

**GREATER  
THOMPSONVILLE  
AREA  
  
ZONING  
ORDINANCE**

Colfax Township Ordinance No. \_\_\_\_  
Weldon Township Ordinance No. \_\_\_\_  
Village of Thompsonville Ordinance No. \_\_\_\_

**DRAFT**  
**October 20, 2014**

Colfax Township    Weldon Township  
Village of Thompsonville  
**Benzie County, Michigan**

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County of Benzie, State of Michigan**

**Colfax Township  
Ord. No. \_\_\_\_**

**Weldon Township  
Ord. No. \_\_\_\_**

**Village of Thompsonville  
Ord. No. \_\_\_\_**

**GREATER THOMPSONVILLE AREA  
ZONING ORDINANCE**

**An Ordinance enacted by Colfax Township, Weldon Township and the Village of Thompsonville pursuant to Public Act 110 of 2006, as amended, the Michigan Zoning Enabling Act and Public Act 226 of 2003, as amended, the Michigan Joint Planning Act, to serve as a joint zoning ordinance for the three municipalities, to regulate the use and development of land and provide for the establishment of districts within which specified land use and development may occur including restrictions and requirements for structures, buildings, yards and development densities, and to establish a permitting system to ensure reasonable review and authorization of land uses and development including the issuance of permits, appeals of decisions and penalties for violations.**

**COLFAX TOWNSHIP, WELDON TOWNSHIP and the VILLAGE OF THOMPSONVILLE ORDAIN:**

**Article 1  
TITLE and PURPOSE**

**Section 1.1 Title**

This Ordinance shall be known and cited as the Greater Thompsonville Area Zoning Ordinance.

**Section 1.2 Purpose**

- A.** It is the purpose of this Zoning Ordinance to:
1. Regulate the use of land and structures to meet the needs of the state's citizens for food, fiber, energy and other natural resources, places of residence, recreation, industry, trade, service and other uses of land in accordance with the land's character and adaptability;
  2. Ensure that the use of land is situated in appropriate locations and relationships;
  3. Limit the inappropriate overcrowding of land and congestion of population, transportation systems, and other public facilities;
  4. Facilitate adequate and efficient provision for transportation systems, sewage disposal, water, energy, education, recreation and other public service and facility requirements;
  5. Promote public health, safety and welfare including the conservation of property values and natural resources including wooded areas, wetlands and water resources;
  6. Implement the goals, objectives and policies of the Greater Thompsonville Area Master Plan adopted pursuant to the Michigan Planning Enabling Act, Public Act 33 of 2008, as amended; and
  7. Advance all other purposes as authorized by the Michigan Zoning Enabling Act.

**End of Article 1**



**Article 2**  
**INTERPRETATION, SEVERABILITY, VESTED RIGHT, REPEAL,**  
**and EFFECTIVE DATE**

**Section 2.1 Interpretation**

In interpreting and applying the provisions of this Ordinance, they shall be held to the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, prosperity and general welfare. Unless specifically provided for, it is not intended by this Ordinance to repeal, abrogate, annul or in any way to impair or interfere with the existing and unrepealed provisions of any laws or ordinances or any rules, regulations or permits previously adopted or issued pursuant to law relating to the use of building or land. Where this Ordinance imposes a greater restriction upon the use of buildings or structures or land or other open spaces than are imposed or required by such existing provisions of law or ordinance or by such rules, regulations or permits, the provisions of this Ordinance shall control.

**Section 2.2 Severance Clause**

Sections of this Ordinance and amendments thereto shