a height not to exceed 95 feet. These wind turbines would be limited to the rear or side yard based on approval of the site plan by the Gilmore Township Planning Commission. See 7.26.C Table 1.

- a. APPEARANCE, COLOR, AND FINISH: The wind generator and tower shall remain painted or finished the color or finish that was originally applied by the manufacturer. The Gilmore Township Planning Commission must approve the color.
- b. BLADE CLEARANCE: Towers of 95ft. or less in height must follow manufacturer's standard clearance. Wind Turbines without a manufacturer's standard blade clearance shall be no less than 15 feet from ground level and a safe distance from walkways and common areas. Roof-Mounted WECS must follow manufacturer's recommendations.
- c. BLADE SHADOW FLICKER AND GLINT: Shadow flicker or blade glint shall not fall on any land beyond the property line.
- d. BRAKING SYSTEM: All WECS shall be equipped with an automatic braking,

governing to prevent uncontrolled rotation, over-speeding, and excessive pressure on the tower structure, rotor blades and other wind energy components. If no breaking system is provided by the manufacturer, the manufacturer must provide a document showing the wind turbine will not fail in winds up to 80 mph.

- e. DISCONTINUATION, DECOMMISSIONING AND ABANDONMENT: The WECS owner must provide a written guarantee to Gilmore Township the WECS will be decommissioned and removed from the property if it becomes unusable and not repaired for a period of 6 months. If there are extenuating circumstances such as parts not being available, the owner of the WECS must show parts have been ordered and are on back order. If the use of a WECS is abandoned for over 6 months the Township has the right to remove the WECS at the owners cost.
- f. ENGINEERING SAFETY: The structural integrity and installation of the WECS shall conform to the design standards of the manufacturer. If the manufacturer does not provide design standards the owner must provide a Registered Professional Engineer's design standard.
- g. ENVIRONMENTAL PROTECTION REQUIREMENTS: All Wind Energy projects must be in compliance with Article XXII of the Gilmore Township Zoning Ordinance.
- h. GUY WIRES: Visible and reflective objects, such as plastic sleeves, reflectors or tape, shall be placed on the guy wire anchor points and along the outer and innermost guy wires up to a height of 8 feet above the ground. Guy wire anchors must be set back 25 ft from the property line.
- i. MAXIMUM TOTAL WECS HEIGHT: The maximum height of small WECS is 95 ft. See Table 7.26.C Table 1.
- j. SOUND LEVELS (MAXIMUM) : Small Single tower WECS designed for personal use: Audible Noise Standard: From 9:00A.M. until 9:00 P.M. for wind speeds from cut-in to cut-out of the WECS the A scale equivalent noise level due to WECS at the property line and beyond shall not exceed the established outdoor background sound level LA90 by more than five (5) dBA and 50 dBC. From 9:00 P.M. until 9:00 AM. for wind speeds from cut-in to cut-out of the WECS the A scale equivalent noise level due to WECS at the property line and beyond shall not exceed the established outdoor background sound LA90 and 50dBC. Background sound levels shall be established separately for daytime (9:00AM. to 9:00 P.M.) and nighttime (9:00P.M.- 9:00 AM.) values. Sound level measurements will be at the expense of the applicant, and shall be accomplished by a licensed professional.
- k. SETBACK FOR ON-SITE, ROOF MOUNTED WECS: Small WECS 95ft or less tall:
 - i. From adjoining property lines: 1.5 times the fall zone distance from the property line or appropriate safety zone as established by the manufacturer or consultant, but no less than the 1.5 times the fall zone.

- 1070 ii. From Road Rights-of-Way, or other Rights-of-Way (e.g., railroads, utility
1071 wires, etc): 1.5 times the fall zone.
1072 iii. From environmentally sensitive areas (bird habitats, wetlands, etc.): 5
1073 times the radius of the fall zone. The Planning Commission may adjust the
1074 setback upward or downward before approval of the WECS application
1075 following consideration of environmental analysis and proposed
1076 mitigation effects.
1077
1078 I. SIGNAL INTERFERENCE: Operation of a WECS shall not interfere with
1079 communication systems such as, but not limited to, radio, telephones, cell
1080 phones, internet service or broadband networks, television (both broadcast and
1081 satellite), satellite, or emergency communication systems. The
1082 Applicant/owner/operator must demonstrate no interference will occur with the
1083 communications listed.
1084

1085 3. Permit Application and Site Plan Review Requirements
1086

1087 Approval Standards: The Gilmore Township Planning Commission shall not approve a
1088 Permit unless it finds that:

- 1089 a. Applicant/owner has met all requirements of Section 7.26.E of this Ordinance.
1090 Applicant/owner has met all other applicable Township Ordinances. The
1091 Township Planning Commission may impose other requirement to provide for the
1092 safety and well being of Township residents
1093 b. The Applicant/owner/operator has demonstrated compliance with the Purpose
1094 and Intent, General Provisions, Performance and Regulatory Standards,
1095 Application Requirements and Standards for Granting Site Plan Review of the
1096 *Gilmore Township Zoning Ordinance* and other conditions imposed by the
1097 Township, and that:
1098 i. A small WECS shall not be located, constructed, erected, altered, or used
1099 without first submitting a site plan for zoning approval.
1100 ii. Survey of the property showing property boundaries and existing
1101 features such as land contours, large trees, buildings, structures, roads
1102 (rights-of-way), utility easements, land use, zoning district, ownership of
1103 property, and vehicular access;
1104 iii. Plan(s) showing the proposed location(s) of turbine towers, underground
1105 and overhead wiring including guy wires.
1106 iv. Stamped and signed drawings from a Michigan licensed structural
1107 engineer providing the details of the foundation and anchoring system as
1108 recommended by the manufacturer. A description of the wind energy
1109 system(s) height and design, including cross section, elevation, and
1110 diagram of the foundation and anchoring system; the Planning
1111 Commission and/or the Zoning Administrator may require a soil analysis
1112 to determine the suitability of the proposed location.
1113 v. Applicants must follow Section 14 for Site Plan Review.
1114
1115
1116

1117 4. CONFLICT

1118
1119 In the event of conflict between this Article 7, Section 26 and any other Articles and
1120 Sections of this Ordinance the most stringent shall apply.
1121

1122 5. VALIDITY AND SEVERABILITY

1123
1124 If any clause, sentence, sub-sentence, paragraph, section or part of this Section 26 of the
1125 Ordinance be adjudged by any court of competent jurisdiction to be invalid, such
1126 judgment shall not affect, impair, or invalidate the remainder thereof, but shall be
1127 confined in its operation to the word, clause, sentence, subsentence, paragraph, section,
1128 or part directly involved in the controversy in which said judgment shall have been
1129 rendered.
1130

1131 F. Noise Measurement Protocols

1132
1133 1. Purpose.

1134 The potential impact of sound and sound induced building vibration associated with the
1135 operation of wind powered electric generators is often a primary concern for citizens
1136 living near proposed wind energy conversion systems (WECS). This is especially true of
1137 projects located near homes, residential neighborhoods, businesses, schools, and
1138 hospitals in quiet residential and rural communities. Determining the likely sound and
1139 vibration impacts is a highly technical undertaking and requires a serious effort in order
1140 to collect reliable and meaningful data for both the public and decision makers.

1141 2. Sites with no existing Wind Energy Systems (Baseline Sound Study)

1142 a. All properties within the proposed WECS project boundaries will be considered
1143 for this study. One test shall be conducted during the period defined by the
1144 months April through November with the preferred time being the months of
1145 June through August. These months are normally associated with more contact
1146 with the outdoors and when homes may have open windows during the evening
1147 and night. Unless directed otherwise by the Gilmore Township Planning
1148 Commission, the season chosen for testing will represent the background
1149 soundscape for other seasons.

1150 b. All measurement points (MPs) shall be located with assistance from the Gilmore
1151 Township Planning Commission property owner(s) and Gilmore Township's
1152 Acoustical Consultant and positioned such that no significant obstruction
1153 (buildings, trees, etc.) blocks sound and vibration from the nearest proposed
1154 WECS site.

1155 c. Sound level managements shall be taken as designated by the Gilmore Township
1156 Acoustical Consultant.

1157 d. Duration of measurements shall be a minimum of ten (10) continuous minutes
1158 for all criteria at each location. The duration must include at least six (6) minutes
1159 that are not affected by transient sounds from near-by and non-nature sources.
1160 The measurements shall consist of the metrics specified in Section 7.26.F.3.a.ii
1161 and Section 7.26.F.3.b.ii. Multiple ten (10) minute samples over longer periods
1162 such as 30 minutes or one (1) hour may be used to improve the reliability of the
1163 LA90 and LC90 values. For any sample to be valid, both LA10 minus LA90 and

LC90 cannot be greater than 10dB and the maximum wind speed at the microphone must be less than 2 m/s during the same ten (10) minute period as the acoustic data. Of the valid samples, the ten (10) minute sample with the lowest valid L90 values will be used to define long term background sound.

- e. The tests at each site selected for this study shall be taken during the expected 'quietest period of the day or night' as appropriate for the site. For the purpose of determining long term background sound characteristics the preferred testing time is from 10 p.m. until 4 a.m. If circumstances indicated that a different time of the day should be sampled the test may be conducted at the alternate time if approved by the Township.
- f. Sound level measurements shall be made on a weekday of a non-holiday week. Weekend measurements may also be taken at selected sites where there are weekend activities that may be affected by wind turbine sound.
- g. Measurements must be taken with the microphone at 1.2 to 1.5 meters above the ground and at least 15 feet from any reflective surface following ANSI S12.9-Part 3 protocol including selected options and other requirements outlined later in this Section.
- h. The results of the model showing the predicted worst case LAeq and LReq sound emissions of the proposed WECS project will be overlaid on a map (or separate LAeq and LReq maps) of the project area.
- i. The test points shall be located at the property line bounding the property of the turbine's host closest to the wind turbine. Additional sites may be added if appropriate.
- j. A grid comprised of one (1) mile boundaries (each grid cell is one (1) square mile) should be used to assist in identifying two (2) to ten (10) measurement points per cell. The grid shall extend to a minimum of two (2) miles at the discretion of the Gilmore Township Planning Commission. The measurement points shall be selected to represent the noise sensitive receptor sites based on the anticipated sound propagation from the combined wind turbines in the project.

3. Reporting

- a. For each Measurement Point and for each qualified measurement period, provide each of the following measurements:
 - i. LAeq, LA10, and LA90, and
 - ii. LReq, LC10, and LC90
- b. A narrative description of any intermittent sounds registered during each measurement. This may be augmented with video and audio recordings.
- c. A narrative description of the steady sounds that form the background soundscape. This may be augmented with video and audio recordings.
- d. Wind speed and direction at the microphone (Measurement Point), humidity and temperature at time of measurement shall be included in the documentation. Corresponding information from the nearest 10 meter weather reporting station may also be obtained. Measurements taken only when wind speeds are less than 2 m/s (4.5 mph) at the microphone location will be considered valid for this study. A windscreens of the type recommended by the monitoring instrument's manufacturer must be used for all data collection.
- e. Provide a map and/or diagram clearly showing (using plot plan provided by Gilmore Township or Applicant):

- i. The layout of the project area, including topography, the project boundary lines, and property lines.
- ii. The locations of the Measurement Points.
- iii. The distance between any Measurement Points and the nearest wind turbine(s).
- iv. The location of significant local non-WECS sound and vibration sources.
- v. The distance between all measuring points and significant local sound.
- vi. The location of all sensitive receptors including but not limited to: schools, day-care centers, hospitals, residences, residential neighborhoods, places of worship, and elderly care facilities.

4. Sound Level Estimate for Proposed Wind Energy Conversion Systems (When Adding More Wind Turbines to an Existing Project)

- a. In order to estimate the sound impact of the proposed WECS project on the existing environment, an estimate of the sound produced by the proposed WECS under the worst-case conditions for producing sound emissions must be provided. The estimate shall be developed using a computer sound propagation model using algorithms such as those specified in ISO 9613-2 Acoustics-Attenuation of sound during propagation outdoors. General method of calculation with the following requirements:
 - i. The reported sound pressure levels shall include the 3 dB tolerance (confidence limits) of the ISO 9613-2 procedure and the tolerance for the measurements and/or calculations used to derive the sound power level information for the wind turbine under IEC 61400-11. This is generally accepted to be an increase of 3.6 dB over the predicted sound pressure levels.
 - ii. Sound power levels used to represent the wind turbine sound emissions shall represent operation during a stable atmospheric condition at night with a wind shear of 0.4 or higher above the temperature inversion boundary layer and/or other sources of in-flow turbulence. These conditions increase the wind turbine sound emissions above those reported by the IEC 61400-11 test procedure which test sound emissions during operation in a neutral atmosphere with wind shear of 0.2 or lower, very low in-flow turbulence, and a steady gradient of wind speed from ground level to a height greater than the top of the blades at their highest point of rotation. If this data is not available, a correction of five (5) dB shall be added to the predicted overall sound levels (dBA, dBC and dBLlinear/unweighted) using the IEC data to account for the higher sound emissions.
 - iii. The sound propagation of low frequency sounds in the 125 Hz octave band and below shall be assumed to be at a rate of 3 dB per doubling of distance to account for atmospheric conditions. Sound propagation of sounds above the 125 Hz octave band may be either at 3 dB or 6 dB per doubling of distance depending on the arrangement of the wind turbines. If the arrangement is generally linear then all frequencies shall be calculated using a 3 dB per doubling decay rate.

- b. The qualifications of the firm should be presented along with details of the procedure that will be used, software applications, and any limitations to the software or prediction methods as required elsewhere in this Ordinance for models.
- c. Provide the manufacturer's sound power level (L_{Aw}) and (L_{ew}) characteristics for the proposed WECS operating at full load utilizing the methodology in IEC 61400-11 Wind Turbine Noise Standard. Provide one-third octave band sound power level information from 6.3 Hz to 10,000 Hz or 1/1 octave band sound power levels from 8Hz to 10,000 Hz. Furnish the data in tabular format using no frequency weighting including the summation of the sound pressure levels in the individual frequency bands (e.g. dB linear). A-weighted and C-weighted data is optional. Provide sound pressure levels predicted for the WECS in combination and at full operation and at maximum sound power output for all areas where the predictions indicate LA_{eq} levels of 30 dBA and above. The same area shall be used for reporting the predicted LC_{eq} levels. Contour lines shall be in increments of 5 dB.
- d. Present tables with the predicted sound levels for the proposed WECS as LA_{eq} and LC_{eq} and at all octave band centers (8 Hz to 10,000 Hz) for distances of 500, 1000, 1500, 2000, 2500 and 5000 feet from the center of the area with the highest density of WECS. For projects with multiple WECS, the combined sound level impact for all WECS operating at full load must be estimated.
- e. The above tables must include the impact (increased dBA and dBC (L_{eq}) above baseline L₉₀ long term background sound levels measured according to the procedures above) of the WECS operations on all residential and other noise sensitive receiving locations within the project boundary. To the extent possible, the tables should include the sites tested (or likely to be tested) in the background study.
- f. Provide a contour map of the expected sound level from the new WECS using 5 dB and LA_{eq} and LC_{eq} increments created by the proposed WECS extending out to a distance of two (2) miles from the project boundary, or other distance necessary, to show the 25 LA_{eq} and 50 LC_{eq} boundaries.
- g. Provide a description of the impact of the proposed sound from the WECS project on the existing environment. The results should anticipate the receptor sites that will be most negatively impacted by the WECS project and to the extent possible provide data for each measuring points (MPs) that are likely to be selected in the background sound study (note the sensitive receptor measuring points):
- i. Report expected changes to existing sound levels for LA_{eq} and LA₉₀
 - ii. Report expected changes to existing sound levels for LC_{eq} and LC₉₀
 - iii. Report the expected changes to existing sound pressure levels for each of the 1/3 or 1/1 octave bands in tabular form from 6.3/8 Hz to 10,000 Hz octave band centers.
 - iv. Report all assumptions made in arriving at the estimate of impact, any limitations that might cause the sound levels to exceed the values of the estimate, and any conclusions reached regarding the potential effects on people living near the project area. If the effects of coherence, worst case weather, or operating conditions are not fully reflected in the model, a discussion of how these factors could increase the predicted values is

required.

- v. Include an estimate of the number of hours of operation expected from the proposed WECS and under what conditions the WECS would be expected to run. Any differences from the information filed with the application should be addressed.
- vi. The over-all values shall be presented as overlays to the Applicant's ISO-level plot plan graphics and, for 1/1 or 1/3 octave data, in tabular form with location information sufficient to permit comparison of the baseline results to the predicted levels.

5.. Post Construction Measurements

Within twelve months of the date when the project is fully operational, preferably within four (4) weeks of the anniversary date of the pre-construction background sound measurements, repeat the measurements. Post construction sound level measurements shall be taken both with all the WECS running and with all the WECS off except as provided in this ordinance. Gilmore Township shall identify specific locations that shall be included based on formal or informal complaints. The post construction tests shall also include the locations used for the long-term background sound level tests. Additional sites may also be included at the discretion of the Acoustical consultant conducting the study. These studies must include measurements during nighttime conditions of stable atmosphere with high wind shears and/or turbulence at the elevation of the blades and all other weather or operating conditions that may have been reported as high noise conditions by formal or informal complaints. The post construction tests must include specific tests for all conditions that result in high wind turbine noise either outside or inside homes of non-participating residential property owners. Report post-construction measurements to the Gilmore Township Planning Commission using the same format as used for the background study.

6. Instrumentation/Measurement Standard/References

All instruments and other tools used to measure audible, inaudible and low frequency sound shall meet the requirements for ANSI or IEC Type 1 Integrating Averaging Sound Level Meter Standards. The principle standard reference for this Ordinance is ANSI S12.9-Part 3 with important additional specific requirements for the measuring instrumentation and measurement protocol.

1.5 Windscreen: Required.

5.1 Background sound: Use definition (1) 'long-term'

5.2 Long-term background sound: The L90 excludes short-term background sounds

5.3 Basic measurement period: Ten (10) minutes L90 (10 minutes)

5.6 Sound Measuring Instrument: Type 1 Integrating Meter meeting ANSI S1.43 or IEC 61672-1. The sound level meter shall cover the frequency range from 6.3 Hz to 20,000 Hz and simultaneously measure dBA LN and dBC LN. The instrument must also be capable of accurately measuring low-level background sounds down to 20 dBA.

6.6(a) An anemometer accurate to $\pm 10\%$ at 2 m/s (4.5 mph) to full scale accuracy. The anemometer shall be located 1.5 to 2 meters above the ground and oriented to

record the maximum wind velocity. The maximum wind velocity, wind direction, temperature and humidity shall be recorded for each ten (10) minute sound measurement period observed within five (5) meters of the measuring microphone.

7.1 Long-term background sound.

7.2 Data Collection Methods: Second method with observed samples to avoid contamination by short-term sounds (purpose: to avoid loss of statistical data).

8 Source(s) Data Collection: All requirements in ANSI S12.18 Method #2 precision to the extent possible while still permitting testing of the conditions that lead to complaints. The meteorological requirements in ANSI S 12.18 may not be applicable for some complaints. For sound measurements in response to a complaint, the compliance sound measurements should be made under conditions that replicate the conditions that caused the complaint without exceeding instrument and windscreen limits and tolerances.

8.1(b) Measuring microphone with windscreen shall be located 1.2 meters to 1.8 meters (1.5 meters preferred) above the ground and greater than 8 meters from large sound reflecting surface.

8.3(a) All meteorological observations required at both (not either) microphone and nearest 10 meters weather reporting station.

8.3(b) For a 10 minute background sound measurement to be valid the wind velocity shall be less than 2 m/s (4.5 mph) measured less than 5 meters from the microphone. Compliance sound measurements shall be taken when winds shall be less than 4 m/s at the microphone.

8.3(c) In addition to the required acoustic calibration checks, the sound measuring instrument internal noise floor, including microphone, must also be checked at the end of each series of ten minute measurements and no less frequently than once per day. Insert the microphone into the acoustic calibrator with the calibrator signal off. Record the observed dBA and dBC reading on the sound level meter to determine an approximation of the instrument self noise. Perform this test before leaving the background measurement location. This calibrator covered microphone test must demonstrate the results of this test are at least 5 dB below the immediately previous ten-minute acoustic test results, for the acoustic background data to be valid.

This test is necessary to detect undesired increase in the microphone and sound level meter internal self-noise. As a precaution, sound measuring instrumentation should be removed from any airconditioned space at least an hour before use. Nighttime measurements are often performed very near the meteorological dew point. Minor moisture condensation inside a microphone or sound level meter can increase the instrument self noise and void the measured background data.

8.4 The remaining sections starting at 8.4 in ANSI S12.9 - Part 3 Standard do not apply.

G. Other Applicable Standards

ANSI S12.18 -1994 (R2004) American National Standard Procedures for Outdoor Measurement of Sound Pressure Level

This American National Standard describes procedures for the measurement of sound pressure

levels in the outdoor environment, considering the effects of the ground, the effects of refraction due to wind and temperature gradient, and the effects due to turbulence. This standard is focused on measurement of sound pressure levels produced by specific sources outdoors. The measured sound pressure levels can be used to calculate sound pressure levels at other distances from the source or to extrapolate to other environmental conditions or to assess compliance with regulation.

This standard describes two methods to measure sound pressure levels outdoors. METHOD NO.1: general method; outlines conditions for routine measurements. METHOD NO.2: precision method; describes strict conditions for more accurate measurements. This standard assumes the measurement of A-weighted sound pressure or time-averaged sound pressure level or octave, 1/3-octave or narrowband sound pressure, but does not preclude determination of other sound descriptors.

ANSI S1.43-1997 (R2007) American National Standard Specifications for Integrating Averaging Sound Level Meters

This standard describes instruments for the measurement of frequencyweighted and time-average sound pressure levels. Optional, sound exposure levels may be measured. This standard is consistent with the relevant requirements of ANSI S1.4 - 1983 (R 1997) American National Standard Specification for Sound Level Meters, but specifies additional characteristics that are necessary to measure the timeaverage sound pressure level of steady, intermittent, fluctuating, and impulsive sounds.

ANSI S1.11 - 2004 American National Standard 'Specification for Octave-Band and Fractional-Octave-Band Analog and Digital Filters'

This standard provides performance requirements for analog, sampled-data, and digital implementations of band-pass filters that comprise a filter set or spectrum analyzer for acoustical measurements. It supersedes ANSI S1.11 - 1986 (R1998) American National Standard Specification for Octave-Band and FractionalOctave-Band Analog and Digital Filters, and is a counterpart to International Standard IEC 61260: 1995 Electroacoustics - OctaveBand and Fractional-Octave-Band Filters. Significant changes from ANSI S1.11 - 1986 have been adopted in order to conform to most of the specifications of IEC 61260: 1995. This standard differs from IEC 61260:1995 in three ways: (1) the test methods of IEC 61260 clause 5 n is moved to an informative annex, (2) the term 'band number,' not present in IEC 61260, is used as in ANSI S1.11 - 1986, (3) references to American National Standards are incorporated, and (4) minor editorial and style differences are incorporated.

ANSI S1.40 - 2006 American National Standard Specifications and Verification Procedures for Sound Calibrators

IEC 61400-11

Second edition 2002-12, Amendment 1 2006-05

IEC 61400-11

Second edition 2002-12, Amendment 1 2006-0

Wind turbine generator system-Part 11: Acoustic noise measurement techniques

The purpose of this part of IEC 61400 is to provide a uniform methodology that will ensure consistency and accuracy in the measurement and analysis of acoustical emissions by wind turbine generator systems. Its purpose is to standardize testing of wind turbine sound emissions so that the purchasers can compare noise emissions. It also provides the data needed to construct noise models. It is not intended as a community noise standard and should not be used or referenced as such.

End of Measurement Procedure

This procedure may be modified as recommended by the qualified/certified acoustical specialist if a more recent ANSI or other method is available and accepted by the Gilmore Township Planning Commission.

Section 7.20 Wireless Communication Towers

This section implements Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 ("Spectrum Act"), as interpreted by the Federal Communications Commission's ("FCC" or "Commission") Acceleration of Broadband Deployment Report & Order, which requires a state or local government to approve any Eligible Facilities Request for a modification of an existing tower or base station that does not result in a substantial change to the physical dimensions of such tower or base station.

A. Definitions. For the purposes of this Section, the terms used have the following meanings:

1. Base Station. A structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined herein or any equipment associated with a tower. Base Station includes, without limitation:
 - a. Equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
 - ii. Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems ("DAS") and small-cell networks).
- b. Any structure other than a tower that, at the time the relevant application is filed with the Township under this section, supports or houses equipment that has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing that support.
2. Collocation. The mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.
3. Eligible Facilities Request. Any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving:
 - a. Collocation of new transmission equipment;
 - b. Removal of transmission equipment; or
 - c. Replacement of transmission equipment.

- 1493 4. Eligible support structure. Any tower or base station as defined in this section, provided
1494 that it is existing at the time the relevant application is filed with the Township under this
1495 section.
1496
- 1497 5. Existing. A constructed tower or base station is existing for purposes of this section if it
1498 has been reviewed and approved under the applicable zoning or siting process, or under
1499 another State or local regulatory review process, provided that a tower that has not been
1500 reviewed and reviewed because it was not in a zoned area when it was built, but was
1501 lawfully constructed, is existing for purposes of this section.
1502
- 1503 6. Site. For towers other than towers in the public rights-of-way, the current boundaries of
1504 the leased or owned property surrounding the tower and any access or utility easements
1505 currently related to the site, and, for other eligible support structures, further restricted
1506 to that area in proximity to the structure and to other transmission equipment already
1507 deployed on the ground.
1508
- 1509 7. Substantial Change. A modification substantially changes the physical dimensions of an
1510 eligible support structure if it meets any of the following criteria:
1511 a. For towers other than towers in the public rights-of-way, it increases the height
1512 of the tower by more than 10% or by the height of one additional antenna array
1513 with separation from the nearest existing antenna not to exceed twenty feet,
1514 whichever is greater; for other eligible support structures, it increases the height
1515 of the structure by more than 10% or more than ten feet, whichever is greater;
1516 b. For towers other than towers in the public rights-of-way, it involves adding an
1517 appurtenance to the body of the tower that would protrude from the edge of the
1518 tower more than twenty feet, or more than the width of the Tower structure at
1519 the level of the appurtenance, whichever is greater; for other eligible support
1520 structures, it involves adding an appurtenance to the body of the structure that
1521 would protrude from the edge of the structure by more than six feet;
1522 c. For any eligible support structure, it involves installation of more than the
1523 standard number of new equipment cabinets for the technology involved, but not
1524 to exceed four cabinets; or, for towers in the public rights-of-way and base
1525 stations, it involves installation of any new equipment cabinets on the ground if
1526 there are no pre-existing ground cabinets associated with the structure, or else
1527 involves installation of ground cabinets that are more than 10% larger in height
1528 or overall volume than any other ground cabinets associated with the structure;
1529 d. It entails any excavation or deployment outside the current site;
1530 e. It would defeat the concealment elements of the eligible support structure; or
1531 f. It does not comply with conditions associated with the siting approval of the
1532 construction or modification of the eligible support structure or base station
1533 equipment, provided however that this limitation does not apply to any
1534 modification that is non-compliant only in a manner that would not exceed the
1535 thresholds identified in this section.
1536
- 1537 8. Transmission Equipment. Equipment that facilitates transmission for any FCC licensed or
1538 authorized wireless communication service, including, but not limited to, radio
1539 transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply.

The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

9. Tower. Any structure built for the sole or primary purpose of supporting any FCC licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site.

B. Application Review

1. Application. Township shall prepare and make publicly available an application form which shall be limited to the information necessary for Township to consider whether an application is an Eligible Facilities Request. The application may not require the applicant to demonstrate a need or business case for the proposed modification.
2. Type of Review. Upon receipt of an application for an Eligible Facilities Request pursuant to this Section, the Township Planning Commission shall review such application to determine whether the application so qualifies.
3. Timeframe for Review. Within 60 days of the date on which an applicant submits an application seeking approval under this Section, the Township shall approve the application unless it determines that the application is not covered by this Chapter.
4. Tolling of the Timeframe for Review. The 60-day review period begins to run when the application is filed, and may be tolled only by mutual agreement by Township and the applicant, or in cases where Township Planning Commission determines that the application is incomplete. The timeframe for review is not tolled by a moratorium on the review of applications.
 - a. To toll the timeframe for incompleteness, Township must provide written notice to the applicant within 30 days of receipt of the application, specifically delineating all missing documents or information required in the application.
 - b. The timeframe for review begins running again when the applicant makes a supplemental submission in response to Township's notice of incompleteness.
 - c. Following a supplemental submission, Township will notify the applicant within 10 days that the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in paragraph 4 of this section. Second or subsequent notices of incompleteness may not specify missing documents or information that were not delineated in the original notice of incompleteness.
5. Failure to Act. In the event Township fails to approve or deny a request seeking approval under this Section within the timeframe for review (accounting for any tolling), the request shall be deemed granted. The deemed grant does not become effective until the applicant notifies the applicable reviewing authority in writing after the review period has

expired (accounting for any tolling) that the application has been deemed granted.

6. Remedies. Applicants and Township may bring claims related to any court of competent jurisdiction.

Section 7.21 Conditional Approvals

- A. Site plans for Special Land Uses, Planned Unit Developments, Condominium Projects, variances or other discretionary decisions may be approved with reasonable conditions .
- B. The conditions may include conditions necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet the following requirements :
 1. Be designed to protect natural resources, the health, safety, and welfare ,as well as the social and economic well-being of those who will use the land use or activity under consideration, residents, and landowners adjacent to the proposed land use or activity, and the community as a whole.
 2. Be related to the valid exercise of the police power, and to the proposed use or activity .
 3. Be necessary to meet the intent and purpose of the zoning requirements ;be related to the standards established in this Ordinance for the land use or activity under consideration; and be necessary to insure compliance with those standards .
 4. Be in compliance with the conditions of any permits and approvals issued for the project by other jurisdictions or agencies.
- C . Recording Conditions with the Register of Deeds .At the direction of the body or official making the final decision to approve or approve with conditions a Planned Unit Development, Special Land Use, variance or other discretionary approval authorized by this Ordinance, or as otherwise may be specified by this Ordinance ,or at the discretion of the Zoning Administrator, an approval or approval with conditions may be recorded with the County Register of Deeds. The following requirements shall be met with each recording :
 1. The applicant shall record an affidavit which has received the approval of the Township Attorney with the County Register of Deeds containing the full legal description of the project site, containing the approved site plan ,the specific terms of any permit, any documents that pertain to permanent preservation of open space, the date of final Township approval, and declaring that all improvements will be carried out in accordance with the approved site plan or variance unless an amendment thereto is adopted by the Township. In addition, all deed restrictions and easements associated with the property shall be duly filed with the Register of Deeds of the County in which the property is located and copies of all recorded documents shall be presented to the Zoning Administrator. These documents shall be binding upon the landowners, their successors and assigns, and shall constitute the development regulations for the land. The applicant shall submit proof to the Zoning Administrator that these documents have been recorded with the County Register of Deeds within ninety (90) calendar days of project approval or the approval shall be rendered invalid. Once the proper documents have been recorded with the County Register of Deeds, the applicant may

- 1633 proceed, consistent with the approved Site Plan and Permit, to develop the land.
- 1634 2. A copy of any agreement between joint users of parking areas shall be filed with the
- 1635 application for a Zoning Permit and recorded with the Register of Deeds. The agreement shall
- 1636 include a guarantee for continued use of the parking facility by each party. A copy of all
- 1637 recorded documents shall be presented to the Zoning Administrator.
- 1638 3. All documents to be recorded with the County Register of Deeds at the initiative of the
- 1639 Township, shall be first reviewed and approved as to form and content by the Township
- 1640 Attorney or other legal representative of the Township retained for that purpose.

ARTICLE 8
SITE DEVELOPMENT STANDARDS

Section 8.1 SIGNS

A. The purpose of this Article is to regulate commercial and noncommercial outdoor signs in a manner which: recognizes the communication needs of both businesses and other parties; protects property values and neighborhood character; creates a more attractive business climate; promotes pedestrian and traffic safety by reducing sign distractions, obstructions and other hazards; and promotes pleasing community environmental aesthetics.

B. Compliance with this Ordinance does not relieve the applicant of the responsibility for compliance with other township, state or federal sign regulations, nor does the issuance of a Zoning Permit grant permission to the applicant to place signs on any property including road rights-of-way other than property owned or otherwise legally under the control of the applicant. The issuance of a zoning permit only assures the applicant that the sign meets the requirements of the Gilmore Township Zoning Ordinance.

Section 8.2 PERMIT REQUIRED

Except as otherwise provided in this Article, no sign may be constructed, erected, moved, enlarged, illuminated or substantially altered unless a Zoning 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.

Section 8.3 SIGNS EXCLUDED FROM PERMIT

The following signs are permitted without a Zoning Permit, but shall conform to the requirements set forth herein as well as all other applicable requirements of this Article.

A. One (1) sign not exceeding six (6) 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 of occupants; such as 4-H Clubs group memberships; or, centennial farm signs.

B. Signs not exceeding two and one-half (2 1/2) 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.

C. Signs erected by or on behalf of or pursuant to the authorization of a governmental body, including legal notices, identification, and informational signs, including historical markers, traffic, directional, and regulatory signs.

D. Official signs of a non-commercial nature erected by public utilities.

E. Flags, or insignia of any governmental or non-profit organization when not displayed in connection with a commercial promotion or as an advertising service.

F. Integral decorative or architectural features of buildings or work of art, so long as such features or works do not contain letters, trademarks, moving parts, or lights.

G. Signs directing and guiding traffic on private property that do not exceed four (4) square feet each and that bear no advertising matter.

H. Informational signs not exceeding (1) one square foot in sign face.

I. 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.

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

Section 8.4 TEMPORARY SIGNS: PERMIT EXEMPTIONS

A. The following temporary signs, related to temporary land uses, are permitted without a Zoning Permit. However, such signs shall conform to the requirements set forth herein as well as all other applicable requirements of this Article.

1. 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. However, a second sign may be erected on a site of twenty (20) acres or more in area and having a street frontage width of six hundred sixty (660) feet or more as long as the second sign shall not exceed sixteen (16) square feet in sign face area.
2. 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 one such sign, not exceeding thirty-two (32) square feet in sign face area, shall be erected per site. In the place of the one large sign up to four (4) individual smaller signs may be erected on the site, upon the condition that each such smaller sign shall not exceed four (4) square feet in sign face area per sign.
3. Political Signs: Signs erected in connection with elections or political campaigns. Such signs shall be removed within three (3) days following the election or conclusion of the campaign. No such exempt sign may exceed six (6) square feet in sign face area. Any larger political signs require a Zoning Permit.
4. 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 not sooner than two (2) weeks before the event and must be removed not later than three (3) days after the event.
5. Seasonal commodity signs: Seasonal commodity signs shall not have a total sign face greater than thirty-two (32) square feet, of which not more than twenty (20) square feet may be on premises and not more than twelve (12) square feet may be off-premise. No

single off-premise sign face shall be more than six (6) square feet. Such signs shall not be set in place for use until one (1) week before the beginning of the harvest season.

6. Yard sale, or garage sale signs or other similar temporary activity signs not covered in the foregoing categories, so long as such signs meet the following restrictions:
 - a. Not more than one (1) such sign may be located on any lot.
 - b. No such sign may exceed four (4) square feet in surface area.
 - c. Such signs shall be erected not more than three (3) days prior to the event and shall be removed immediately following the event.
 - d. Such signs shall not be erected more than one (1) time per each six (6) months.
 - e. Directional signs not exceeding two (2) square feet in area may be erected, but no advertising signs may be installed on public or utility poles.
 - f. All signs shall be removed within twenty-four (24) hours of the sale.

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

Section 8.5 DETERMINING THE NUMBER OF SIGNS

A. 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.

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

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

Section 8.6 COMPUTATION SIGN AREA

A. The sign face area of a sign shall be computed by including the entire area within a single, continuous, perimeter of not more than eight (8) straight lines, or a circle or an ellipse, enclosing the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework or bracing that is clearly incidental to the display itself.

B. If the sign consists of more than one (1) section or module, all of the area, including that between sections or modules, shall be included in the computation of the sign face area.

C. With respect to two-sided, multi-sided or three- dimensional signs, the sign face area shall be computed by including the total of all sides designed to attract attention or communicate information that can be seen at any one time by a person from one vantage point. Without otherwise limiting the generality of the foregoing:

1. The sign face of a double-faced, back-to-back sign shall be calculated by using the area of only one side of such sign, so long as the distance between the backs of such signs does not exceed three (3) feet.
2. The sign face area of a double faced sign constructed in the form of a "V" shall be calculated by using the area of only one side of such sign (the larger side if there is a size difference), so long as the interior angle of the "V" does not exceed 30 degrees and at no point does the distance between the backs of such sides exceed five (5) feet.

Section 8.7 SIGNAGE SIZE

A. Tables 8-1 Includes the type and size of sign by zoning district.

Table 8-1
Signs Requiring Permit

Zoning District	Free Standing Ground Sign not higher than 6 feet above grade	Wall Sign; wall or projecting	Percent of Windows Used for Signs
R-1, R-2, R-3, R-4 and R-5	32 square feet per sign face; maximum 2 sign faces	32 square feet for wall sign; 16 square feet for projecting sign with maximum of 2 sign faces	0%
RP-5	32 square feet per sign face; maximum 2 sign faces	32 square feet for wall sign; 16 square feet for projecting sign with maximum of 2 sign faces	0%

Section 8.8 OFF-PREMISE HIGHWAY ADVERTISING SIGNS

Off-premise highway advertising signs are those signs and sign structures which are defined and regulated by the Michigan Department of Transportation pursuant to the Highway Advertising Act of 1972, Public Act 106 of 1972, as amended, and as further regulated by this Ordinance. Permits are required from MDOT for signs along State and Federal highways.

In addition to such regulations and administration, set forth in the above-cited statutes, the following shall also apply to any such signs and structures on the applicable lands along State and Federal Highways.

1. The size of such signs shall not exceed one hundred twenty-eight (128) square feet in area, including border or trim, but excluding ornamental base or apron, supports and other structural members;
2. Such sign and sign structure shall not be closer than one thousand (1,000) feet to another such off-premise advertising sign and sign structure, on the same side of the highway;
3. Such sign and sign structure shall not exceed twenty-four (24) feet in height;
4. Such sign and sign structure shall meet the front and side yard setback requirements for a structure located in the Zoning District;

5. Such sign and sign structure shall be maintained in regards to structural soundness and readability.

6. Off-premise highway advertising signs shall only be permitted as regulated by MDOT adjacent to State and Federal Highways.

7. All off-premise highway advertising signs shall, prior to construction, require a Zoning Permit from the Township.

8. The permit fee schedule shall be established by resolution of the Township Board. All permit fees shall be paid upon application.

Section 8.9 PROHIBITED SIGNS

The following signs shall not be allowed in any District:

1. Signs that are not consistent with the standards of this Ordinance,

2. Signs which are not clean or in good repair,

3. Signs that are not securely affixed to a substantial structure,

4. Signs that resemble any official traffic sign or appear to attempt to direct the movement of traffic, or are located where they interfere with motorist's view of intersections or driveways,

5. Revolving, moving, or flashing signs (except time, date and weather signs), pennants, streamers, and airborne devices.

6. Signs other than utility company signs attached to utility poles, and

7. Portable signs.

8. Signs remaining after a business or activity has terminated must be removed within thirty (30) days.

Section 8.10 SIGN SETBACKS AND HEIGHT REQUIREMENTS

A. Setbacks: For the purpose of establishing sign setback requirements from an abutting roadway signs shall meet or exceed the front yard setback for the respective zoning district measured from the right-of-way.

B. No sign may extend above any parapet or be placed upon any roof surface, except that for purposes of this section, roof surfaces constructed at an angle of seventy-five (75) degrees or more from horizontal shall be regarded as wall space. This subsection shall not apply to displays, including lighting, erected in connection with the observation of holidays on the roofs of residential structures.

C. No wall sign attached to a building may project more than twelve (12) inches from the building wall.

Section 8.11 SIGN ILLUMINATION

A. Unless otherwise prohibited by this Ordinance, signs may be illuminated if such illumination is in accordance with this section.

185 B. No sign within one-hundred and fifty (150) feet of a residential zone may be illuminated between
186 the hours of midnight and 6 a.m.

187 C. All signs shall be internally illuminated. The use of external lighting is prohibited except if the
188 external lighting source is focused downward.

189 D. Except as herein provided, illuminated signs are not permissible in the residential zoning districts.

190 E. Illuminated tubing or strings of lights that outline property lines, building facades, sign faces, sales
191 areas, roof lines, doors, windows, or similar areas are prohibited.

192 F. No sign may contain or be illuminated by flashing or intermittent lights or lights of changing
193 degrees of intensity, except signs indicating the time, date or weather conditions.

194 G. Subsections (E) and (F) do not apply to temporary signs erected in connection with the observance
195 of holidays.

196 **Section 8.12 NON-CONFORMING SIGNS**

197 A. Subject to the remaining restrictions of this Section, non-conforming signs that were otherwise
198 lawful on the effective date of this Ordinance may be continued.

199 B. No person may engage in any activity that causes an increase in the extent of nonconformity of a
200 non-conforming sign. Without limiting the generality of the foregoing, the non-conforming sign may be
201 enlarged or altered in such a manner as not to increase the non-conforming condition. Illumination may
202 not be added to any non-conforming sign.

203 C. A non-conforming sign may not be moved except to bring the sign into complete conformity with
204 this Ordinance.

205 D. If a non-conforming sign is destroyed, it may not thereafter be repaired, reconstructed, or
206 replaced except in conformity with all the provisions of this Ordinance.

207 E. The message of a non-conforming sign may be changed so long as this does not create any new
208 non-conformities (for example, by creating an off-premises sign under circumstances where such a sign
209 would not be allowed.)

210 F. Subject to the other provisions of this section, non-conforming signs may be repaired and
211 renovated.

212 G. If a non-conforming sign, other than an off-premise sign, advertises a business, service,
213 commodity, accommodation, attraction, or other enterprise or activity that is no longer operating or being
214 offered or conducted, that sign shall be considered abandoned and shall be removed within thirty (30)
215 days after such abandonment by the sign owner, owner of the property where the sign is located, or other
216 party having control over such sign.

217 H. If a non-conforming off-premise sign remains blank for a continuous period of one hundred eighty
218 (180) days, that off-premise sign shall be deemed abandoned and shall, within thirty (30) days after such
219 abandonment, be altered to comply with this article or be removed by the sign owner, owner of the
220 property where the sign is located or other person having control over such sign. For purposes of this
221 section, a sign is "blank" if:

1. It advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating or being offered or conducted; or
2. The advertising message it displays becomes illegible in whole or substantial part; or
3. The advertising copy paid for by a party other than the sign owner, or promoting an interest other than the rental of the sign, has been removed.

Section 8.13 PARKING and LOADING REGULATIONS

A. It is the intent of this Ordinance that parking spaces shall be provided and adequately maintained by each property owner in every zoning district for the off-street storage of motor vehicles for the use of occupants, employees and patrons of each building and premise constructed, altered or enlarged under the provisions of this Ordinance. All vehicles shall be stored on the premises occupied by the principal building, but may be stored on premises located outside the premises within specifically limited walking distances as specified in Section 8.21.B of this Ordinance.

Section 8.14 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 as specified in this Article:

A. Required off-street parking spaces shall consist of a parking strip, parking bay, driveway, garage, or combination thereof and shall be located on the premises they are intended to serve.

B. Location of off-street parking for other than residential use shall be either on the same lot or within three hundred (300) feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot. Ownership shall be shown of all lots or parcels intended for use as parking by the applicant on the site plan.

C. The joint use of parking facilities in a PUD shall be approved by the Planning Commission as part of the PUD review and approval process, all other joint use of parking facilities by two (2) or more uses may be granted by the Planning Commission whenever such use is practical and satisfactory to each of the uses intended to be served, and when all requirements for location, design, and construction are met.

1. The total number of parking spaces shall not be less than the sum of the requirements of the space requirements computed separately and discounted based on Table 8-2.
2. A copy of an agreement between joint users shall be filed with the application for a building permit and recorded with the Register of Deeds of Benzie County. The agreement shall include a guarantee for continued long-term use and maintenance of the parking facility by each party.

D. In cases of uses not specifically mentioned, the requirements of off-street parking spaces shall be in accord with the use which the Zoning Administrator considers is similar in type. The Zoning Administrator may consult parking standards publications from the American Planning Association and other parking ordinances from adjacent communities in making a determination.

E. Off-street parking areas shall not be used for commercial repair work, storage of merchandise, or servicing or selling of trucks or motor vehicles. Parking space be used only for the parking of vehicles used

to service the establishment to which it is accessory and by its patrons, unless a dual use agreement is in place as provided in subsection C. above.

F. Whenever a use requiring off-street parking is increased in floor area, or when interior building modifications result in an increase in capacity for any premise use, additional parking shall be provided and maintained in the proper ratio to the use change increased floor area or capacity. Additional parking shall be provided at the time of enlargement and prior to receipt of a Certificate of Zoning Compliance.

G. The outdoor parking of motor vehicles in residential districts and on non-farm residential lots less than two (2) acres in the Agricultural Production districts shall be limited to registered and licensed passenger vehicles, commercial vehicles, boats and motorhomes built on a chassis which is rated one (1) ton or less and not exceeding ten thousand (10,000) pounds in gross vehicle weight, except when said vehicles are associated with the use permitted by Specific Land Use or Conditional Use Regulations. On non-farm residential lots greater than two acres in the Agricultural Production districts said vehicles shall be parked behind the building line, with side or rear yard parking preferred.

H. No parking area or parking space or loading area which exists at the time this amendment becomes effective or which subsequent thereto is provided for the purpose of complying with the provisions of this Ordinance shall thereafter be relinquished or reduced in any manner below the requirements established by this Ordinance unless and until equal or better facilities are approved and provided.

I. The right-of-way of any county road or state highway shall not be used for off-street parking or loading without the written permission of the County Road Commission for county roads and streets or the Michigan Department of Transportation for state highways, as applicable.

Section 8.15 PARKING SPACE REQUIREMENTS

A. All land uses shall provide parking spaces that conform with the requirements of this Section.

B. Definitions: The following words used in this Section have special definitions as provided below:

1. Requirements for parking stated in terms of "employees" shall be based upon the maximum number of employees likely to be on the premises during the largest shift.
2. The term "floor area" and "usable floor area" are as defined in Article II.
3. "Fractional Spaces": When units of measurement determining the number of required parking spaces result in a fractional spaces, any fraction up to and including one-half (1/2) shall be disregarded and fractions over one-half (1/2) shall require one (1) parking space.
4. The term "parking" includes the surface area required for the parking space in addition to that surface area required for maneuvering lanes on Table 8-3.
5. "Seating capacity": When benches, pews or other similar seating is used, each 18 inches of said seating shall be counted as one seat, unless the standard specifies otherwise.

C. Table 8-2 provides the specific off-street parking space requirements for each common land use. The term "GFA" refers to gross floor area.

Table 8-2

<i>Residential</i>	Minimum	Maximum	Measurement
Single Family Dwelling	2	N.A.	per unit
Multiple Family Dwelling	1.5	1.5	per unit
<i>Non-Residential</i>	Minimum	Maximum	Measurement
Agricultural Uses			Exempt
Automotive Sale and Services	3.5	4	<i>per 1,000 GFA</i>
Consumer / Personal Services	2	3	<i>per 1,000 GFA</i>
Eating and Drinking Establishments	1	1	<i>per 3 seats</i>
Office Uses	2.5	3	<i>per 1,000 GFA</i>
Places of Assembly	1	1	<i>per 3 seats or number permitted by Fire Code</i>
Commercial & Retail Business Uses	2	3	<i>per 1,000 GFA</i>
Other Uses Not Listed or Classified	Determined by Planning Commission		

Section 8.16 PARKING SITE REQUIREMENTS

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

A. No parking lot shall be constructed until a permit therefore is issued by the Zoning Administrator and by the Soil Erosion and Sedimentation Control Agent.

B. Before such permit is issued, plans and specifications shall be submitted to the Zoning Administrator showing the location, capacity, size, site, design, surfacing, marking, lighting, drainage, curb cuts, entrances, exits, landscaping and any other detailed features essential to the design and construction of the proposed parking facility.

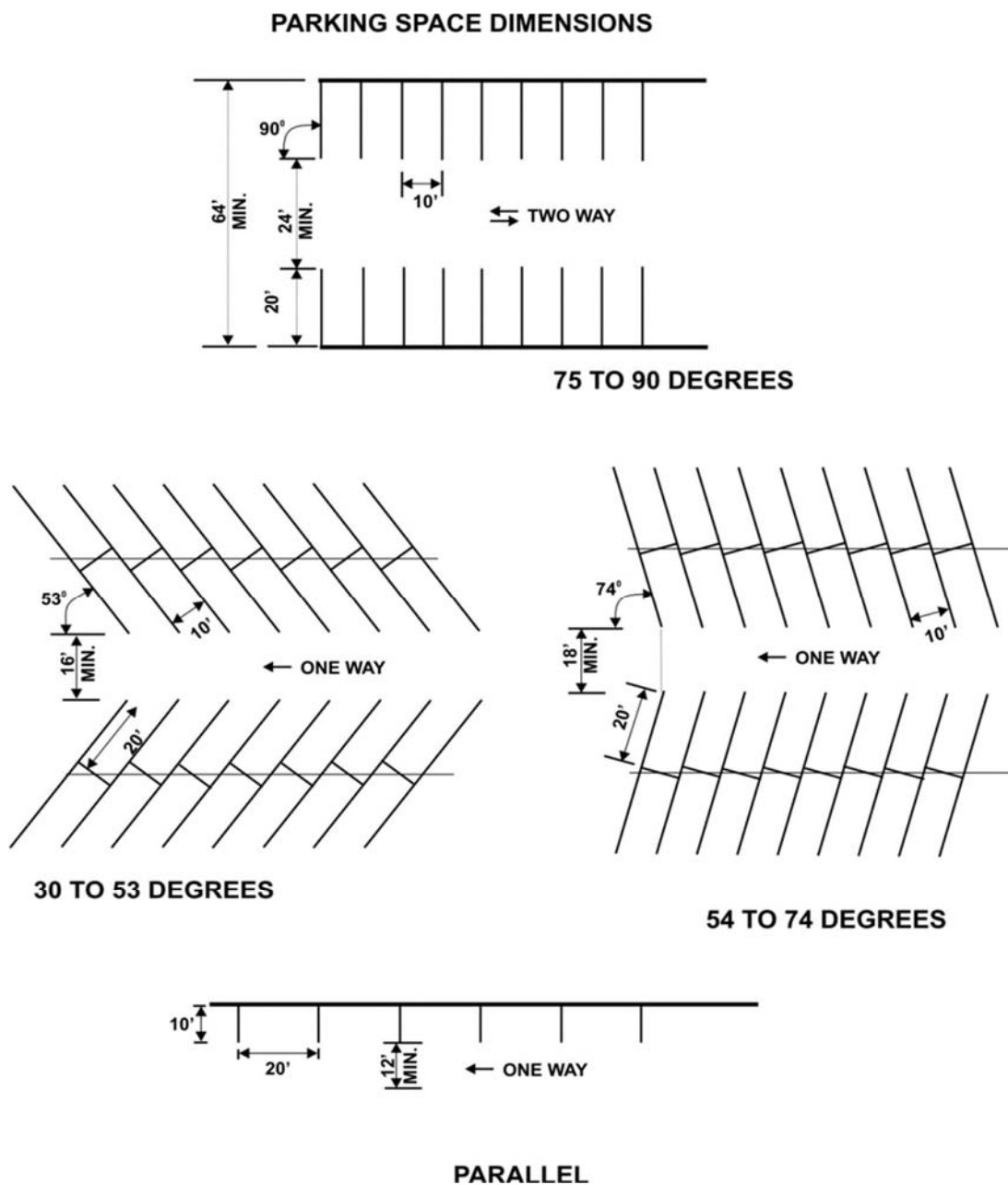
1. Plans for the layout of off-street parking facilities shall be in accord with the following minimum requirements of Table 8-3:

Table 8-3

PARKING PATTERN (in degrees)	MANEUVERING LANE WIDTH	PARKING SPACE WIDTH	PARKING SPACE LENGTH
1 TO 29 o (PARALLEL PARKING)	12 FT	10 FT	20 FT
30 o TO 53 o	16 FT	10 FT	20 FT
54 o TO 74 o	18 FT	10 FT	20 FT
75 o AND UP	24FT	10 FT	20 FT

2. All parking spaces shall be provided access by means of maneuvering lanes. Backing directly onto a street shall be prohibited. The width of required maneuvering lanes may vary depending upon the proposed parking pattern as follows and illustrated on Figure 8-1:
 - a. For parallel parking, one-way drives or boulevards, the maneuvering lane width shall be a minimum of twelve (12) feet.
 - b. All maneuvering lane widths shall permit one-way traffic movement, except for the ninety (90) degree pattern, which may provide for two-way traffic movement.
 - c. For parallel parking, one-way.

378 Figure 8-1
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3. Adequate ingress and egress to the parking lot by means of clearly-defined drives shall be provided for all vehicles. Ingress and egress to a parking lot lying in an area zoned for other than single-family residential use shall not be across land zoned for single-family residential use. Access management requirements in Article III shall also be conformed with.

4. Each entrance and exit to and from any off-street parking lot located in an area zoned for other than single-family residential use shall be at least twenty-five (25) feet distant from adjacent property located in any single-family residential district.

5. All off-street parking areas abutting residential districts shall be provided with an obscuring fence no less than four feet (4') in height. Such fences shall be constructed of materials approved by the permit issuing authority and shall be durable, weather resistant and easily maintained.

6. Except for single-family and two-family residential lots, all parking areas, including parking spaces, maneuvering lanes and access drives shall be provided with a durable, smooth and dustless surface; and shall be graded and drained to dispose of all collected surface water.

7. Except for single-family residential lots, all parking areas with a capacity of six (6) or more vehicles shall provide adequate lighting throughout the hours when the parking areas is in operation. All lighting shall be installed as to be confined and directed into the parking area only with applicable lighting requirements.

8. A no-building buffer strip not less than (10) feet wide shall be required on the perimeter of all parking lots. Said buffer strip shall be used for landscaping, screening or drainage as required herein.

C. All parking areas containing over twenty-seven hundred (2700) square feet or more of parking areas, including access drives thereto, shall be effectively landscaped with planting strips on all sides adjacent to or visible from surrounding properties and on all sides of a public street pursuant to the requirements of Section 8.36.

D. Whenever a development requiring off street parking has parking areas containing over twenty-seven hundred (2700) square feet or more, provision shall be made for on-site snow storage area in addition to the required parking lot area. Snow storage shall be provided on the ratio of fifteen (15) square feet per one hundred (100) square feet of parking lot surface area. Snow storage areas shall be located in such manner that when utilized they do not interfere with clear visibility of traffic or adjacent streets and highways and the landscaping required in Section 8.23 is protected from damage.

Section 8.17 LOADING & UNLOADING REQUIREMENTS

On the same premises with every building, structure, or part thereof involving the receipt or distribution of vehicles, materials, or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading and unloading in order to avoid undue interference with public use of dedicated public streets. Such space shall be provided as follows:

A. Loading space required under this Section shall be provided as areas additional to the off-street parking space required in Section 8.23 of this Article and shall not be considered as supplying off-street parking space.

B. There shall be provided adequate space for standing, loading and unloading services not less than twelve (12) feet in width, twenty- five (25) feet in length and fourteen (14) feet in height (open or enclosed) for all uses listed in the following Table 8-3 or for similar uses involving the receipt or distribution by vehicles of materials or merchandise:

C. In all non-residential districts, off-street loading and unloading shall be provided according to the following provisions:

1. For office buildings of less than 20,000 square feet in gross floor area, at least one loading space with minimum dimensions of ten (10) feet by twenty (20) feet, separate from off-street parking, shall be provided and may be located in any yard except the front yard.

2. For office buildings greater than 20,000 square feet, loading shall be provided at the ratio of one space for each 40,000 square feet above 20,000 square feet.

3. For commercial uses, loading shall be provided as set forth in subsection (1) of this section, or at a ratio of ten square feet per front foot of building, whichever is the lesser amount.

4. For automobile service stations, required loading space may be located in any yard except the front yard.

D. Access to a truck standing, loading, and unloading space shall be provided directly from a public street or alley and such space shall be so arranged to provide sufficient off-street maneuvering space as well as adequate ingress and egress to and from a street or alley as determined by the Site Plan Review Committee.

E. Off-street loading spaces and access drives shall be paved, drained, lighted, and shall have appropriate bumper or wheel guards where needed. Any light used for illumination shall be so arranged as to reflect the light away from adjoining premises and streets. Where any off-street loading space adjoins or abuts a lot or premises used for residential, educational, recreational, or religious purposes, or abuts a residential district, there shall be provided a masonry wall or solid fence not less than four (4) feet in height between the off-street loading space and said residential, educational, recreational, or religious premises or residential zone.

Section 8.18 LANDSCAPING, BUFFERING AND SCREENING

The purpose of this article is to provide regulations and requirements for fencing, landscaping, berming or screening of the perimeter of certain activities in order to protect the character of the surrounding area, prevent trespassing into unsafe areas, discourage theft, stabilize soils, control wind-blown dust and debris, prevent light from glaring onto adjoining properties, reduce stormwater runoff, increase ground water infiltration and reduce noise.

Section 8.19 RIGHT-OF-WAY PROTECTION AND PUBLIC SAFETY

No trees or shrubs shall be planted within a public right-of-way without the prior written consent of the appropriate public agency responsible for maintaining the right-of-way. Landscaping shall not interfere with public safety, and shall not interfere with the safe movement of motor vehicles, bicycles, or pedestrians (see especially Section 3.20). Landscape materials shall not obstruct the operation of fire hydrants, electrical or other utility lines or facilities.

Section 8.20 REQUIRED VEGETATION

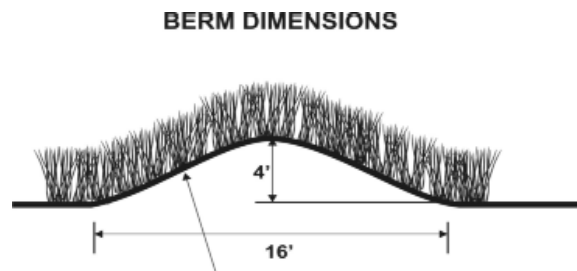
A greenbelt, buffer strip, or berm as required by this Ordinance or as a condition to the approval of a Site Plan, Special Use Permit, Planning Unit Development Permit or variance, shall be installed and maintained in a healthy living condition for the duration of the use of property in accordance with the following requirements.

A. Greenbelts: A greenbelt shall consist of an open space strip running along the property line at least thirty (30) feet in width, seeded and maintained as grass or other plant ground cover. Trees or shrubs may be planted at the discretion of the landowner without regard for the spacing requirements of Section 8.32.B.

B. Buffer Strips: A buffer strip shall consist of a landscaped strip at least fifteen (15) feet in width containing at least two (2) trees plus one (1) additional tree for each twenty (20) feet in length of the buffer strip. Said trees shall be at least one and three-fourths ($1\frac{3}{4}$) inches in caliper measured six (6) inches above ground level. Dead or dying trees shall be replaced within eight (8) months. Grass or other plant ground cover, mulch, or ornamental bark or stone, shall completely cover area not planted in trees or shrubs.

C. Berms: A berm shall consist of a linear mound of earthen material rising to a height of at least four (4) feet with a minimum base of sixteen (16) feet covered and maintained as grass, ground cover, shrubs or other approved vegetation and constructed in accordance with the diagram below, or with a base of at least four (4) times the desired height of the berm. See Figure 8-2 and the provisions of Section 8.34.

Figure 8-2



D. Plant Materials:

1. Plant Material Spacing:

- a. Except as provided below, plant materials shall not be placed closer than four (4) feet from the fence line property line.
- b. Where plant materials are placed in two or more rows, plantings shall be staggered in rows.
- c. Evergreen trees shall be planted not more than twenty (20) feet on centers, and shall be not less than five (5) feet in height, nor closer than five (5) feet to an adjoining property line.
- d. Narrow evergreens shall be planted not more than six (6) feet on centers, and shall not be less than three (3) feet in height.
- e. Tree-like shrubs shall be planted not more than ten (10) feet on centers, and shall be not less than four (4) feet in height.
- f. Large deciduous shrubs shall be planted not more than four (4) feet on centers, and shall not be less than six (6) feet in height.

- g. Large deciduous trees shall be planted not more than twenty (20) feet on centers, and shall not be less than eight (8) feet in height, nor closer than ten (10) feet to an adjoining property line, unless approved by the neighboring property owner.

E. Required Plant Materials:

Only those plant materials listed on the "Recommended Plant List" from the Northwest Michigan Invasive Species Network, as amended, shall be used for greenbelts, buffer strips, berms, and general landscaping.

Section 8.21 DRIVES AND ACCESSWAYS

Necessary drives and accessways from public rights-of-way through such buffer strips shall be permitted, provided that such accessways shall not be subtracted from the lineal dimension used to determine the required number of plants.

Section 8.22 BUFFERING PROVISIONS FOR SURFACE MINING AREAS AND JUNK YARDS

Where requirements in Article 7 for buffering for surface mining areas, and junk yards or any other use in Article 7 are more restrictive than provisions of Article 8, the provisions of Article 7 shall apply.

Section 8.23 SIDE AND REAR YARD LANDSCAPING AND FENCING OPTIONS

In any situation requiring either a greenbelt, buffer strip or berm to meet the requirements of Section 8.25, the landowner has the option in fulfilling landscaping requirements. A fence meeting the requirements of Section 8.29 may also be used in addition to any of these landscaping options, unless required as a standard or condition of approval of a site plan, Special Use Permit, Planned Unit Development Permit or variance.

550 Table 8-4
551

	GREENBELT	BUFFER STRIP	BERM	FENCE (1)	YARD	NOTE
When a use in an						
R-1, R-2, R-3, R-4, R-5, or RP-5 district or an existing single family dwelling unit in any district then	X	or X	or X			Revegetation of disturbed areas within 6 months of house completion. No performance bond required.
Special Use abutting any district or an existing single family dwelling unit in any district	X	or X	or X		side	Unless a specific landscaping option is required by a condition in the SUP.
P.U.D. abutting any district or an existing single family dwelling unit in any district	X	or X	or X			Unless a specific landscaping option is required by a condition in the SUP.

552
553 (1) A fence is optional at the discretion of the landowner, unless required as a condition of approval of a
554 site plan, Special Use Permit, P.U.D. Permit, or variance. Any fence erected must meet the requirements
555 of Section 8.4, and any special standards particular to that use or if around a trash receptacle or if around
556 a loading/unloading area.
557

Section 8.24 PARKING LOT LANDSCAPING AND LOADING SPACE FENCING

A. Separate landscaped areas shall be required either within or at the perimeter of parking lots. There shall be one (1) tree for every eight (8) parking spaces, with minimum landscaped space within a designated parking area of fifty (50) square feet. A minimum distance of three (3) feet shall be established between proposed tree or shrub plantings and the backside of the curb or edge of the pavement. This distance shall be increased if the volume of snow to be plowed from the parking lot requires a larger storage area.

B. Landscaping along the perimeter of the parking lot shall meet the requirements for a buffer strip in Section 8.25.

Where any off-street loading space adjoins or abuts a lot or premises used for residential, educational, recreational, or religious purposes, or abuts a residential district, there shall be provided a masonry wall or solid fence not less than four (4) feet in height between the off-street loading space and said residential, educational, recreational, or religious premises or residential zone.

Section 8.25 LANDSCAPING FOR ALL OTHER PROPERTIES REQUIRING SITE PLAN REVIEW

A. In addition to any greenbelt, buffer strip, berm and/or parking lot landscaping required by this Article, ten (10) percent of the site area, excluding existing thoroughfare right-of-way, shall be landscaped.

B. Areas used for storm drainage purposes, such as unfenced drainage courses or retention areas in front or side yards, may be included as a portion of the required landscaped area not to exceed five (5) percent of the site area.

Section 8.26 SCREENING OF TRASH

All areas used for the storage of trash or rubbish including dumpsters and other commercial containers shall be screened by a solid fence or dense plant materials no less than six (6) feet in height. If a fence is used, view obstructing doors at least six (6) feet in height shall be installed and kept closed except when accessing.

Section 8.27 EXISTING SCREENING

Any fence, landscape screen, wall or hedge which does not conform to this Ordinance and which is legally existing at the effective date of this Ordinance may be continued and maintained, provided there is not physical change other than necessary maintenance and repair; unless otherwise regulated by this Ordinance.

Section 8.28 MAINTENANCE

It shall be the owner's responsibility to see that the landscaping is maintained in a neat, clean, orderly and healthful condition. This includes, among other things, proper pruning, mowing of lawns, weeding, removal of litter, replacement of plants when necessary, and the regular watering of all plants.

Section 8.29 FENCES, WALLS AND SCREENS

A. Fence, wall and screen requirements follow:

1. Whenever a use is established or substantially improved in a nonresidential district and the lot abuts a residential district, a fence at least six (6) feet in height shall be erected along the common

lot by the nonresidential use unless the abutting lot owner in the residential district signs a waiver for this requirement and a buffer strip, or berm shall be installed instead.

2. No fence shall be required to be higher than five (5) feet in height between uses within the same district, nor permitted to be higher than six (6) feet between uses in the same residential district.

B. Fences on all lots of record in all residential districts which enclose property and/or are within a required side or rear yard shall not exceed six (6) feet in height, measured from the surface of the ground. Fences located in the front yard or beyond the front of the dwelling unit shall not exceed three (3) feet in height, measured from the surface of the ground and shall have at least a seventy-five percent (75%) open area. No fence, wall, planting or structure shall, within ten (10) feet of any public or private right-of-way, be of such a nature as will impede clear vision of an intersecting sidewalk, street, alley or driveway. All fences shall be constructed so as to allow the passage of air through the fence to an adjacent dwelling.

C. Fences, walls, or obscuring walls shall not contain barbed wire, electric current or charge of electricity, glass, spikes, or other sharp protruding objects, except in the RP-5 district.

D. Notwithstanding the foregoing provision, security fences six (6) feet high or more may include up to eighteen (18) inches of barbed wire in an industrial area, surrounding a public utility, or around a police or corrections facility.

E. All fences shall have the finish side facing out, away from the property on which the fence is located.

F. Fences are structures that may be erected along property lines or within yards, irrespective of the setback requirements of this Ordinance. No site plan review is required for a fence which conforms with Ordinance standards in an R-1, R-2, R-3, R-4, R-5, or RP-5 District. The Zoning Administrator may waive site plan review for a fence in any other district if no other structural changes or changes in the design or layout of the site are proposed.

G. The Zoning Administrator may require the removal, reconstruction or repair of any fence, wall or screen not in good condition.

Section 8.30 TIME TO COMPLETE AND PERFORMANCE GUARANTEE

A. Time Period to Complete. The required improvements are to be completed within one year of the issuance of the zoning permit. In the event of unusual delays, or adverse weather conditions that make it impossible to plant, the Planning Commission may grant a single extension of the time limit for a further period of not more than six (6) months.

B. Occupancy. No occupancy of land shall occur unless the parking and landscape improvements have been completed or a performance guarantee to cover the cost of the contemplated improvements as estimated by the Zoning Administrator, has been deposited with the Township pursuant to the requirements of this Ordinance.

C. Performance Guarantee: The Planning Commission may on multiple family residential properties, PUD's and non-residential land properties, due to weather conditions, seasonal availability of plant materials, or other factors, require a performance guarantee equal to the estimated cost of the plant material and installation cost. Such performance guarantee shall be related to the various vegetation or

652 planting plans shown on the site plan. Such performance guarantee shall be processed according to the
653 requirements of this Ordinance.

654
655 **Section 8.31 WAIVER OF LANDSCAPING, BUFFERING AND FENCING REGULATIONS**

656 A. Planning Commission Modification: Any of the requirements of this Article may be waived or
657 modified through Site Plan approval, provided the Zoning Administrator, first makes a written finding that
658 specifically identified characteristics of the site or site vicinity would make required landscaping, fencing,
659 buffering or screening unnecessary or ineffective, or where it would impair vision at a driveway or street
660 intersection.

Article 9
LAND DEVELOPMENT OPTIONS

The purpose of this Article is to allow and encourage alternative designs for residential developments, site condominiums or subdivisions in order to maintain the open and natural space and protect the rural character of the Township; including woodlots, range lands, and cultivated fields, and to protect environmentally sensitive and unique features.

The Township encourages use of land development options to conventional developments because they promote the location of dwelling units to be sited on those portions of a property most suitable for development, while leaving substantial portions as undeveloped open space. These developments may also include a variety of lot sizes ranging from large farm or estate lots to small lots resulting in the preservation of contiguous open space and important environmental resources.

The standards for permitted uses in each district are designed to protect these features. By allowing the use and application of flexible development standards, developments shall be designed to protect and enhance the natural features to an equal or greater degree than if the development were to proceed under the standard guidelines for permitted uses in each underlying land use district. Provisions outlined in this Article are adopted pursuant to Public Act 110 of 2006, known as the Michigan Zoning Enabling Act.

Subject to the "Conditions and Qualifications" of this section property owners can utilize either the cluster housing or planned development provisions to develop their property as residential. Planned development provisions may also be used for non-residential developments pursuant to the provisions of this section.

9.1 Planned development

The Planned development (PD) option is intended to allow, with Township approval, private or public development, which is substantially in accord with the goals and objectives of the Township Master Plan and Future Land Use Map. In reviewing a PD plan, the Planning Commission shall consider the following objectives:

- A. The development allowed under this Article shall be considered as an optional means of development in the Township.
- B. Use of the PD option will allow flexibility in the control of land development by encouraging innovation through an overall development plan to provide variety in design and layout; to achieve economy and efficiency in the use of land, natural resources, energy and in the provision of public services and utilities; to encourage useful open spaces suited to the needs of the parcel in question; and provide proper housing including workforce housing, employment, service and shopping opportunities suited to the needs of the residents of the Township.
- C. It is further intended the planned development may be used to allow nonresidential uses of residentially zoned areas; to allow residential uses of nonresidential zoned areas; to permit densities or lot sizes which are different from the applicable district and to allow the mixing of land uses that would otherwise not be allowed; provided

other community objectives are met and the resulting development would promote the public health, safety and welfare, reduce sprawl, and be consistent with the Township Master Plan and Future Land Use Plan Map.

- D. It is further intended the development will be laid out so the various land uses and building bulk will relate to one another and to adjoining existing and planned uses in such a way that they will be compatible, with no material adverse impact of one use on another.

9.1.1 Criteria for Qualifications

To qualify for the planned development option, it must be demonstrated that all the following criteria will be met:

- A. The use of a planned development shall not be for the sole purpose of avoiding the applicable zoning requirements. Any permission given for any activity or building or use not normally allowed shall result in an improvement to the public health, safety and welfare in the area affected.
- B. The planned development shall not be used where the same land use objectives can be carried out by the application of conventional zoning provisions or standards. Problems or constraints presented by applicable zoning provisions shall be identified in the PD application.
- C. The planned development option may be granted only when the proposed land use will not materially add service and facility loads beyond those considered in the Township Master Plan, and other public agency plans, unless the proponent can prove to the sole satisfaction of the Township that such added loads will be accommodated or mitigated by the proponent as part of the planned development.
- D. The Planned development must meet, as a minimum, objective D.5. and any additional five of the following objectives of the Township:
1. To permanently preserve open space or natural features because of their exceptional characteristics or because they can provide a permanent transition or buffer between land uses.
 2. To permanently establish land use patterns which are compatible or which will protect existing or planned uses.
 3. To accept dedication or set aside open space areas in perpetuity.
 4. To provide alternative uses for parcels which can provide transition buffers to residential areas.
 5. To promote the goals and objectives of the Township Master Plan.
 6. To foster the aesthetic appearance of the Township through quality building design and site development, provide trees and landscaping beyond

97 minimum requirements; the preservation of unique and/or historic sites or
98 structures; and the provision of open space or other desirable features of a
99 site beyond minimum requirements.

- 100
- 101 7. To bring about redevelopment of sites where an orderly change of use or
102 requirements is determined to be desirable.
- 103
- 104 8. To promote the use of smart growth designs such as Traditional
105 Neighborhood Design (TND) consistent with the principles of the Congress for
106 New Urbanism.
- 107
- 108 9. To promote sustainable development especially on parcels with active
109 farmland and orchards as defined by MCL 324.36201 (h).
- 110

111 **9.1.2 Uses Permitted**

112

- 113 A. A land use plan shall be proposed for the area to be included within the PD. The land
114 use plan shall be defined by the zoning ordinance districts that are most applicable to
115 the various land use areas of the PD.
- 116
- 117 B. Uses permitted and uses permitted subject to special land use in this Ordinance may
118 be allowed within the districts identified on the PD plan, except that some uses may
119 be specifically prohibited from districts designated on the PD plan. Alternatively, the
120 Township may allow uses not permitted in the district if specifically noted on the PD
121 plan. Conditions applicable to uses permitted subject to special approval shall be used
122 as guidelines for design and layout but may be varied by the Township Planning
123 Commission provided such conditions are indicated on the PD plan.
- 124

125 **9.1.4 Height, Bulk, Density and Area Standards**

126 The standards about height, bulk, density, and setbacks of each district shall be applicable
127 within each district area designated on the plan except as specifically modified and noted on
128 the PD plan.

129

130 **9.1.5 Submittal and Request for Qualification**

131

- 132 A. Any person owning or controlling land in the Township may make application for
133 consideration of a planned development. Such application shall be made by
134 presenting a request for a preliminary determination to whether a parcel qualifies for
135 the PD option.
- 136
- 137 B. A request shall be submitted to the Township. The submission shall include the
138 information required below.
- 139
- 140 C. Based on the documentation presented, the Township Planning Commission shall
141 make a preliminary determination, within 45 days from receipt of the application,
142 about whether a parcel qualifies for the PD option under the Criteria for Qualification.
143 The submittal must include:
- 144

1. Proof the criteria set forth in the Criteria for Qualification section above, are or will be met.
2. A schematic land use plan containing enough detail to explain the role of open space; site drainage and stormwater mitigation, location of land use areas, streets providing access to the site, pedestrian and vehicular circulation within the site; dwelling unit density and types; and buildings or floor areas contemplated, as applicable.
3. A plan to protect natural features or preservation of open space or greenbelts.
4. The Township Planning Commission shall review the applicant's request for qualification. If approved, the applicant may then continue to prepare a PD Plan on which a final determination will be determined.

9.1.7 Submittal of the PD Plan and Application Materials

The application, reports, and drawings shall be filed in paper and digital format. All drawings shall be provided to the Township in the most recent release of a computer aided design format acceptable to the Township Planning Commission. Other graphics and exhibits, text and tabular information shall be provided in a "pdf" format. The site plans must meet the scale requirements in Article 11 and all submittal requirements in Article 11.

Submittal of Proposed PD Plan: An application shall be made to the Township for review and recommendation by the Township Planning Commission of the following:

- A. A boundary survey of the exact acreage prepared by a registered land surveyor or civil engineer.
- B. A topographic map of the entire area at a contour interval of not more than two (2) feet. This map shall show all major stands of trees, bodies of water, wetlands and unbuildable areas. Should the topography of the site have significant slope the Township Planning Commission may increase the contour interval to no more than five (5) feet, however, the integrity and intent of the map may not be compromised due to this interval change.
- C. A proposed development plan shall showing the following:
 1. Land use areas.
 2. Vehicular circulation including major drives and location of vehicular access including cross sections of public streets or private places.
 3. Transition treatment, including minimum building setbacks to land adjoining the PD and between different land use areas within the PD.
 4. The general location of nonresidential buildings and parking areas, estimated floor areas, building coverage and number of stories or height.

5. The general location of residential unit types and densities and lot sizes by area.
 6. Location of all wetlands, water and watercourses, proposed water detention areas and depth to groundwater.
 7. The boundaries of open space areas that are to be preserved or reserved and an indication of the proposed ownership.
 8. A schematic landscape treatment plan for open space areas, streets and border/transition areas to adjoining properties.
 9. A preliminary grading plan, showing the extent of grading and delineating any areas, which are not to be graded or disturbed.
 10. A public or private water distribution, storm and sanitary sewer plan.
 11. A written statement explaining in detail the full intent of the applicant, showing dwelling units types or uses contemplated and resultant population, floor area, parking and supporting documentation, including the intended schedule of development.
 12. Written documentation from the Township Fire Department acknowledging their review of the plans and outlining any recommendations for modifications, if any.
- D. If requested by the Township Planning Commission the applicant shall submit the following:
- a. Market Study – components of the study should include a definition of the market, analysis of data pertaining to the market problem, the type and amount of market supportable real estate, and absorption rate(s) needed to sell and/or occupy the property within the project.
 - b. Traffic Impact Study – components of this study should include an assessment of existing traffic counts and movements, forecast of additional traffic based on ITE traffic/trip generation manual, and improvements necessary to accommodate and/or mitigate the increased traffic resulting from the proposed project.
 - c. Environmental Impact Assessment – components of the study should include a statement of the purpose and need of the proposed project, description of the affected environment, range of alternatives to the proposed action, analysis of environmental impacts such as threatened or endangered species, air and water quality impacts, impacts to historic and cultural sites, and social and economic impacts.
- E. A pattern book or design guidelines manual if requested by the Township Planning Commission.

241 **9.1.8 Preliminary Approval of Planned development**

242
243 A. Township Planning Commission Review of Proposed PD Plan:

- 244
- 245 1. The Township Planning Commission shall hold a public hearing on the PD plan
 - 246 in accord with the Michigan Zoning Enabling Act, PA 110 of 2006, MCL
 - 247 125.3103 and MCL 125.3502.
 - 248
 - 249 2. After the public hearing, the Township Planning Commission shall review the
 - 250 proposed PD plan and make a determination about the proposal's
 - 251 qualification for the PD option and for adherence to the following objectives
 - 252 and requirements:
 - 253
 - 254 a. The proposed PD adheres to the conditions for qualification of the PD
 - 255 option and promotes the land use goals and objectives of the
 - 256 Township.
 - 257
 - 258 b. If any provision of this Article shall be in conflict with the provisions
 - 259 of any other section of this Zoning Ordinance, the provisions of this
 - 260 Article shall apply to the lands embraced within a PD area.
 - 261
 - 262 c. The proposed Planned development will not create excessive
 - 263 additional requirements which increases the public cost for facilities
 - 264 and services.
 - 265

266 **9.1.9 Final Approval of Planned development**

- 267
- 268 A. On receiving the report and recommendation of the Township Planning Commission,
 - 269 and after a public hearing, the Township Planning Commissions attorney will prepare
 - 270 a contract setting forth the conditions on which such approval is based. Once the
 - 271 contract is prepared it shall be signed by the Township and the applicant.
 - 272
 - 273 B. The agreement shall become effective on execution after its approval. The agreement
 - 274 shall be recorded at the Benzie County Register of Deeds office.
 - 275
 - 276 C. Once an area has been included with a plan for PD and the Township has approved
 - 277 such plan, no development may take place in such area nor may any use of it be made
 - 278 except under such plan or under an approved amendment, unless the plan is
 - 279 terminated.
 - 280
 - 281 D. An approved plan may be terminated by the applicant or the applicant's successors
 - 282 or assigns, before any development within the area involved, by filing with the
 - 283 Township and recording in the County records an affidavit so stating. The approval of
 - 284 the plan shall terminate on such recording.
 - 285
 - 286 E. No approved plan shall be terminated after development begins except with the
 - 287 approval of the Township Planning Commission and of all parties in interest in the
 - 288 land.

F. Within one (1) year following approval of the PD contract by the Township Planning Commission, final plats or site plans for an area embraced within the PD must be filed as provided. If such plats or plans have not been filed within the one (1) year period, the right to develop under the approved plan may be terminated by the Township.

G. Approval of PD by the Township Planning Commission shall also constitute an approved revision of the Official Zoning Map, which shall delineate the boundaries of the approved PD and its date of approval.

9.1.10 Submission of Final Plat, Site Plans; Schedule for Completion of PD

Before any permits are issued for the PD, final plats or site plans and open space plans for a project area shall be submitted to the Township for review and approval by the Township Planning Commission, and where applicable the Board of Trustees, of the following:

A. Review and approval of site plans shall comply with Article XX as well as this Section except as otherwise modified in the approved plan.

B. Before approving of any final plat or plan, the Township Planning Commission shall decide that:

1. All portions of the project area shown on the approved plan for the PD for use by the public or the residents of lands within the PD have been committed to such uses under the PD contract;
2. The final plats or site plans are in conformity with the approved contract and plan for the PD;
3. Provisions have been made under the PD contract to provide for the financing of any improvements shown on the project area plan for open spaces and common areas which are to be provided by the applicant and that maintenance of such improvements is assured under the PD contract.
4. If development of approved final plats or site plans is not substantially completed in three years after approval, further final submittals under the PD shall stop until the part in question is completed or cause can be shown for not completing same.

C. The applicant shall be required, as the planned development is built, to provide the Township with "as built" drawings in both paper and/or digital format.

9.1.11 Fees

Fees for review of PD plans under this Section shall be established by resolution of the Township Board.

9.1.12 Interpretation of Approval

Approval of a PD under this Section shall be considered an optional method of development and improvement of property subject to the mutual agreement of the Township and the applicant.

9.1.13 Amendments to PD Plan

Proposed amendments or changes to an approved PD plan shall be presented to the Township Planning Commission. The Commission shall decide whether the proposed modification is of such minor nature as not to violate the area and density requirements or to affect the overall character of the plan and in such event may approve or deny the proposed amendment. If the Commission decides the proposed amendment is material in nature, the Commission shall review the amendment under the provisions and procedures of this Article as they relate to final approval of the Planned development.

9.2 Conservation Subdivisions

9.2.1 Purpose

The purpose of a Conservation Subdivision is to promote preservation of open space in the Rural (R) District while allowing a reduction in lot sizes in instances where the decrease would be compatible with lot sizes existing in the surrounding area. In reviewing a conservation subdivision plan, the Township Planning Commission shall consider the following objectives:

- A. To encourage proper relationships in orientation and size of yards and open spaces with other developed parcels in the area.
- B. To promote and create a more desirable living environment by preserving the natural character of wetlands, stands of trees, brooks, hills, and similar natural assets;
- C. To encourage property owners to use a more creative approach building residential areas;
- D. To encourage open space within reasonable distance of all lot development of the subdivision and to further encourage development of recreational facilities or preservation of natural environmental assets and to lessen the impact on existing park and open space available in the Township.
- E. To encourage a more efficient, aesthetic, and desirable use of open area while recognizing a decrease in development costs and by allowing the developer to bypass natural obstacles on the site.
- F. Development of the parcel will not promote sprawl and is consistent with the intent of the Township Master Plan and Future Land Use Map.

9.2.2 Modification to Standards

Modifications of the standards as outlined in Article 5 may be made in the Rural District when the following conditions are met:

- A. Lot sizes may be reduced by thirty-percent (30%), provided the number of residential lots shall be no greater than if the land area to be subdivided was developed in the

minimum square foot lot areas as required for each one-family and agricultural district under Article 5.

- B. For each square foot of land gained under the provisions above within a residential subdivision, through the reduction of lot sizes below the minimum requirements as outlined above, equal amounts of land, shall be dedicated in a manner approved by the Township.
- C. The land area necessary to meet the minimum requirements of the intensity and dimensional standards above shall not include bodies of water or wetlands which would make land unsuitable for recreation purposes, except that lakes or ponds, when landscaped and maintained as portions of larger open space areas within the development, may be included in density calculations. All land reserved for recreation shall keep its natural drainage and may be located in a floodplain.
- D. A parcel to be dedicated for common use shall be in a location and shape approved by the Township Planning Commission, provided, a parcel divided by a road or stream shall be considered as one parcel.
- E. Access shall be provided to areas dedicated for the common use of the subdivision for those lots not bordering on such dedicated areas with streets or pedestrian access ways.
- F. Under this subdivision open space approach, the owner shall dedicate enough park area or open space so each final plat is within maximum density requirements; provided, however, the entire park area within a single block shall be dedicated as a whole.
- G. Application for approval of the subdivision open space plan shall be filed with the submission of the preliminary subdivision plat for approval as required by the Township.

9.2.3 Ownership, Improvement and Maintenance of Open Space Areas

- A. A plan for the open space areas shall be submitted and shall include a cost estimate of improvements to be made within the open space.
- B. Whenever a developer or owner employs the terms of this section, provision shall be made for the incorporation of a conservation easement as defined in section 2140 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.2140, plat dedication or equivalent or some other means of insuring that the amount of resultant open space remains in perpetuity. Further, maintenance of the open space can be carried out through a lien on the properties of the subdivision if the open space is not maintained in manner satisfactory to the Township.
- C. Information shall be presented to the Township Planning Commission Attorney who shall review the proposed subdivision open space plan and give an opinion on:

1. The proposed manner of holding title to the open land;
2. The proposed manner of payment of taxes;
3. The proposed method of regulating the use of the open land;
4. The proposed method of maintenance of property and financing;
5. Any other reason related to the legal or practical problems of ownership, use and maintenance of the open land.

D. As part, the Township Planning Commission may request access to some or all portions of the Conservation Easement area.

9.2.4 Preliminary Site Plan Review Procedures

If the Township Planning Commission is satisfied the proposed subdivision open space plan meets the letter and spirit of the Zoning Ordinance and Community Master Plan and should be approved, it shall give tentative approval to the plan with the conditions on which such approval should be based. Conditions shall include, but not be limited to, time frame for development, technique and mechanism to protect natural features and open space, control invasive species, landscaping requirements, and site design amenities (lighting, signage, etc.).

- A. The Township Planning Commission shall give notice of the Public Hearing under provisions of the Michigan Zoning Enabling Act, PA 110 of 2006, MCL 125.3103 and MCL 125.3502.
- B. If the Township Planning Commission is satisfied the proposal meets the letter and spirit of the Zoning Ordinance and should be approved, it shall set forth any conditions on which such recommended approval is based. If the Commission is not satisfied the proposal meets the letter and spirit of this Zoning Ordinance, or finds that approval of the proposal would be harmful to existing development in the general area and should not be approved, it shall record the reasons therefore in the minutes of the Township Planning Commission meeting. Notice of recommendation of approval or disapproval of the proposal with copies of all layouts and other relevant information shall be forwarded to Board of Trustees.
- C. The Township Board of Trustees shall review the recommendation of the Township Planning Commission with relevant material presented by the applicant. The Township Board of Trustees shall take action to approve or disapprove the preliminary plan or may refer such plan back to the Commission with direction for further review.

9.3 Cluster Housing

The intent of this section is to permit development of single-family residential subdivisions allowing for a reduction in lot area and bulk requirements, provided there is no increase in the number of lots permitted under a conventional subdivision and fifty percent (50%) of the resultant land area will remain perpetually in an undeveloped state by means of a conservation easement, plat dedication, or other legal means that runs with the land, as prescribed by the Township.

9.3.1 Conditions and Qualifications

- A. The Township may approve the clustering or attaching of buildings on parcels of land under single ownership and control, which have characteristics that would make sound physical development under the normal subdivision approach impracticable because of parcel size, shape or dimension or the site has natural characteristics that are worth preserving or that make platting difficult. In approving an area for cluster development, the subject property shall meet all of the following "Conditions," and the Municipality shall find at least three (3) or more of the following "Qualifications" to exist:

Conditions:

1. The land is zoned at a density equivalent to two (2) or fewer dwelling units per acre or, if the land is served by a public sewer system, three (3) or fewer dwelling units per acre.
2. A percentage of the land area specified in the zoning ordinance, but not less than fifty percent (50%), will remain perpetually in an undeveloped state by means of a conservation easement, plat dedication, , or other legal means that runs with the land, as prescribed by the zoning ordinance.
3. The development does not depend upon the extension of a public sewer or public water supply system, unless development of the land without the exercise of the option provided by this subsection would also depend upon the extension.

Qualifications:

1. The parcel to be developed contains a minimum of 10 contiguous acres.
2. The land is zoned at a density equivalent to 2 or fewer dwelling units per acre; or, if the land is served by a public sewer system, 3 or fewer dwelling units per acre.
3. The development does not depend upon the extension of a public sewer or public water supply system, unless development of the land without the exercise of the Open Space Preservation option provided by this provision would also depend upon such an extension.
4. The parcel contains floodplain or wetland soil conditions that result in most of the total area of the parcel being unbuildable.
5. The parcel contains natural assets that would be preserved by using cluster development. Such assets may include orchards and vineyards, natural stands of large trees, land that serves as a habitat for wildlife, wildlife

527 corridors, unique topographic features or other natural assets that should be
528 preserved.

529
530 6. The parcel is shaped in such a way the angles formed by its boundaries make
531 a subdivision difficult to achieve.

532
533 7. The parcel has a substantial portion of the parcels' perimeter bordered by
534 land that is located in nonresidential districts.

535
536 8. To promote sustainable development especially on parcels with active
537 farmland and orchards as defined by MCL 324.36201 (h).

538
539 9. To serve as a land use transition buffer between residential developments
540 and agricultural operations.

541
542 10. Development of the parcel will not promote sprawl and is consistent with the
543 intent of the Township Master Plan and Future Land Use Map.

544
545 B. To qualify a parcel for development for cluster housing, the Township shall determine
546 the parcel has meet the "Conditions" and "Qualifications" as stated above and the
547 request shall be supported by written and graphic documentation, prepared by a
548 landscape architect, engineer, professional community planner, or architect. Such
549 documentation shall include as appropriate: soil test borings, floodplain map,
550 topographic map of maximum two foot contour level, wetland boundaries, and
551 inventory of site flora and fauna.

552 553 **9.3.2 Permitted Densities**

554
555 A. The number of dwelling units within the cluster housing development shall not
556 exceed the permitted number of dwelling units if developed as a conventional
557 subdivision pursuant to applicable local, state and federal regulations.

558
559 B. Up to fifty percent (50%) of water bodies, if any, within the parcel may be included in
560 the calculation of gross site acreage provided the land bordering to the water is
561 substantially left as open space.

562
563 C. Parcel(s) where fifty percent (50%) or more of the land will remain as active farmland
564 or orchard, as defined by MCL 324.36201 (h), would be entitled to a dwelling unit
565 bonus of twenty percent (20%).

566 567 **9.3.3 Siting Criteria**

568 Diversity and originality in parcel layout shall be encouraged to achieve the best possible
569 relationship between Buildable and Open Space (defined as open space, active agricultural
570 and/or orchard areas). The Township Planning Commission shall evaluate proposals to
571 determine whether the proposed site plan meet the following site design and layout
572 objectives:
573

- A. As practical, preserves and maintains existing fields, meadows, crop land, pastures, and orchards and creates sufficient buffer areas to minimize conflicts between residential and agricultural/forestry uses.
- B. Minimizes impacts on large woodlands (greater than five (5) acres).
- C. Protects wildlife habitat areas and wildlife corridors.
- D. Designs around and preserves sites of historic, archaeological, or cultural value, insofar as needed to safeguard the character of the feature.

9.3.4 Open Space and Transition

- A. The area in open space (including recreation areas and water as mentioned above) accomplished by using one-family cluster development shall represent at least fifty (50%) percent of the total parcel area.
- B. Ownership of open space may remain with the owner of the parent parcel, a homeowners association made up of parcel owners in the development, the Township, or a recognized non-profit land conservancy.
 - 1. A perpetual conservation easement restricting development of the open space land and allowing use only for agriculture, forestry, recreation, protection of natural resources, or similar conservation purposes, pursuant to MCL 324.2140 - 2144, shall be granted to the Township, with the approval of the Board of Trustees, or to a qualified not-for-profit conservation organization acceptable to the Board. Such conservation easement shall be approved by the Board and shall be required as a condition of approval. The Board may require that the conservation easement be enforceable by the Township if the Municipality is not the holder of the conservation easement. The conservation easement shall be recorded in the office of the Register of Deeds prior to or simultaneously with the recording of any Plat or Master Deed in the office of the Register of Deeds.
 - 2. The conservation easement shall prohibit residential, industrial, or commercial use on the open space land (except in connection with agriculture, forestry, and recreation).
 - 3. Access roads, driveways, water supply wells, septic waste disposal facilities, local utility distribution lines, trails, temporary structures for outdoor recreation, and agricultural structures existing prior to the dedication of the conservation easement or installed after the dedication of the conservation easement shall be permitted on preserved open space land, provided that they do not impair the conservation value of the land.

9.3.5 Preliminary Site Plan Cluster Approval

- 621 A. A preliminary site plan shall be submitted to the Township Planning Commission and
622 Township Board of Trustees.
623
- 624 B. The Township Planning Commission shall review the preliminary site plan at a public
625 hearing.
626
- 627 C. In submitting a proposed layout under this section, the applicant of the development
628 shall include, with the site plan, typical building elevations and floor plans,
629 topography drawn at two-foot contour intervals, all calculations about acreage and
630 density, a preliminary grading plan, and any other details that will assist in reviewing
631 the plan.
632
- 633 D. Site plans presented under this option shall include information sufficient for the
634 Township Planning Commission and Board of Trustees to make an informed decision.
635 The Township will provide the applicant with a checklist outlining the contents for the
636 site plan submission.
637
- 638 E. The Township Planning Commission shall give notice of the Public Hearing under
639 provisions of the Michigan Zoning Enabling Act, PA 110 of 2006, MCL 125.3103 and
640 MCL 125.3502
641
- 642 F. If the Township Planning Commission is satisfied the proposal meets the letter and
643 spirit of the zoning ordinance and should be approved, it shall set forth any conditions
644 on which such recommended approval is based. If the Township Planning Commission
645 is not satisfied the proposal meets the letter and spirit of this ordinance, or finds that
646 approval of the proposal would be harmful to existing development in the general
647 area and should not be approved, it shall record the reasons therefore in the minutes
648 of the Commission meeting. Notice of recommendation of approval or disapproval of
649 the proposal with copies of all layouts and other relevant information shall be
650 forwarded to the Township Board of Trustees.
651
- 652 G. The Township Board of Trustees shall review the recommendation of the Township
653 Planning Commission with relevant material presented by the applicant. The Board
654 shall take action to approve or disapprove the preliminary plan or may refer such plan
655 back to the Commission with direction for further review.
656

657 **9.3.6 Final Site Plan**

658

- 659 A. After approval of a preliminary plan and cluster option, a final site plan shall be
660 submitted.
661
- 662 B. If the final site plan is approved such plan shall be submitted to the Township for the
663 preparation of agreements setting forth the conditions on which the approval is
664 based. Such agreement shall be completed and approved by the Township Board of
665 Trustees before the issuance of any building permits.
666
- 667 C. As a condition for the approval of the final site plan and open space plan, the applicant
668 may be required to deposit cash, irrevocable letters of credit, or escrows, for the

669 estimated cost of the proposed improvements within a time to be set by the
670 Township Board of Trustees. Development of the open space shall be carried out
671 concurrently with the construction of dwelling units. The Township may require
672 landscape improvement for the entire site frontage where such site adjoins public
673 streets as an initial site improvement even though such frontage is not part of any
674 early stage of project development.
675

ARTICLE 10
ENVIRONMENTAL PROVISIONS

Section 10.1 PURPOSE

It is the intent of these regulations to protect the health safety and welfare of the citizens and it is acknowledged that protection of the environment in which they live is crucial to attaining those objectives. This regulation further acknowledges that there are areas of the Township that are considered to be environmentally sensitive to development, due to soil types, drainage, vegetation, wildlife habitats, floodplain, slope erosion or other factors, and 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 Article that in order to maintain sensitive areas in their natural condition for the benefit of mankind, it is necessary to protect such areas from degradation. It is further recognized that degradation of the environment can occur from other than tangible/physical degradation and that it is essential to provide environmental protection from intangible/non-physical degradation such as but not limited to emission and transmission of injurious, unnatural or annoying noise, fire or explosive hazard, liquid or solid waste disposal, vibration, gas fumes, smoke, dust, dirt, litter, odor, light, glare, traffic congestion, ingress and egress, ease of police and fire protection, drainage, lateral land support, blighting influence, effect on property values, adequate light and air, overcrowding of persons, sanitation, general appearance of the area, surface and groundwater quality, and other similar considerations having an effect on public health, safety and general welfare of the people of the surrounding area.

Section 10.2 REGULATION OF ENVIRONMENTALLY SENSITIVE AREAS

All uses allowable in 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.

Section 10.2.1 ENVIRONMENTALLY SENSITIVE AREAS

The protection of areas of environmental concern, such as wetlands, high risk erosion, dune lands, floodplains, swamps, wetlands or steep slope areas, and lands lying in the Herring Lakes Watershed must be considered in conjunction with development and must conform with the following regulations of federal, state, county and township agencies as applicable:

- A. Dune Formations and High Risk Erosion Areas.
- B. Wetlands.
- C. Sensitive Riverine Areas
- D. Floodplain Areas.
- E. Steep Slopes.
- F. Public and Private Conserved Land.

G. Migratory Bird Treaty Acts, Bald and Golden Eagle Acts, Endangered Species Acts and US Fish & Wildlife Acts and recommendations.

H. Natural River District.

Section 10.3 GENERAL ENVIRONMENTAL PROTECTION & NUISANCE PREVENTION PROVISIONS

Section 10.3.1 RETAINING WALL PERMIT

No shoreline retaining wall shall be erected without first having obtained a permit from the Michigan Department of Environmental Quality.

Section 10.3.2 REMOVAL OF VEGETATIVE COVER

Except where land owners are engaged in an active program of forest management or the land is enrolled in the state commercial forest management program or other state or federal sanctioned tax program for lands in active forest management, or the land is within a more restrictive district designated under the State Natural Rivers Program, the Applicant shall provide evidence that the cutting and removing of trees and other native vegetation will be, wherever practical, performed according to the following standards:

- A. Only the selective cutting of trees with a breast height diameter (BHD) of 12 inches. Clear cutting of trees is prohibited.
- B. 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.
- C. All trees intended to remain standing and undamaged shall be clearly marked on the proposed site plan.
- D. In order to protect the trees and the roots of the trees, wherever practical, all structures and roads shall be set back at least 10 (ten) feet from the trees identified on the site plan to be left standing or undamaged.
- E. Wherever feasible, groups or clumps of trees shall be preserved to encourage survival of the root zone.
- F. Exceptions to the requirements of this subsection are as follows:
 - 1. Tree removal or transplanting occurring during use of land for agriculture or the operation of a commercial nursery or tree farm.
 - 2. 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.
 - 3. Tree trimming, removal, or transplanting performed by or on behalf of any governmental agencies.
 - 4. Repair or maintenance work performed by public utilities necessitating the trimming or cutting of trees.
 - 5. Removal or trimming of dead, diseased, or damaged trees where the damage resulted from an accident or nonhuman cause.

Section 10.3.3 GRADING AND FILLING OF PROPERTY AND STORMWATER DETENTION

- A. When any land in the Township is developed or altered in any way which affects storm water 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 storm water runoff not exceeding that which existed prior to the development or improvement of the property, and in accord with the requirements of the Michigan Natural Resources & Environmental Protection Act, PA 451 of 1994, Part 91, Section 324.9101 et seq. formerly the Soil Erosion/Sedimentation Control Act, PA 347 of 1972, as amended. In addition, all development shall conform to the Benzie County Soil Erosion Ordinance and any general rules or administrative guidelines.
- B. Special attention shall be given to proper site drainage so that runoff of storm water will not adversely affect neighboring properties or the water quality of the township's lakes and streams. Storm water control mechanisms, such as retention/detention basins, vegetative buffers, swales, and infiltration trenches, shall be required to ensure that the peak rate of storm water runoff after development does not exceed the rate prior to development. (For a storm with a twenty-five (25) year frequency of three and one-half (3 ½) inches of rainfall and twenty-four (24) hour duration).
- C. The final grade surface of ground areas remaining after the construction of a building or structure, and any earth changes made in connection with use of land shall be designed and landscaped such that surface water flows away from the building or structure and is collected or managed in a manner which avoids any increase in surface water discharge onto adjacent properties or public roads, the erosion of or filling of any road ditch, the blockage of any natural or public watercourse, the creation of standing water over a private sewage disposal drainage field, and any unnecessary impoundment of surface water. The provisions of this section shall be administered and enforced pursuant to the site plan review provisions of Article 11, when applicable. In all other cases, the Zoning Administrator shall determine after consultation with the Soil Erosion, Sedimentation, and Storm Water Control Administrator whether the provisions of this section are met. When it is determined that inadequate surface water control exists, no Certificate of Zoning Compliance shall be issued until the situation is corrected and approved by the Zoning Administrator.
- D. Creation of Ponds: A manmade excavation or impoundment of surface water designed to retain or detain water with a surface area of at least one thousand (1000) square feet is subject to the following regulations:
1. A pond is an accessory or conditional use in all zoning districts.
 2. No person shall commence the excavation, dredging, or construction of a dam, that is designed, intended or results in the creation or enlargement of a pond without first making application for and receiving a Zoning Permit approving the specific plans for a pond.3. An application for a zoning permit for a pond shall be made pursuant to Article 14 of this Ordinance.
 3. Proposed ponds of less than one (1) acre in size shall be considered under Section 11.4.
 4. Applications for ponds larger than one (1) acre and/or ponds which are located within five-hundred (500) feet of a lake, river, stream, or open county drain shall be required to be submitted to the Michigan Department of Environmental Quality to determine the

142 extent to which the Natural Resources and Environmental Protection Act, Public Act 451
143 of 1994, apply to the proposal.

- 144 5. Ponds (or man made lakes) in excess of 5 acres shall be considered site plans Article 11.
- 145 6. Plans for ponds shall indicate the size, depth, and proposed finished grade of the land
146 both above and below water level, any proposed fencing location and specifications. In
147 addition, the applicant shall indicate sources of water being used to supply the pond
148 (such as stream impoundment, surface water runoff, springs, and wells).
- 149 7. No pond shall be closer than fifty (50) feet from any property line, easements for egress,
150 dwelling units, septic drainage fields and domestic wells.
- 151 8. Ponds on parcels of less than 20 acres in size that are not enclosed by a four feet high
152 fence shall be required to provide and maintain one or more safety stations in
153 compliance with the following:
 - 154 a. U.S. Coast Guard approved ring buoys securely connected to forty feet of rope
155 mounted on posts located at 500 feet intervals around the perimeter of the
156 pond.
 - 157 b. A twelve feet long pole shall be attached to one safety station.
- 158 9. Ponds under five (5) acres are permitted without regard to the nine (9) previous
159 subsections if:
 - 160 a. On a bonafide commercial agriculture or horticulture operation in an Agriculture
161 Production (AP) District;
 - 162 b. The pond is approved by the National Resources Conservation Service as being
163 in conformance with their existing pond design standards.

164
165 **Section 10.4 PROVISIONS FOR THE PROTECTION OF THE ENVIRONMENT, HEALTH, SAFETY AND**
166 **OVERALL QUALITY OF LIFE FOR GILMORE TOWNSHIP**
167

- 168 A. Every use shall be so conducted and operated so that it is not detrimental to the health, safety,
169 or welfare of persons or property, or obnoxious by reason of heat, glare, fumes, odors, dust,
170 noise, smoke, water runoff, light, ground vibration or other nuisance beyond the lot on which
171 the use is located. It shall be unlawful to carry on or permit to be carried on any activity or
172 operation of use of any land, building, or equipment that produces irritants to the sensory
173 perceptions greater than the measures herein established which are hereby determined to be
174 the maximum permissible hazards to humans or to human activity.
175
- 176 B. Dangerous Explosive and Flammable Materials:
 - 177 1. No use of a building or premises shall in any way represent a fire or explosion hazard to
178 a use on adjacent property or to the public on a public street. All buildings, above or
179 below ground storage and handling areas where dangerous chemicals, salts, flammable
180 materials, or hazardous substances are regularly used, moved or stored shall conform to
181 all applicable local, County, State and Federal regulations and requirements; including
182 the maintenance of any clear zone and/or containment structures required by
183 government authorities. Failure to disclose such materials to fire, emergency services
184 agencies and the Michigan Department of Environmental Quality as may be required by
185 State or Federal laws, is also a violation of this Ordinance.
 - 186 2. All outdoor above or below ground handling area and storage facilities for dangerous
187 chemicals, explosive or flammable materials, fuels and other hazardous substances in
188 excess of 50 gallons or 150 pounds per month, shall:

- a. Be constructed and maintained in compliance with:
 - i. All applicable Michigan Department of Environmental Quality, Michigan Department of Agriculture, State Fire Marshal and U.S. EPA Standards;
 - ii. The State Construction Code Act, Public Act 230 of 1972; as amended.
 - iii. All applicable County, local Fire Code and "Right-to-Know" laws; and
 - iv. A Pollution Incidence Prevention Plan (PIPP) if required under state law.
 - b. Be located on a lot at least one-half (½) acre in size.
 - c. Not store fuel in above or below ground tanks closer than seventy-five (75) feet to a building unless it is liquefied petroleum gas or heating fuel in an approved tank, in which case it shall not be closer to a building than the distance allowed by the State Mechanical Code.
 - d. 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. Secondary containment structures shall be covered, but if flammable, not fully enclosed, with a satisfactory dewatering plan to prevent leaks and spills from entering drains, sewers, surface or groundwater.
 - e. 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.
 3. If the quantity of material in Section 10.4.B.2 above is less than the regulatory threshold of the Michigan Department of Environmental Quality, the Michigan Department of Agriculture, State Fire Marshal or U.S. EPA Standards then the secondary containment structures required in subsection 10.4.B.2.d above shall conform with standards prepared by the Zoning Administrator and adopted by the Planning Commission.
 4. The owner shall supply the Zoning Administrator, Sheriff's Department and Emergency Services Coordinator with the name and phone number of persons responsible for materials on the site and who is available 24 hours in case of a leak or spill.
- C. Junk:
 1. No person shall store, place, abandon, or permit to be stored, placed, abandoned, or allow to remain in any district a dismantled, partially dismantled, unlicensed, or inoperable motor vehicle, inoperable or unlicensed travel trailers, RVs, or campers, junk, rubbish, or litter upon any premises, except as provided for in Section 7.7, or in the case of motor vehicles, unless confined in a wholly enclosed structure.
 2. No person shall store, place, abandon, or permit to be stored, placed, abandoned, or allow to remain in any district junked, wrecked, or inoperable farm machinery unless

hidden from the view of the general public.

D. Community Noise Standard:

1. It shall be unlawful for any person or entity to make, maintain, or continue, or cause to be made or continue excessive, unnecessary, unnatural, repeated, prolonged or unusual noise which annoys, disturbs, injures, irritates, or impairs the comfort, repose, health, or peace of another person. For sound level limits, see Section 10.4.D.3.
2. It shall be unlawful for the owner of any premises within Gilmore Township, and for the occupant or person in possession of any premises or lands within Gilmore Township, and for the occupant or person in possession of any premises or lands within Gilmore Township, whether individual, corporate, or otherwise, to knowingly make, allow to be made, or to permit to be made upon the premises so owned, occupied, or possessed, any excessive, unnecessary, unnatural, repeated, prolonged or any noise which annoys or disturbs or injures or irritates or impairs the comfort, repose, health, or peace of another person, within the limits of Gilmore Township. For sound level limits, see Section 10.4.D.3.
3. Noise shall not exceed at the property line, the established outdoor background sound level LA90 and 50 dba, (Residual Noise ANSI S12.9 Part I) plus 5 dba that is present between the hours of 9a.m. and 9p.m. at any property line. Noise shall not exceed at the property line, the established outdoor background sound level LA90 and 50 dba, (Residual Noise ANSI S12.9 Part I) between the hours of 9p.m. and 9 a.m.
4. Specific Noises Prohibited: The following noises and acts are hereby declared to be in violation of this Ordinance, said specification is not to be construed to exclude other violations not enumerated:
 - a. Horns and Other Signaling Devices. The sounding of any horn or signaling device on any automobile, motorcycle, boat, bus, truck, or any other vehicle, except as a danger warning;
 - b. Radios, Televisions, Audio Equipment, and Musical Instruments. The using, operating or permitting to be played, used or operated, any radio receiving set, television receiving set, audio equipment, or musical instrument, or any other such device for the production or reproduction of sound, in such a manner as to unreasonably or unnecessarily irritate, annoy, or disturb the peace, quiet, and comfort of the neighboring inhabitants, or at any time at a volume unnecessary for the convenient listening of the person or persons in the room, vehicle, or chamber in which such machine or device is being operated, and who are voluntarily listeners thereto. The operation of any such radio, television, audio equipment, musical instrument, or any other machine or device between the hours of nine o'clock (9:00) p.m. and nine o'clock (9:00) a.m. in such a manner as to be plainly audible at the property line or which is plainly audible in a dwelling unit other than in which it is located, shall be prima facie evidence of a violation of this Section.
 - c. Exhaust Noises. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, or any other form of engine, whether in a boat, motor vehicle, motorcycle, off-road vehicle, or tractor, except through a muffler or other device which effectively prevents or reduces loud or explosive noises.
 - d. Construction, Repairing or Maintenance of Buildings or Yards. The erection

- (including excavation), demolition, alteration or repair of any building or structure other than between the hours of seven o'clock (7:00) a.m. and ten o'clock (10:00) p.m. where such activity results in the creation of unusually loud noise or noise that annoys, disturbs, injures or impairs the comfort, repose, health, peace or safety of others except in the case of urgent necessity in the public interest of the public health and safety, for the duration of such emergency.
- f. Business Operations And Other Premises Activities. The carrying on of any business operations, or other activities upon any premises in such a manner so as to create any excessive, unnecessary, unnatural, repeated, prolonged or unusual noise which annoys, disturbs, injures, irritates, or impairs the comfort, repose, health, or peace of another person,
 - g. The operation of any race track, proving grounds, testing area, or obstacle course for vehicles, motorcycles, snowmobiles, boat racers, automobiles, off-road vehicles, or vehicles of any kind or nature in the Township where such noise emanating from the identified vehicle would be unusually loud or continuous, unreasonable disturbing, or upsetting to another person in that vicinity.
5. The noise prohibitions set out herein before shall not apply to the following:
- a. Any police vehicle, ambulance, fire engine, or other emergency vehicle while engaged in necessary emergency activities.
 - b. Excavation or repair of bridges, streets, and highways on behalf of the State of Michigan, Gilmore Township, of the County of Benzie, between sundown and seven o'clock (7:00) a.m. when the public welfare, health, safety or convenience renders it impossible to perform such work during other hours.
 - c. Noises emitted from warning devices for the purpose of notifying individuals or the public at large as authorized by law.
 - d. Orchard or crop management practices during normal agricultural growing seasons.
 - e. Livestock or other large animal operation in which the land is zoned for including domestic pets which from time to time may communicate.
 - f. Noise emanating from the discharge of firearms providing that such discharge is otherwise authorized under Michigan law or local ordinance.
6. Permits for special events: Any person wishing to obtain a permit to increase the noise level between the hours of 9 a.m. to midnight for special events shall contact zoning administrator for such permit. Zoning Administrator shall have the right to deny such permit. Allowed special events: Weddings, Birthdays, Graduation, Festivals, Reunions and other occasions of celebration.
- E. Environmental Reviews: The Township Zoning Administrator and/or the Planning Commission shall review all Special Land Use applications and determine what studies are required. The Planning Commission may require, at the cost of the Applicant, a third party Environmental Specialist who is acceptable to the Township to provide an Environmental Assessment to determine the appropriate environmental studies for the project. The Environmental Specialist shall identify and assess any potential impacts on the natural environment and identify the appropriate studies to be required prior to the permit being issued. The Environmental Specialist shall provide recommendation for specific studies and methods to be followed. Environmental

studies may include but should not be limited to the following:

1. Environmental Impact Study
2. One to Three Year Avian Impact Study including migration
3. Identify nesting Eagles within 5 miles of the project
4. Water Quality Impact Study
5. Groundwater Impact Analysis
6. Three-year Bat Study
7. Soil Erosion and Sedimentation Study
8. Environmental Impact on Herring Lakes Watershed
9. Identify all Sensitive Areas as defined in Section 2.2 within project footprint and determine the potential impacts on these Sensitive Areas.

Applicants must comply with all Michigan DNR/DEQ requirements and regulations. The Applicant shall take appropriate measures to minimize, eliminate or mitigate adverse impacts identified in the analysis, and shall show those measures on the site plan. If mitigation efforts are required to minimize adverse impacts the Applicant must obtain approval of the mitigation plan from the Gilmore Township Zoning Administrator, the Planning Commission and their Independent Environmental Consultant. The Applicant shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts including, but not limited to wildlife (birds, bats, etc.) wetlands and other fragile ecosystems, historical and cultural sites, and antiquities following the guidelines.

- F. Viewsheds: No tall structure shall be erected on a ridge or in a viewshed as defined in the Master Plan. No structure on a ridge line will be higher than the highest tree thus interrupting the natural view and nature of the ridge.
- G. All proceedings of the Planning Commission, Zoning Board of Appeals, and Township Board of Trustees shall be conducted, and all decisions shall be made with due consideration given to the above referenced environmental concerns. Maintenance of reasonable circumstances regarding: emission and transmission of injurious or obnoxious noise, fire or explosive hazard, liquid or solid waste disposal, vibration, gas fumes, smoke, dust, dirt, litter, odor, light, glare, traffic congestion, ingress and egress, ease of police and fire protection, drainage, lateral land support, blighting influence, effect on property values, adequate light and air, overcrowding of persons, sanitation, general appearance of the area, surface and groundwater quality, and other similar considerations having an effect on public health, safety and general welfare of the people of the surrounding area.

Section 10.5 WATER SUPPLY AND SANITARY SEWERAGE FACILITIES

No structure for human occupancy shall be erected, altered, or moved upon any lot or premises and used in whole or in part for dwelling, business, industrial, or recreational purposes unless it shall be provided with a safe potable water supply and with a safe and effective means of collection, treatment, and disposal of human excreta and domestic and commercial wastes. All such installations and facilities shall conform with the minimum requirements of the County Health Department, and the Michigan Department of Environmental Quality.

Section 10.6 FLOODPLAIN REGULATIONS

- A. Intent and Purpose: The purpose of these regulations is to protect those areas of the Township

which are subject to predictable flooding in the floodplain areas along Lake Michigan and along the major streams or creeks, their branches, and tributaries within the Township.

B. Floodplain Delineation: Land subject to these floodplain regulations shall consist of all land which would be inundated as established by the U.S. Army Corps of Engineers along any watercourse within the jurisdiction of this Ordinance, and all lands depicted on a NFIP Flood Hazard Boundary Map or Flood Insurance Rate Map prepared by the Federal Emergency Management Agency.

C. Permitted Principal Uses: Notwithstanding any other provisions of this Ordinance, no building or structure shall be erected, converted, or structurally altered and no land and/or structure shall be used within a floodplain except for one or more of the following uses:

1. Open space uses such as farms, truck gardens, nurseries, parks, playgrounds, golf courses, nature preserves, bridle trails, nature paths, private or commercial recreations, and other similar open uses.
2. Off-street parking uses, provided that all parking shall be at grade level and in conformance with the provisions of Section 10.6 of this Ordinance.
3. Public utility facilities, provided utilities are constructed or elevated to withstand flood damages and are constructed as further regulated by this Ordinance.
4. Yard and setback areas required for any district within the floodplain areas may be included within the floodplain areas. However, the elevation of the lowest floor designed or intended for human habitation shall be above the established floodplain.

D. Floodplain Lands - Site Development Requirements: No building or structure shall be erected, converted, or structurally altered or placed within the boundaries of the lands listed in Section 10.5 except as permitted below:

1. The lowest floor designated or intended for human habitation shall be above the established floodplain. Land may be filled to meet the minimum requirements of the established floodplain and grade level only under the following conditions:
2. A permit pursuant to the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, Part 31, Section 324.3108 et seq., as amended, and Rule R 323.1311 - 323.1329, Michigan Administrative Code is obtained from the Michigan Department of Environmental Quality.
3. A permit pursuant to the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, Part 91, Section 324.9101, et seq., as amended, is obtained from the Michigan Department of Environmental Quality.

E. Uses Permitted subject to Site Plan Review: Certain uses may be authorized in any floodplain by approval of the Planning Commission subject to the submittal of a site plan. All lands included in the floodplain shall be subject to the provisions herein and to the district requirements in which said land shall be located.

1. Examples of uses which may be authorized include, but are not limited to, the construction or location of outdoor play equipment, bleachers, and similar outdoor equipment and appurtenances, storage of materials or equipment, provided such elements shall not cause any significant obstruction to the flow or reduction in the water impoundment capacity of the floodplain.

F. Data Submission: Prior to the issuance of a zoning permit for structures adjacent to floodplain

area, the Zoning Administrator shall require the Applicant for such permit to submit topographic data, engineering studies, proposed site plan, or other similar data needed to determine the exact elevation and location of the one hundred (100) year floodplain and the possible effects of flooding on a proposed structure and/or the effect of the structure on the flow of water. All such required data shall be prepared by technically qualified persons. The opinion of hydrologic engineers within the DEQ shall be sought before a decision is made by the Zoning Administrator.

G. Existing Uses in the Floodplain: It is the intent of this Ordinance to permit existing uses to continue in the floodplain until they are removed, but not to encourage their survival.

1. It is recognized there exists within the floodplain, as defined by this Ordinance, lots and structures which were lawful before this Ordinance was passed or amended which would be prohibited, regulated, or restricted under terms of this Ordinance or future amendments.

2. Such uses are declared by this Ordinance to be incompatible with permitted uses in the floodplain. It is further the intent of this Ordinance that such uses shall not be enlarged upon, expanded, or extended nor be used as grounds for adding other structures or uses prohibited in the floodplain.

3. Should a structure located in the floodplain, as defined in this Ordinance, be voluntarily removed in whole or in part by the owner of the property upon which it is located or his or her agents or, if such structure is destroyed by weather, fire, earthquake, or other means commonly referred to as "acts of God" and there is evidence that the owner has voluntarily decided not to rebuild, such structure shall not be reconstructed due to a property owner's voluntary relinquishment of a nonconforming use.

4. The Board of Appeals may permit construction or reconstruction in a floodplain if an applicant meets all of the requirements for a variance as provided in Article 13 of this Ordinance and, in addition to those requirements, that the following conditions are met:

a. The structure is adequately protected against flood damage.

b. Not allowing reconstruction would create an unnecessary hardship to the property owner.

Section 10. 7 ENVIRONMENTAL SOCIO-ECONOMIC & TRAFFIC IMPACT ASSESSMENTS

A. The Planning Commission may require a community impact study, traffic and/or environmental impact assessment (EIA), at the expense of the Applicant. before approving a required site plan or making a decision upon a request for Planned Unit Development or SLUP approval. A socio-economic or environmental impact assessment should analyze the impact of the proposed development on municipal utility systems, fire, police and school services, solid waste disposal, soils, air, groundwater, drainage, floodplain, wetland and similar water courses, and noise levels which might affect existing land uses or neighborhoods negatively, and other similar factors which may be unique to a specific proposal. The Planning Commission shall review the impact assessment to determine if any proposed impacts would result in pollution, impairment or destruction of the environment over the threshold established in the Michigan Natural Resources and Environmental Protection Act, Public Act 451 of 1994, Part 17, or greater than existing level of service standards or articles in this Ordinance, or a overall negative economic impact.

B. Traffic Impact Assessment

- 471 1. The Planning Commission may require a Traffic Impact Assessment (TIA), at the expense
472 of the Applicant, for any residential, office, commercial, or mixed use development,
473 which includes a land area of five acres or more or a building over 50,000 square feet, or
474 when permitted uses could generate either a thirty percent (30%) increase in average
475 daily traffic, or at least one hundred (100) directional trips during the peak hour of the
476 traffic generator or the peak hour on the adjacent streets, or over seven hundred fifty
477 (750) trips in an average day, before approving a required site plan or making a decision
478 upon a request for Planned Unit Development approval. At their discretion, the Planning
479 Commission may accept a TIA prepared for another public agency.
- 480 2. The Site Plan Review Committee shall establish standards for conducting a TIA and shall
481 maintain a copy of such standards in the office of the Zoning Administrator. TIA
482 standards shall either be the current model distributed by the Michigan Department of
483 Transportation, or an alternative model with similar credibility and technical
484 competence.
- 485
- 486 C. The applicant shall provide compelling evidence to the Planning Commission that there will not
487 be a negative impact on the environment, local economy, health, safety and welfare of the
488 citizens of Gilmore Township and the surrounding community. Absence of evidence is not a
489 green light to proceed.
- 490
- 491 D. In the event of conflict between this Article and any other Article in this Ordinance the most
492 stringent of the requirements which are legally acceptable will apply.
- 493
- 494

495 **Section 10.8 EXTERIOR LIGHTING REGULATIONS (DARK SKY)**

- 496 A. Intent and Purpose: The purpose of this ordinance is to:
- 497 1. Permit reasonable uses of outdoor lighting for nighttime safety, utility, security, and
498 enjoyment while preserving the ambiance of the night;
- 499 2. Curtail and reverse any degradation of the nighttime visual environment and the night
500 sky;
- 501 3. Minimize glare and obtrusive light by limiting outdoor lighting that is misdirected,
502 excessive, or unnecessary;
- 503 4. Conserve energy and resources to the greatest extent possible;
- 504 5. Help protect the natural environment from the damaging effects of night lighting.
- 505
- 506 B. Requirements:
- 507 1. Exterior lighting is required to use baffles or shields shall be required as needed so that light
508 sources are not visible beyond the property on which they are installed, so that direct light
509 rays are not directed above a horizontal plane passing through the fixture, and also so that
510 vehicular and pedestrian traffic are protected from unnecessary and dangerous glare and
511 from the intense light of directly visible light sources.
- 512
- 513 2. Exterior lighting installed after the effective date of this ordinance shall have the Fixture Seal
514 of Approval (FSA) for dark sky friendly light fixtures as certified by the International Dark Sky
515 Association. FSA compliant fixture can be referenced at [www.darksky.org/outdoorlighting-](http://www.darksky.org/outdoorlighting-29)
516 29.
- 517

3. Exterior light fixtures shall be energized only when necessary by means of automatic timing devices and through the use of motion detection devices on security lighting.
4. Parking lot outdoor light fixtures shall be turned off between 11:00 p.m. and sunrise.
5. Sodium light sources shall be used for street lighting, parking lot lighting, and for security lighting when such security lighting is not to be energized by motion detection devices. Where feasible, low-pressure sodium lighting is to be encouraged.
6. Floodlights shall be directed downward, shielded as necessary so that the light source is not visible from roads or adjacent property, and located and directed so that light is neither unnecessarily reflected onto adjacent property or into the night sky.
7. In addition to fixture design and shielding, architectural and landscape design features may be incorporated into an outdoor lighting plan to meet the requirements and comply with the intent of this Article.
8. Off-premises advertising signs, if permitted, shall not be illuminated externally or internally.
9. Advertising signs shall not be illuminated between one (1) hour after the close of business and one (1) hour before the opening of business on the following day except by special permission granted as a condition of site plan approval. All fixtures or circuits illuminating advertising signs shall be equipped with automatic timing device.
10. Quartz and mercury vapor lighting are prohibited because of the broad spectrum of visible light which these sources emit and because of the diffusive and reflective character of such light.
11. All parking lots shall be illuminated only when in use during regular business hours and thereafter only until the public and employees have left the premises. Approved security lighting will be permitted.
12. Entrance and traffic marker lights along access roads and drives, in parking lots and along pedestrian ways shall be sodium type and equipped with full cut-off shielding as well as shielding to keep the light source out of view of vehicular and pedestrian traffic.
13. Outdoor display areas including display or storage lots may be illuminated during the hours the business is open to the public or until 11:00 p.m. Metal halide light sources may be used provided such fixtures are equipped with full cut-off shielding and project only the minimum amount of light necessary for good visibility.
14. Lighting of building facades shall be from the top and directed downward with full cut-off shielding and additional shielding to keep the light source from the view of vehicular and pedestrian traffic and adjacent property.
15. Security lighting shall be directed away from and/or shielded from road traffic and adjacent properties.

565
566 16. Limit the type of LED light to a “warm-white” or filtered LEDS’s (with a Correlated Color
567 Temperature – CCT lower than 3,000K) to minimize blue emissions.
568

569 C. Approved Materials: The provisions of this Article are not intended to prevent the use of any
570 design, material or method of installation, even if not specifically prescribed by this Article, provided that
571 such alternate has been approved by the Planning Commission and meets or exceeds the Illuminating
572 Engineers Society (IES) standards and has the Fixture Seal of Approval (FSA) from the International Dark
573 Sky Association.
574

575 D. Exemptions: The following uses and activities shall be exempt from these Exterior Lighting
576 Regulations;
577

- 578 1. Lighting in swimming pools and other water features governed by Article 680 of the National
579 Electrical Code.
- 580
- 581 2. Exit signs and other illumination required by building codes.
- 582
- 583 3. Lighting for stairs and ramps, as required by the building code.
- 584
- 585 4. Signs are regulated by the sign code, but all sign lighting is recommended to be fully shielded.
- 586
- 587 5. Holiday and temporary lighting (less than thirty days use in any one year).
- 588
- 589 6. Football, baseball, and softball field lighting; only with permit from the Township recognizing
590 that steps have been taken to minimize glare and light trespass, and utilize sensible curfews.
- 591
- 592 7. Low voltage landscape lighting, but such lighting should be shielded in such a way as to
593 eliminate glare and light trespass.

Article 11
SITE PLAN AND PLOT PLANS

11.1 Purpose

It is the purpose of this Article is to specify standards, data requirements and the review process which shall be followed in the preparation of site plans, plot plans, and Special Land Uses as required by this Zoning Ordinance. A site plan contains comprehensive and detailed information about improvements proposed on the site and is required for land uses such as commercial, industrial and multiple-family developments. Plot plans are less detailed plans pertaining to improvements proposed on the site and are required for less complex developments such as single family and two (2)-family dwellings.

11.2 Approval of Site Plan or Plot Plan Required

- A. Site plan approval is required by the Gilmore Township Planning Commission, prior to the issuance of a zoning permit, unless required otherwise by this Zoning Ordinance, for the following uses:
 - 1. All uses permitted by right within any industrial or overlay district.
 - 2. All uses for which this Zoning Ordinance requires at least three (3) or more off-street parking spaces.
 - 3. All Special Land Uses.
 - 4. Multiple-family developments.
- B. Prior to the issuance of a Zoning Permit, plot plan approval is required by the Gilmore Township Zoning Administrator for all other uses not listed above. The Commission shall review such plans in accordance with the same procedures, requirements and standards used by the Municipality as specified in this Article.

11.3 Optional Sketch Plan Review

Prior to submitting an application, or site plan, for a land use permit an applicant may choose to submit a sketch plan for review by the Zoning Administrator and/or the Gilmore Township Planning Commission. The sketch plan may be superimposed on an air photo of the parcel or shall be a scaled drawing of the parcel showing the location of existing and proposed structures, parcel boundaries, all structures, natural features, all improvements, streets, sidewalks, easements and drainage systems. The review shall be informal and advisory only, and not constituting any form of approval or authorization of granting and type of permit. The review shall be done without cost to the applicant, but must be scheduled as an item of business on the Commission's agenda if the sketch plan is to be reviewed by the Commission.

11.4 Required Data for Plot Plans

- A. The following data shall be submitted with applications for zoning and/or land use permits for uses requiring a plot plan:
 - 1. An accurate, readable, scale drawing showing the following shall be required except in the case of minor alterations, repair and demolitions as determined by the Gilmore

Township Planning Commission. The Commission may establish and make available written guidelines as to the scale and level of detail needed for applications for various types of uses requiring a zoning permit or for information to be submitted to the Board of Zoning Appeals in order to make a decision on an appeal or request for Zoning Ordinance interpretation or variance:

- a. Name, address and telephone number of the applicant(s) (and owner(s) if different).
- b. The location, shape, area and dimension of the lot.
- c. The location, dimensions, height and bulk of the existing and/or proposed structures to be erected, altered or moved on the lot.
- d. A description of proposed use of the building(s), land or structures.
- e. The proposed number of sleeping rooms, dwelling units, occupants, employees, customers and other users.
- f. The yard, open space, parking lot and space dimensions and number of spaces.
- g. A vicinity sketch showing the location of the site in relation to the surrounding street system and adjacent land uses within five hundred (500) feet in every direction including on the opposite side of any public street.
- h. Location of any septic system or drain field and well.
- i. Configuration of the driveway and parking.
- j. Drains and site drainage patterns.
- k. Existing public rights-of-way or easements.
- l. All public utilities.
- m. Any other information deemed necessary by the Gilmore Township Planning Commission to determine and provide for the enforcement of this Zoning Ordinance.

11.5 Required Data for a Site Plan Involving Special Groundwater Protection Provisions

A. All businesses and facilities which use or generate hazardous substances except:

1. Fuel stored in a fuel tank which is part of a motor vehicle for purposes of use by that vehicle's motor,

- 96 2. Materials in a five (5) gallon, or smaller, pre-packaged sealed containers and is for
97 purposes of resale and located inside a retail establishment.
98

99 B. In addition to all the data required for a Site Plan, the following shall also be shown in the site
100 plan:
101

- 102 1. Location and size of interior and exterior areas and structures to be used for storage,
103 use, loading/unloading, recycling, or disposal of hazardous substances.
104
105 2. Location of all underground and above ground storage tanks for such uses as fuel
106 storage, waste oil holding tanks, chemical storage, hazardous waste storage,
107 collection of contaminated storm water or wash water, and all similar uses.
108
109 3. Location of exterior and interior drains, on-site sewage systems, dry wells; catch
110 basins; retention/detention areas; sumps and other facilities designed to collect,
111 store or transport storm water or wastewater. The point of discharge for all drains
112 and pipes shall be specified on the site plan.
113
114 4. Location of all water wells on the site and within one hundred and fifty (150) feet
115 surrounding the parcels property boundaries.
116
117 5. Delineation of areas on the parcel which are known or suspected to be contaminated,
118 together with a report on the status of site cleanup.
119

120 **11.6 Site Plan Review**

121 Site plan review shall be undertaken by the Gilmore Township Planning Commission in accordance with
122 the following requirements and procedures:
123

124 **11.7 Data Required for Site Plan**

- 125
126 A. Each site plan as may be required by this Zoning Ordinance shall be provided on a professional
127 quality drawing of scale not less than one (1) inch equals one hundred (100) feet. All
128 information depicted shall be designed and sealed by an engineer, architect or landscape
129 architect licensed in Michigan. In addition to the applicant's full name(s), address(es) and
130 phone number(s), cell phone number, e-mail address, the following data shall be submitted
131 with applications for zoning permits for uses requiring a site plan:
132
133 1. A survey showing property dimensions and legal description, including angles, lot area
134 and dimensions and an arrow pointing north.
135
136 2. A project description, including the total number of structures, units, bedrooms,
137 offices, square feet, total and usable floor area, carports or garages, employees by
138 shift, amount of recreational and open space, type of recreation facilities to be
139 provided and related information as pertinent or otherwise required by this Zoning
140 Ordinance.
141
142 3. A plan showing the location of all buildings and structures existing and proposed on
143 the site including building elevation drawings and all of the following listed items:

- 144
- 145 a. The natural features such as woodlands, streams, flood plains, drains, ponds,
- 146 topography (at two (2) foot intervals on-site and within one hundred fifty
- 147 (150) feet of the site) and man-made features such as existing roads and
- 148 structures, with indication as to which are to be retained and which removed
- 149 or altered.
- 150
- 151 b. The existing public rights-of-way, private easements, private places of record
- 152 and deed restrictions.
- 153
- 154 c. The proposed streets and alleys, including cross-sections, acceleration,
- 155 deceleration or right-turn lanes, driveways, parking spaces and sidewalks
- 156 with indication of the direction of travel and the inside radii of all curves
- 157 including driveway curb returns. The width of streets, driveways and
- 158 sidewalks, the total number of parking spaces, the dimensions of a typical
- 159 individual parking space and associated aisles. Proposed traffic control
- 160 measures including signs and proposed street or road names shall also be
- 161 indicated.
- 162
- 163 d. A vicinity sketch showing the location of the site in relation to the surrounding
- 164 street system and other land uses within three hundred (300) feet in every
- 165 direction of the proposed use including land uses on the opposite side of any
- 166 public street.
- 167
- 168 e. The location of utilities, water supply and the location and design of waste
- 169 water systems as well as any easements that exist or are proposed to be
- 170 established for installation, repair and maintenance of utilities.
- 171
- 172 f. The proposed location of trash receptacles, accessory buildings and uses and
- 173 signs.
- 174
- 175 g. A landscaping plan indicating the locations of plant materials to be preserved
- 176 and locations of proposed planting and screening, fencing and lighting in
- 177 compliance with the requirements of this Zoning Ordinance. Also, the plan
- 178 must include the proposed locations of common open spaces, if applicable.
- 179
- 180 h. A storm drainage and storm water management plan for all streets and
- 181 impervious surfaces.
- 182
- 183 i. The location and specifications for any existing or proposed above or below
- 184 ground storage facilities for any chemicals, salts, flammable materials or
- 185 hazardous materials as well as any containment structures or clear zones
- 186 required by government authorities.
- 187
- 188 j. The location of exterior drains, dry wells, catch basins, retention and/or
- 189 detention areas, sumps and other facilities designed to collect, store or
- 190 transport storm water or waste water. The point of discharge for all drains
- 191 and pipes shall also be specified on the site plan.

- 192
- 193 k. A statement from the applicant identifying all Federal, State and local permits
- 194 required, if any.
- 195
- 196 l. Such other information and/or assessments as is necessary to enable the
- 197 Municipality to determine whether the proposed site plan will conform to the
- 198 provisions of this Zoning Ordinance.
- 199

200 **11.8 Submittal and Distribution of Site Plans**

201 At least seven (7) copies of the application and Site Plan shall be submitted to the Gilmore Township

202 Planning Commission at least twenty (20) days prior to Commissions regularly scheduled meeting. Two

203 (2) copies of the Site Plan drawings shall be on twenty-four inch by thirty-six inch (24" x 36") paper drawn

204 in a scale of one (1) inch equals forty (40) feet. Seven (7) copies shall be on eleven inch by seventeen inch

205 (11" x 17") paper reduced from original drawing. In addition, all site plans and documents shall be

206 submitted on a compact disk or memory stick in pdf format. The Zoning Administrator shall review the

207 application and Site Plans for completeness and if such application or plans are not complete, the plans

208 shall be returned to the applicant with a written notice identifying the plans' inadequacies. Upon receipt

209 of an adequately completed application and plans, the Zoning Administrator shall record the date of their

210 receipt.

211

212 **11.9 Completeness of the Site Plan Application**

213 The Gilmore Township Planning Commission shall review the application and plans and determine their

214 conformity with the applicable provisions of this Zoning Ordinance. The Commission may, at its discretion,

215 delay deliberating upon a Site Plan at its next regularly scheduled or special meeting unless the site plan

216 and all supporting documents, including a zoning permit application form and escrow payment, have been

217 received by the Township at least seven (7) business days prior to such meeting.

218

219 **11.10 Gilmore Township Planning Commission Review and Action**

220 After conducting a review, the Gilmore Township Planning Commission shall reject, approve or

221 conditionally approve the Site Plan as it pertains to requirements and standards contained in the Zoning

222 Ordinance. Any conditions required by the Commission for approval shall be stated in writing, together

223 with the reasons and delivered to the applicant. Decisions and recommendations by the Commission shall

224 be made within sixty (60) days of the receipt of the completed application unless, in the opinion of the

225 Gilmore Township Planning Commission, an extension of time is necessary to adequately collect and

226 review information pertinent to a decision or recommendation. A Site Plan shall be approved by the

227 Commission if it contains the information required by and is in compliance with this Zoning Ordinance,

228 the conditions imposed pursuant to the Zoning Ordinance, other planning documents, other applicable

229 Codes and County, State and Federal laws and statutes.

230

231 **11.11 Approved Site Plans**

232 Three (3) copies of the approved Site Plan, with any conditions contained required shall be maintained as

233 part of the Gilmore Township Planning Commissions records for future review and enforcement. One (1)

234 copy shall be returned to the applicant. Each copy shall be signed and dated with the date of approval by

235 the Chair and Secretary of the Gilmore Township Planning Commission. If any variances from the Zoning

236 Ordinance have been obtained from the Board of Zoning Appeals, the minutes concerning the variances,

237 duly signed, shall also be filed with the Commissions records as a part of the site plan and delivered to the

238 applicant for information and direction.

239

11.12 Site Plan Approval Criteria

A. Each Site Plan shall conform to the applicable provisions of this Zoning Ordinance and the criteria listed below in addition to any conditions imposed by the Gilmore Township Planning Commission:

1. All elements of the Site Plan shall be harmoniously and efficiently organized in relation to topography, the size and type of lot, the character of adjoining property and the type and size of buildings. The site shall be so developed as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Zoning Ordinance.
2. The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree, other vegetative material and soil removal and by topographic modifications which result in maximum harmony with adjacent areas. Landscape elements shall minimize negative impacts and allow for the appropriate blending of the Site Plan with the surrounding community and in the case of parking lots, provide directional guidance to drivers. Landscaping, buffering and screening shall conform to the requirements of this Zoning Ordinance.
3. Special attention shall be given to proper site drainage so that removal of storm waters will not increase off-site sedimentation or otherwise adversely affect neighboring properties.
4. The Site Plan shall provide reasonable, visual and sound privacy for all dwelling units located therein. Special attention shall be given to ensure the peaceful surroundings of any nearby dwellings or other types of communities so as to lend continuity and that adequate natural light that may be currently enjoyed and continued to be enjoyed by the surrounding structures. Fences, walks, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants.
5. All buildings or groups of buildings shall be so arranged as to permit emergency vehicle access by some practical means to all sides. This review shall be conducted by the Fire Department Fire Marshall.
6. Every structure or dwelling unit shall have access to a public street, private easement, private place, walkway or other area dedicated to common use.
7. A pedestrian circulation system shall be provided which is insulated as completely as reasonably possible from the vehicular circulation system.
8. Exterior lighting shall be designed and arranged so that it is deflected away from adjacent streets and adjoining properties. Flashing, twinkling or intermittent lights shall not be permitted.
9. The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets and pedestrian or bicycle

pathways in the area. Streets and drives which are part of an existing or planned street pattern which serves adjacent development shall be of a width appropriate to the traffic volume they will carry and shall have a dedicated right-of-way according to the standards of the Benzie County Road Commission.

10. All roads dedicated to public use shall be developed in accordance with Benzie County Road Commission specifications.
11. All parking areas shall be so designed to facilitate efficient and safe vehicular and pedestrian circulation, minimize congestion at ingress and egress points to intersecting roads, including the use of service drives as appropriate and minimize the negative visual impact of such parking areas.
12. Residential and nonresidential development shall not include unnecessary curb cuts and commercial service drives shall be used where the opportunity exists.
13. The Site Plan shall provide for the appropriate location of all necessary and proposed utilities. Locational requirements shall include underground facilities to the greatest extent feasible.
14. Site Plans shall conform to all applicable requirements of State and Federal statutes (i.e Soil and Sedimentation Control, Wetlands, Critical Dunes, High Risk Erosion, etc.) and approval may be conditioned on the applicant receiving necessary State and Federal permits before the Site Plan approval is granted.
15. The applicant shall demonstrate that reasonable precautions will be made to prevent hazardous materials from entering the environment including:
 - a. Sites at which hazardous substances are stored, used or generated shall be designed to prevent spills and discharges to the air, surface of the ground, ground water, lakes, streams, rivers or wetlands.
 - b. Secondary containment for above ground areas where hazardous substances are stored or used shall be provided. Secondary containment shall be sufficient to store the substances for the maximum anticipated period of time necessary for the recovery of any released substances.
 - c. State and Federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances shall be met. No discharges to ground water, including direct and indirect discharges, shall be allowed without required permits and approvals.

11.13 Conformity to Approved Site Plans

Property which is the subject of Site Plan approval must be developed in strict compliance with the approved Site Plan and any amendments thereto which have received approval from the body which had approved the original site plan. If construction and development does not conform with such approved plans, the approval and associated permits shall be revoked. Upon revocation of such approval, all

construction activities shall immediately cease upon the site, other than for the purpose of correcting the violation.

11.14 Amendment to a Site Plan

No changes shall be made to an approved Site Plan prior to or during construction except where the Gilmore Township Planning Commission and applicant mutually agree according to the following procedures:

- A. Minor Changes: Minor changes to an approved Site Plan involving changes of less than five (5) feet in the location of walkways, vehicular circulation ways and parking areas or exterior building and structure walls; adjustment of utilities; and similar minor changes as may be approved by the Township.
- B. Major Changes: Major changes or amendments to an approved Site Plan involving changes in excess of five (5) feet in the location of walkways, vehicular circulation ways and parking areas or exterior building and structure walls; the number and location of accesses to public streets and alleys; a reduction in the number of parking spaces; an increase in the gross floor area or heights of buildings; a reduction in the open space; and similar major changes, shall require the approval of the Gilmore Township Planning Commission, or in the case of a Planned Unit Development project, in the same manner as the original application was submitted, reviewed and approved and subject to the finding of all of the following:
 1. Such changes will not adversely affect the initial basis for granting approval;
 2. Such changes will not adversely affect the overall project in light of the intent and purpose of such development as set forth in this Article; and
 3. Such changes shall not result in the reduction of open space area as required herein.

11.15 Amendments to a Plot Plan

The Zoning Administrator shall review proposed changes to an approved plot plan in accordance with the same procedures, requirements and standards used by the Gilmore Township Planning Commission. Changes to a Plot Plan which contain elements which require Site Plan approval shall require that the entire project be processed as a Site Plan according to the procedures of this Article.

11.16 Appeals

With regard to Site Plan and plot plan approval decisions, an appeal may be taken to the Board of Zoning Appeals in the manner as other administration decisions except that appeals of decisions for Planned Development projects shall not be permitted.

11.17 Review Fees

A review fee for any procedure addressed in this Zoning Ordinance may be required as determined by resolution of the Township Board of Trustees based on the cost of processing the review by the Zoning Administrator, Gilmore Township Planning Commission, consultants and legal counsel. The Township may amend this ordinance at any time.

11.18 Security Requirement

- A. To insure compliance with the site plan and ordinance and any conditions, limitations or requirements imposed, the Zoning Administrator or the Gilmore Township Planning Commission shall require a Performance Guarantee and meet the standards described in Article 14.

Article 12
NONCONFORMING USES

12.1 Purpose

It is the intent of this Ordinance to permit legal nonconforming lots, structures, or uses to continue until they are removed consistent with the provisions in the Michigan Zoning Enabling Act, Act 110 of 2006; MCL 125.3208.

It is recognized that there exists within the districts established by this Ordinance and subsequent amendments, lots, structures, and uses of land and structures which were lawful before this Ordinance was passed or amended which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendments. Such uses are declared by this Ordinance, to be incompatible with permitted uses in the districts involved. It is further the intent of this Ordinance that nonconformity's shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land shall not be extended or enlarged after passage of this Ordinance by attachment on a building or premises of additional signs intended to be seen from off the premises, or by addition of other uses of a nature which would not be permitted generally in the district involved

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designed use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance, and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

12.2 Nonconforming Uses of Land

Where, at the effective date of adoption or amendment of this Ordinance, lawful use of land exists that is made no longer permissible under the terms of this Ordinance as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

- A. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance;
- B. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance;
- C. If such nonconforming use of land ceases for any reason for a period of more than thirty (30) days, any subsequent use of such land must conform to the regulations specified by this Ordinance for the district in which such land is located.

12.3 Nonconforming Structures

Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restriction on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No such structure may be enlarged, or altered in a way which increases its nonconformity.
- B. Should such structure be destroyed by any means to an extent of more than fifty percent (50%) of its replacement cost, exclusive of the foundation, it shall be reconstructed only in conformity with the provisions of this Ordinance.
- C. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is removed.

12.4 Nonconforming Uses of Structures and Land

If a lawful use of a structure, or of structure and land in combination, exists at the effective date of adoption or amendment of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
- B. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building.
- C. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed.
- D. If such nonconforming use of the combination of land and structure(s) ceases for a period of more than six (6) months, any subsequent use of such land and structure combination shall conform to the regulations specified by this Ordinance for the district in which such land is located.
- E. Where nonconforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

12.5 Repairs and Maintenance

On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair replacement of nonbearing walls, fixtures, wiring, or plumbing to an extent not exceeding fifty percent (50%) of the assessed value of the building, provided that the cubic content of the building, as it existed at the time of passage or amendment of this Ordinance, shall not be increased. Nothing in this Ordinance shall be deemed to prevent the

strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by an official charged with protecting the public safety, upon order of such official.

12.6 Uses Under Exception Provisions Not Nonconforming Uses

Any use for which a special exception is permitted as provided in this Ordinance shall not be deemed a nonconforming use, but shall, without further action, be deemed a conforming use in such district.

12.7 Change of Tenancy or Ownership

There may be a change of tenancy, ownership or management of any existing nonconforming uses of land structures, and premises provided there is no change in the nature or character of such nonconforming uses except in conformity with the provisions of this Ordinance.

ARTICLE 13
ZONING BOARD OF APPEALS

Section 13.1 PURPOSE & SCOPE

It is the purpose of this Article to create a Zoning Board of Appeals, to establish its responsibilities and to establish standards for its operation.

Section 13.2 CREATION OF BOARD OF APPEALS

A. Establishment: There is hereby established a Board of Appeals in accordance with the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended. The Board of Appeals shall perform its duties and exercise its powers so that the health, safety and welfare of the public may be secured; and that substantial justice be done.

B. Membership, term of office of the Board of Appeals:

1. The Board of Appeals shall consist of not less than three (3) and not more than seven (7) members who shall be appointed and shall serve in accordance with the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended.
2. The membership of the Board of Appeals shall be as representative as possible, geographically, to include as many Townships or areas under the administration of the Gilmore Township Zoning Ordinance, as possible, and also, to include the greatest and most varied available expertise. One member of the Board of Appeals shall be a member of the Township Planning Commission.

C. Powers: The Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as in its opinion ought to be made in the premises, and to that end, shall have all the powers of the office or body from whom the appeal was taken, and may issue or direct the issuance of a permit. The Board of Appeals shall have the power to make final determinations, within its jurisdiction and duties herein prescribed, in such a way that the objectives of this Ordinance may be equitably achieved in order there shall be uniform interpretation and flexibility in the enforcement of this Ordinance or to fulfill any other responsibilities bestowed upon the Board of Appeals by this Ordinance.

**Section 13.3 RULES, LIMITS ON AUTHORITY OF THE BOARD OF APPEALS,
AND USE VARIANCES**

A. The Board of Appeals shall fix rules of procedure or by-laws to govern its procedures. The Board shall choose its own chairman, and in his or her absence, an acting chairman who may administer oaths and compel the attendance of witnesses.

B. The concurring vote of a majority of the members of the Board of Appeals shall be necessary to reverse an order, requirement, decision or determination of the administrative official or body, or to decide in favor of the applicant any matter upon which they are required to pass or to effect any variation under this Ordinance.

C. The Gilmore Township Board of Appeals shall not have the power to alter or change the zoning district classification of any property, nor to make any change in the terms or intent of this Ordinance;

these powers are reserved to the governing body.

Section 13.4 ZONING APPEALS

The Board of Appeals shall hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by the Zoning Administrator or by any other official in administering or enforcing any provisions of this Ordinance. The procedure for appealing to the Zoning Board of Appeals, or requesting a variance, ordinance interpretation or filing any other request is as follows:

A. The appeal shall be taken within such time as prescribed by the rules or by-laws of the Zoning Board of Appeals.

B. A fee, prescribed by the Township Board, shall be submitted to the Zoning Administrator at the time of the filing of the application form.

C. Appeals to the Zoning Board of Appeals may be taken by any person aggrieved or by an officer, department, board, agency, or bureau of the township, county, state, federal, or other legally constituted form of government.

D. The person, firm, agent, or attorney thereof making the appeal shall file by completing and signing the application form provided by the Township.

E. All persons shall file a written statement signed by the principal stating the agent's right to act upon their behalf.

F. A completed application form shall be submitted to the Zoning Administrator. The application shall state the reasons for the appeal and the order or ruling appealed from. When applicable, the legal description of the property involved shall be stated in the notice of appeal. Before the appeal is processed, the fees shall be collected. If the Zoning Administrator determines that the application does not fully comply with the submittal requirements shall be returned to the applicant. If the application is approved the Zoning Administrator shall forthwith transmit to the recording secretary for the Zoning Board of Appeals the application and all papers constituting the record from which the appeal was taken.

G. An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the Board of Appeals after the application of appeal shall have been filed, that by reason of facts stated in the appeal application, a stay would in his or her opinion cause imminent peril to life and property.

H. When a properly executed application form has been filed, the recording secretary, upon consultation with the chairman for the Zoning Board of Appeals, shall schedule the matter for a public hearing.

I. Notice provided per Section 103 of Public Act 110 of 2006..

J. Once all the necessary information has been received, the Board of Appeals shall return a decision on a case in a timely manner, or if time frames are included within its rules of procedure, then within the time specified in the rules of procedure.

97
98 K. No Zoning Permit shall be issued by the Zoning Administrator based on a decision of the Board of
99 Appeals before eight (8) days have expired.

100
101 **Section 13.5 VARIANCES**

102
103 The Board of Appeals shall have the power to authorize, upon appeal, a dimensional non-use variance
104 from requirements of the Zoning Ordinance, provided the applicant has proven a "practical difficulty", by
105 demonstrating as follows:

106
107 A. That strict compliance with the Ordinance would unreasonably prevent the owner from using the
108 property for a permitted purpose, or would render conformity with such restrictions unnecessarily
109 burdensome;

110
111 B. That the problem is due to a unique circumstance of the property;

112
113 C. That the specific conditions relating to the property are not so general or recurrent in nature, in
114 the zoning district, so as to require an amendment to the zoning ordinance, instead of a variance;

115
116 D. The property problem was not created by the action of the applicant;

117
118 E. That the granting of the variance will not cause a substantial adverse effect upon property values
119 in the immediate vicinity, or in the district in which the property of the applicant is located;

120
121 F. That the requested variance will relate only to the property under the control of the applicant;

122
123 G. That the non-conforming dimensions of other lands, structures, or buildings in the same zoning
124 district shall not be considered grounds for the issuance of a variance;

125
126 H. That the variance is the minimum variance that will make possible the reasonable use of the land,
127 building or structure in the zoning district in which it is located;

128
129 I. That the proposed use of the premises is in accord with the Zoning Ordinance;

130
131 J. That the variance would do substantial justice to the applicant as well as to other property owners
132 in the district;

133
134 K. That the granting of the variance will ensure that the spirit of the ordinance is observed, public
135 safety secured and substantial justice applied;

136
137 L. That the requested variance shall not amend the permitted uses of the zoning district in which it
138 is located.

139
140 **Section 13.6 RULES FOR GRANTING VARIANCES**

141
142 The following rules shall be applied in the granting of a variance:

143
144 A. The Zoning Board of Appeals shall specify, in writing, such conditions regarding the character,
145 location, and other features which will, in its judgment, secure the objectives and intent of this Ordinance,

provided there is an applicable standard in this Ordinance to serve as the basis for such condition. The breach of such condition shall automatically invalidate the permit granted.

B. Each variance granted under the provisions of this Ordinance shall become null and void unless the construction authorized has been commenced within one (1) year after the hearing date when the variance was granted.

Section 13.7 INTERPRETATION AND OTHER POWERS

The Board of Appeals shall have the power to:

A. Interpret, upon request, the provisions of this Ordinance in such a way as to carry out the intent and purpose of this Ordinance.

B. Determine the precise location of the boundary lines between zoning districts.

C. Classify a use which is not specifically mentioned as part of the use regulations of any zoning district so that it conforms to a comparable permitted or prohibited use, in accordance with the purpose and intent of each district. The classification of the unmentioned use does not automatically permit the use, it only identifies the district in which it may be located and the zoning regulations with which it must conform.

D. Determine the signage, landscaping, buffering, off-street parking and loading space requirements of any use not specifically mentioned in this Ordinance, by applying the most comparable provisions for other similar uses.

E. When making an interpretation, the Board of Appeals shall carefully consider the definitions in Article II, the meaning of all the relevant sections in the Ordinance, past decisions of the Board of Appeals on similar matters, research and any conclusions by the Zoning Administrator, consultant or attorney paid by the Township, and shall make a decision on the narrowest grounds feasible so as not to upset the meaning and application of this Ordinance.

Section 13.8 DETERMINATION OF A LOT OF RECORD

The Board of Appeals shall have the power to make "Lot of Record" determinations in accordance with the following procedure:

A. Upon application of any person claiming to be the owner of the legal or equitable title to a parcel of land which was the subject to a deed or land contract, not recorded in the Office of the Register of Deeds on the effective date of this Ordinance, the Board of Appeals is authorized to conduct a hearing to determine whether a variance should be granted to such owner entitling him to have the parcel treated as a "lot of record" as provided for in this Ordinance.

B. The Board shall grant said variance when it finds by a preponderance of the evidence that the instrument purporting to transfer title to the parcel of said owner was executed prior to the effective date of this Ordinance. In making its determination, the Board is authorized to consider all matters it deems relevant, including but not limited to, the tax roll of the Township, the relationship of the parties to the

purported transfer, the degree of formality of the purported document of transfer, and the testimony of the applicant and his witnesses.

C. Such a determination shall have only the effect of equating such an owner with the owner of a lot of record and shall not relieve such owner from complying with the other requirements set forth in this Ordinance.

Section 13.9 NONCONFORMITY APPEALS

Nonconforming buildings or structures may be structurally changed, altered, or enlarged upon appeal in cases of hardship or other extenuating circumstances, and when approval of said appeal will not have an adverse effect on surrounding property, and when consistent with the requirements of this Ordinance.

Section 13.12 FINDINGS OF FACT

A. The Board of Appeals shall grant no variance or make any determination on an appeal, ordinance interpretation or other issue requested of it unless the Board records specific findings of fact based directly on the particular evidence presented to it. These findings of fact must support conclusions that the standards imposed by the requirements of this Ordinance have been met.

B. Said findings of fact shall include, but not be limited to the following information:

1. How the application of the Zoning Ordinance creates unnecessary hardship or practical difficulty in the use of petitioner's property.
2. Identify the unique physical circumstances or conditions or exceptional topography that create practical difficulties.
3. Specific findings (characteristics of the land) showing that because of physical circumstances or conditions there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance.
4. That the authorization of a variance is, therefore, necessary to enable the reasonable use of the property and that the condition is specific to this property and not general to other properties in the area.
5. Finding that the practical difficulty was not created by the appellant and is related only to property that is owned or occupied by the appellant.
6. A statement of the impacts of the variance if authorized, the property values, use and enjoyment of the property in the neighborhood or district, and on the public, health, safety and welfare.
7. The proposed variance does not permit the establishment of any use which is not permitted by right within the district or any use or dimensional variance for which a Special Use Permit is necessary.
8. Findings on whether the proposed development complies with the requirements, standards or procedures given in the Zoning Ordinance or an interpretation of the disputed ordinance provisions, if applicable.
9. Findings on any error in judgment or procedure in the administration of the relevant zoning provisions.
10. The possible precedents or affects which might result from the approval or denial or the appeal.

- 240 11. Findings on the impact if the appeal is approved, on the ability of the Township or other
241 governmental agency to provide adequate public services and facilities and/or programs
242 that might reasonably require in the future if the appeal is approved.
243

244 **Section 13.13 BURDEN OF PROOF IN APPEALS AND VARIANCES**
245

246 When an appeal is taken to the Board of Appeals, the applicant shall have the burden of presenting to the
247 Board sufficient evidence and argument to justify the requested order or decision.
248

249 **Section 13.14 RE-APPLICATIONS AND REHEARINGS**
250

251 A. Any request for reapplication or rehearing shall be made pursuant to the requirements of Section
252 13.4. If the Board of Appeals votes to consider a reapplication or to grant a rehearing, the Board shall
253 then, at the same hearing, proceed with the appeal, variance or interpretation without charging the
254 applicant a second fee.
255

256 B. A request for rehearing shall be made within eight (8) days from the meeting at which the original
257 decision was made.
258

259 **Section 13.15 BOND AUTHORIZED**
260

261 In authorizing any variance, the Board of Appeals may require that a bond or other performance
262 guarantee be furnished to insure compliance with the requirements, specifications and conditions
263 imposed with the granting of a variance.

Article 14
ADMINISTRATION AND ENFORCEMENT

14.1 Enforcement

The provisions of this ordinance shall be administered and enforced by the Zoning Administrator or by such deputies of this department as the Zoning Administrator may delegate to enforce the provisions of this Ordinance.

14.2 Duties of Zoning Administrator

The Zoning Administrator shall have the power to grant zoning compliance and occupancy permits, and to make inspections of buildings or premises necessary to carry out their duties in the enforcement of this Ordinance. It shall be unlawful for the Zoning Administrator to approve any plans or issue any permits or certificates of occupancy for any excavation or construction until he has inspected such plans in detail and found them to conform with this ordinance.

The Zoning Administrator shall record all nonconforming uses existing at the effective date of this Ordinance for the purpose of carrying out the provisions of Article 12.

The Zoning Administrator shall not refuse to issue a permit whenever all conditions and requirements imposed by this ordinance are complied with.

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

14.3 Plot Plan

The Zoning Administrator shall require that all applications for land use permits shall be accompanied by plans and specifications including a plot plan, in triplicate, drawn to scale, showing the following:

- A. The actual shape, location, and dimensions of the lot.
- B. The shape, size, and location of all buildings or other structures to be erected, altered or moved, and of any building or other structures already on the lot.
- C. The existing and intended use of the lot and of all such structures upon it, including, in residential areas, the number of dwelling units the building is intended to accommodate.
- D. Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this Ordinance are being observed.

14.4 Permits

The following shall apply in the issuance of any permit:

- A. Permits Not to be Issued: No land use permit shall be issued for the erection, alteration, or use of any building or structure, or part thereof, or for the use of any land which is not in accordance with all provisions of this Ordinance.

- 48 B. Permits for New Use of Land: No land heretofore vacant shall hereafter be used, or an existing
49 use of land be hereafter changed to a use of a different class or type unless a land use permit
50 is first obtained for the new or different use.
51
- 52 C. Permits for New Use of Buildings: No building or structure, or part thereof, shall be changed
53 to or occupied by a use of a different class or type unless a land use permit is first obtained
54 for the new or different use.
55
- 56 D. Permits Required for the Erection, Alteration or Repair of Buildings: No building or structure,
57 or part thereof, shall be hereafter erected, altered, moved, or repaired unless a land use
58 permit shall have been first issued for such work. The terms "altered" and "repaired" shall
59 include any changes in structural parts, stairways, type of construction, type, class or kind of
60 occupancy, light or ventilation, means of egress and ingress, or other changes affecting or
61 regulated by State Construction Building Code, Housing Law, or this Ordinance, except for
62 minor repairs or changes not involving any of the aforesaid features.
63
- 64 E. Permits for Wrecking Buildings: Before a building or structure can be wrecked, the owner,
65 wrecking company, or person who secures the permit shall notify all utilities having service
66 connections within the building such as water, electric, gas, sewer, and other connections. A
67 permit to wreck a building shall not be issued unless a release is obtained from the utilities
68 stating that their respective service connections and appurtenant equipment, such as meters
69 and regulators, have been removed and/or sealed and plugged in a safe manner; nor shall a
70 wrecking permit be issued until a report has been received from the public utility companies
71 concerned, that said wrecking operations may be accomplished in such a manner as not to
72 create a hazardous condition as a result of the proximity of such public utility installations.
73
- 74 1. Before a permit is issued for the wrecking of any building, such application for permit
75 shall be referred to the Zoning Administrator for examination of the premises to
76 determine whether or not rodent and/or insect extermination procedures are
77 necessary.
78
- 79 2. The wrecking company, or person who secures the permit for the razing of the
80 structure, will be held responsible for the compliance with these regulations and
81 other laws and ordinances covering this subject. He will also be held responsible and
82 liable for the acts of subcontractors or other persons who do any work of removal or
83 destruction in the wrecking of the building. The methods to be used in wrecking shall
84 not involve undue hazards to the public or unnecessary danger to the workmen and
85 shall be in accordance with good practice. Crane, back hoe, bulldozer, high loader,
86 ball, clam-bucket, chain, cable, and other similar mechanical devices shall not be used
87 to wreck buildings or structures except in individual cases wherein detailed plans and
88 proposed procedures are submitted with the application for wrecking permit and are
89 approved by the building official. Suitable provision shall be made for the disposal of
90 materials which are accumulated during the wrecking operations. No part of the
91 structure shall be overloaded by excessive storage of materials or debris. Chutes,
92 scaffolds, derricks, and hoists shall be strong and substantial, and safe for the purpose
93 for which they are intended. Materials, which in their removal, would cause an
94 excessive amount of dust, shall be well wet down to prevent the creation of a
95 nuisance. No open fires or other sources of flame except necessary cutting torches

will be permitted on the inside of the building which is being wrecked, not in close proximity to flammable materials outside of the building, and every precaution shall be taken to prevent the possibility of fire.

3. Blasting and use of explosives shall be done only by a person licensed the State of Michigan and approved by the Fire Marshall and Zoning Administrator to perform such work and notification shall be given to the Township and surrounding property owners within three hundred (300) feet of the site and within five (5) calendar days of the work.
4. The requirements of this section are designated as the minimum necessary for average conditions and, in the case of unusual or dangerous situations, adequate provision shall be made and every precaution taken to protect the safety of the public and workmen. All abandoned basements or cellars and holes shall be filled to grade, and all excess materials, rubbish, and debris shall not be permitted to remain on the premises above grade. The Fire Department shall be notified before removing standpipes, sprinklers, or fire protection water supplies.
5. Expiration of Land Use Permit: If the work described in any land use permit has not begun with twelve (12) months from the date of issuance thereof, said permit shall expire; it shall be canceled by the Zoning Administrator, and written notice thereof shall be given to the persons affected. If the work described in any land use permit has not been substantially completed within two (2) years of the date of issuance thereof, said permit shall expire and be canceled by the Zoning Administrator, and written notice thereof shall be given to the persons affected, together with notice that further work, as described in the canceled permit, shall not proceed unless, and until, a new land use permit has been obtained.
6. Timing of Permits
 - a. The Zoning Administrator or appropriate governing body has the power to require a permit to be obtained.
 - b. The Zoning Administrator or appropriate governing body may require construction to commence within a specified date from the date of issuance of the permit, that the construction be pursued in a diligent manner, and that the construction be completed by a specified date.
 - c. Any time periods specified in the ordinance for the start and completion of a project may be modified by the applicable body as a condition of project approval.

14.5 Certificates

No land, building, or part thereof, shall be occupied by, or for any use, unless and until a certificate of occupancy shall have been issued for such use. The following shall apply in the issuance of any certificate:

- 142 A. Certificates Not to be Issued: No certificate of land use compliance shall be issued for any
143 building, structure or part thereof, or for the use of any land which is not in accordance with
144 all the provisions of this Ordinance or for which a variance has been granted.
145
- 146 B. Certificates Required: No building or structure, or parts thereof, which is hereafter erected,
147 or altered, shall be occupied or used or the same caused to be done, unless and until a
148 certificate of land use compliance shall have been issued for such building or structure.
149
- 150 C. Record of Certificates: A record of all certificates issued shall be kept on file in the office of
151 the Zoning Administrator, and copies shall be furnished upon request to any person having a
152 proprietary or tenancy interest in the property involved.
153
- 154 D. Application for Certificates: Application for Certificate of Land Use Permit Compliance shall be
155 made, in writing, to the Zoning Administrator on forms furnished by that Department, and
156 such certificates shall be issued within five (5) days after receipt of such application if it is
157 found that the building or structure, or part thereof, or the use of land is in accordance with
158 the provisions of this Ordinance. If such certificate is refused for cause, the applicant
159 therefore shall be notified of such refusal and cause thereof, within the aforesaid five (5) day
160 period.
161
- 162 E. A Certificate of Land Use Permit Compliance for any improvement will not be issued nor shall
163 the property be used or occupied in any way until the required physical site improvements
164 are fulfilled. In instances where all improvements as required by this Ordinance are not
165 completed and a temporary certificate of occupancy is requested, the cost of such remaining
166 improvements shall be estimated by the Zoning Administrator, taking into account the criteria
167 listed above. The Zoning Administrator may grant temporary occupancy if use of the premises
168 does not constitute a hazard or nuisance. Temporary occupancy will not be granted until
169 satisfactory cash bond or irrevocable letter of credit in the amount of the estimated cost of
170 completion is filed with the Gilmore Township Planning Commission. If the work is not
171 completed by the date specified on the temporary occupancy permit, the Commission may
172 use the cash, surety bond or irrevocable letter of credit to complete the improvements.
173

174 **14.6 Inspection**

175 The holder of every land use permit for the construction, erection, alteration, repair, or moving of any
176 building, structure, or part thereof, shall notify the Zoning Administrator, or their designee, immediately
177 upon the completion of the work authorized by such permit for a final inspection. The Zoning
178 Administrator has the authority to make periodic inspections to ensure compliance of the Zoning
179 Ordinance. Authorization for period or formal inspections shall be incorporated in applicable permits.
180

181 **14.7 Fees**

182 Fees for inspection and the issuance of permits or certificates of copies thereof, required or issued under
183 the provisions of this Ordinance, may be collected by the Zoning Administrator in advance of issuance.
184 The amount of such fees shall be established by resolution of the Township Board and shall cover the cost
185 of inspection and supervision resulting from enforcement of this Ordinance.
186
187
188
189

190 **14.8 Requests for Information and Complaints**

191 Any request for information and/or complaint regarding an interpretation of a zoning provision,
192 administrative or enforcement of any provisions shall be submitted to the Township in writing for review
193 and action. Only written communication will be considered.
194

195 **14.9 Violations**

196 Any person, firm, or corporation violating any of the provisions of this Ordinance shall be guilty of a
197 misdemeanor, and upon conviction thereof, shall be subject to a fine of not more than five hundred (\$500)
198 dollars and the costs of prosecution or, in default of the payment thereof, shall be punished by
199 imprisonment in the County Jail for a period not-to-exceed ninety (90) days for each offense, or by both
200 such fine and imprisonment in the discretion of the court, together with the costs of such prosecution.
201

202 **14.10 Public Nuisance Per Se**

203 Any building or structure which is erected, altered or converted, or any use of premises or land which is
204 begun or changed subsequent to the time of passage of this Ordinance and in violation of any of the
205 provisions thereof, is hereby declared to be a public nuisance per se, and may be abated by order of any
206 court of competent jurisdiction.
207

208 **14.11 Fines, Imprisonment**

209 Except as otherwise provided, any person violating any of the provisions of this chapter shall be
210 responsible for a municipal civil infraction and shall be subject to a fine for each infraction, as established
211 by the township board, along with the costs for prosecution. The imposition of any penalty shall not
212 exempt the offender from compliance with the requirements of this chapter.
213

214 **14.12 Each Day a Separate Offense**

215 A separate offense shall be deemed committed upon each day during or when a violation occurs or
216 continues.
217

218 **14.32 Rights and Remedies are Cumulative**

219 The rights and remedies provided herein are cumulative and in addition to any other remedies provided
220 by law.
221

222 **14.14 Performance Guarantee**

- 223
- 224 A. Where in this Ordinance there is delegated to the Zoning Board of Appeals and the Gilmore
225 Township Planning Commission the function of establishing certain physical site
226 improvements as a contingency to securing a zoning amendment, site plan approval, special
227 approval or variance, the Zoning Board of Appeals or the Gilmore Township Planning
228 Commission shall, to ensure strict compliance with any regulation contained herein or
229 required as a condition of the issuance of a permit, require a cash, performance or surety
230 bond executed by a reputable surety company authorized to do business in the state, or
231 irrevocable letter of credit, in an amount determined by the Zoning Board of Appeals or the
232 Gilmore Township Planning Commission to be reasonably necessary to ensure compliance
233 hereunder; provided, however, that in fixing the amount of such cash, performance, surety
234 bond or irrevocable letter of credit, consideration shall be given to the size and scope of the
235 proposed improvement project, current prevailing cost of rehabilitating the premises upon
236 default of the operator, estimated expenses to compel the operator to comply by court

237 decree, and such other factors and conditions as might be relevant in determining the sum
238 reasonable in the light of all facts and circumstances surrounding each application.

- 239
- 240 B. The performance guarantee shall be deposited with the Gilmore Township Planning
241 Commission at the time of the issuance of the permit authorizing the activity or project.
- 242
- 243 C. The Gilmore Township Planning Commission shall establish procedures whereby a rebate of
244 cash deposits, in reasonable proportion to the ratio of work completed on the required
245 improvements, will be made as work progresses.
- 246
- 247 D. As used in this section, "improvements" means those features and actions associated with a
248 project which are considered necessary by the body or official granting approval to protect
249 natural resources or the health, safety and welfare of the residents of the Township and
250 future users or inhabitants of the proposed project or project area, including but not limited
251 to roadways, paving, walls, curbing, striping, lighting utilities, sidewalks, screening
252 landscaping and drainage.

253

254 Objection to a performance guarantee requirement must be in writing and filed with the
255 Gilmore Township Planning Commission within thirty (30) days of notice of the requirement.
256 The determination of the Commission shall be final.

257

Article 15
CHANGES AND AMENDMENTS

15.1 Purpose

The Township may from time-to-time, on recommendation from the Gilmore Township Planning Commission, its own initiative or on petition, amend, supplement or change the district boundaries or the regulations herein, or subsequently established herein pursuant to the authority and procedure established in Act 110 of the Public Acts of 2006, as amended.

15.2 Petition for Amendments

An amendment to the Zoning Ordinance is subject to a protest petition. If a protest petition is filed, approval of the amendment to the Zoning Ordinance shall require a two-thirds (2/3) vote of the Gilmore Township Planning Commission, unless a larger vote, but not to exceed three-quarters (¾) vote, if required by ordinance or charter. The protest petition shall be presented to the Gilmore Township Planning Commission before final legislative action on the amendment, and shall be signed by one (1) or more of the following:

- A. The owners of at least twenty-percent (20%) of the area of land included in the proposed change.
- B. The owners of at least twenty-percent (20%) of the area of land included within an area extending outward one hundred (100) feet from any point on the boundary of the land included in the proposed change.
- C. For the purposes of this section publicly owned land shall be excluded in calculating the twenty-percent (20%) land area requirement.

15.3 Conditional Rezoning

- A. Intent. 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 Michigan Zoning Enabling Act (MCL125.3405) 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.
- B. 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.

- 49 3. The owner's offer of conditions may not purport to authorize uses or developments not
50 permitted in the requested new zoning district.
51
52 4. The owner's offer of conditions shall bear a reasonable and rational relationship to the
53 property for which rezoning is requested.
54
55 5. Any use or development proposed as part of an offer of conditions that would require a
56 special land use permit under the terms of this Ordinance may only be commenced if a
57 special land use permit for such use or development is ultimately granted in accordance
58 with the provisions of this Ordinance.
59
60 6. Any use or development proposed as part of an offer of conditions that would require a
61 variance under the terms of this Ordinance may only be commenced if a variance for such
62 use or development is ultimately granted by the Zoning Board of Appeals in accordance
63 with the provisions of this Ordinance.
64
65 7. Any use or development proposed as part of an offer of conditions that would require
66 site plan approval under the terms of this Ordinance may only be commenced if site plan
67 approval for such use or development is ultimately granted in accordance with the
68 provisions of this Ordinance.
69
70 8. The offer of conditions may be amended during the process of rezoning consideration
71 provided that any amended or additional conditions are entered voluntarily by the owner.
72 An owner may withdraw all or part of its offer of conditions any time prior to final rezoning
73 action of the Township Board provided that, if such withdrawal occurs subsequent to the
74 Planning Commission's public hearing on the original rezoning request, then the rezoning
75 application shall be referred to the Planning Commission for a new public hearing with
76 appropriate notice and a new recommendation.
77

78 C. Planning Commission Review. The Planning Commission, after public hearing and consideration
79 of the factors for rezoning set forth in Section 15 of this Ordinance, may recommend approval,
80 approval with recommended changes or denial of the rezoning; provided, however, that any
81 recommended changes to the offer of conditions are acceptable to and thereafter offered by the
82 owner.
83

84 D. Township Board Review. After receipt of the Planning Commission's recommendation, the
85 Township Board shall deliberate upon the requested rezoning and may approve or deny the
86 conditional rezoning request. The Township Board's deliberations shall include, but not be limited
87 to, a consideration of the factors for rezoning set forth in Section 15 of this Ordinance. Should the
88 Township Board consider amendments to the proposed conditional rezoning advisable and if such
89 contemplated amendments to the offer of conditions are acceptable to and thereafter offered by
90 the owner, then the Township Board shall refer such amendments to the Planning Commission
91 for a report thereon within a time specified by the Township Board and proceed thereafter in
92 accordance with said statute to deny or approve the conditional rezoning with or without
93 amendments.
94
95
96

97 E. Approval.

- 98 1. If the Township Board finds the rezoning request and offer of conditions acceptable, the
99 offered conditions shall be incorporated into a formal written Statement of Conditions
100 acceptable to the owner and conforming in form to the provisions of this Section. The
101 Statement of Conditions shall be incorporated by attachment or otherwise as an
102 inseparable part of the ordinance adopted by the Township Board to accomplish the
103 requested rezoning.

104
105 2. The Statement of Conditions shall:

- 106
107 a. Be in a form recordable with the Register of Deeds of the County in which the
108 subject land is located or, in the alternative, be accompanied by a recordable
109 Affidavit or Memorandum prepared and signed by the owner giving notice of the
110 Statement of Conditions in a manner acceptable to the Township Board.
111
112 b. Contain a legal description of the land to which it pertains.
113
114 c. Contain a statement acknowledging that the Statement of Conditions runs with
115 the land and is binding upon successor owners of the land.
116
117 d. Incorporate by attachment or reference any diagram, plans or other documents
118 submitted or approved by the owner that are necessary to illustrate the
119 implementation of the Statement of Conditions. If any such documents are
120 incorporated by reference, the reference shall specify where the document may
121 be examined.
122
123 e. Contain a statement acknowledging that the Statement of Conditions or an
124 Affidavit or Memorandum giving notice thereof may be recorded by the Township
125 with the Register of Deeds of the County in which the land referenced in the
126 Statement of Conditions is located.
127
128 f. Contain the notarized signatures of all of the owners of the subject land preceded
129 by a statement attesting to the fact that they voluntarily offer and consent to the
130 provisions contained within the Statement of Conditions.
131

- 132 3. Upon the rezoning taking effect, the Zoning Map shall be amended to reflect the new
133 zoning classification along with a designation that the land was rezoned with a Statement
134 of Conditions. The Township Clerk shall maintain a listing of all lands rezoned with a
135 Statement of Conditions.
136

- 137 4. The approved Statement of Conditions or an Affidavit or Memorandum giving notice
138 thereof shall be filed by the Township with the Register of Deeds of the County in which the
139 land is located. The Township Board shall have authority to waive this requirement if it
140 determines that, given the nature of the conditions and/or the time frame within which the
141 conditions are to be satisfied, the recording of such a document would be of no material
142 benefit to the Township or to any subsequent owner of the land.
143

144 5. Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter
145 to all of the requirements regulating use and development within the new zoning district as
146 modified by any more restrictive provisions contained in the Statement of Conditions.
147

148 F. Compliance with Conditions.
149

150 1. Any person who establishes a development or commences a use upon land that has been
151 rezoned with conditions shall continuously operate and maintain the development or use
152 in compliance with all of the conditions set forth in the Statement of Conditions. Any failure
153 to comply with a condition contained within the Statement of Conditions shall constitute a
154 violation of this Zoning Ordinance and be punishable accordingly. Additionally, any such
155 violation shall be deemed a nuisance per se and subject to judicial abatement as provided
156 by law.
157

158 2. No permit or approval shall be granted under this Ordinance for any use or development
159 that is contrary to an applicable Statement of Conditions.
160

161 G. Time Period for Establishing Development or Use. Unless another time period is specified in
162 the Ordinance rezoning the subject land, the approved development and/or use of the land
163 pursuant to building and other required permits must be commenced upon the land within 18
164 months after the rezoning took effect and thereafter proceed diligently to completion. This time
165 limitation may upon written request be extended by the Township Board if (1) it is demonstrated
166 to the Township Board's reasonable satisfaction that there is a strong likelihood that the
167 development and/or use will commence within the period of extension and proceed diligently
168 thereafter to completion and (2) the Township Board finds that there has not been a change in
169 circumstances that would render the current zoning with Statement of Conditions incompatible
170 with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning
171 policy.
172

173 H. Reversion of Zoning. If approved development and/or use of the rezoned land does not occur
174 within the time frame specified under Subsection G above, then the land shall revert to its former
175 zoning classification as set forth in MCL 125.3405 (2). The reversion process shall be initiated by
176 the Township Board requesting that the Planning Commission proceed with consideration of
177 rezoning of the land to its former zoning classification. The procedure for considering and making
178 this reversionary rezoning shall thereafter be the same as applies to all other rezoning requests.
179

180 I. Subsequent Rezoning of Land. When land that is rezoned with a Statement of Conditions is
181 thereafter rezoned to a different zoning classification or to the same zoning classification but with
182 a different or no Statement of Conditions, whether as a result of a reversion of zoning pursuant
183 to Subsection H above or otherwise, the Statement of Conditions imposed under the former
184 zoning classification shall cease to be in effect. Upon the owner's written request, the Township
185 Clerk shall record with the Register of Deeds of the County in which the land is located a notice
186 that the Statement of Conditions is no longer in effect.
187
188
189
190
191

192 J. Amendment of Conditions.

193
194 1. During the time period for commencement of an approved development or use specified
195 pursuant to Subsection G above or during any extension thereof granted by the Township
196 Board, the Township shall not add to or alter the conditions in the Statement of Conditions.

197
198 2. The Statement of Conditions may be amended thereafter in the same manner as was
199 prescribed for the original rezoning and Statement of Conditions.
200

201 K. Township Right to Rezone. Nothing in the Statement of Conditions nor in the provisions of this
202 Section shall be deemed to prohibit the Township from rezoning all or any portion of land that is
203 subject to a Statement of Conditions to another zoning classification. Any rezoning shall be
204 conducted in compliance with this Ordinance and the Michigan Zoning Enabling Act (Public Act
205 110 of 2006, as amended).

206
207 L. Failure to Offer Conditions. The Township shall not require an owner to offer conditions as a
208 requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights
209 under this Ordinance.
210

211 **15.4 Factors to Consider when Rezoning Any Parcel**

212 In reviewing an application for the rezoning of land, whether the application be made with or without an
213 offer of conditions, factors that should be considered by the Planning Commission and the Township
214 Board include, but are not limited to, the following:
215

216 A. Whether the rezoning is consistent with the policies and uses proposed for that area in the
217 Township's Master Land Use Plan;

218
219 B. Whether all of the uses allowed under the proposed rezoning would be compatible with other
220 zones and uses in the surrounding area;

221
222 C. Whether any public services and facilities would be significantly adversely impacted by a
223 development or use allowed under the requested rezoning; and
224

225 D. Whether the uses allowed under the proposed rezoning would be equally or better suited to
226 the area than uses allowed under the current zoning of the land.
227
228

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Article 16
PUBLIC HEARINGS AND NOTIFICATION PROCEDURES

16.1 Public Notice

Public Notification: All applicants for development approval requiring a public hearing, regardless of whether or not action to be taken is by the Gilmore Township Planning Commission or Zoning Board of Appeals shall comply with the Michigan Zoning Enabling Act, PA 110 of 2006; Section 103; MCL 125.3103 with regard to public notification.

Article 17

INTERPRETATION AND CONFLICT

17.1 Interpretation

In the interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements adopted for the promotion of the public health, morals, safety, comfort, convenience, or general welfare. It is not intended by this Ordinance to repeal, abrogate, annul, or in any way to impair or interfere with any existing provision of law or ordinance other than the above described Zoning Ordinance, or with any rules, regulations, or permits previously adopted or issued or which shall be adopted or issued pursuant to the law relating to the use of buildings or premises; provided, however, that where this Ordinance imposes a greater restriction than is required by existing Ordinance or by rules, regulations or permits, the provisions of this Ordinance shall control.

17.2 Vested Right

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

17.3 Severability

If any part of this Ordinance be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not invalidate the remainder thereof, but shall be confined in its operation to the part thereof directly involved in the controversy in which said judgment shall have been rendered.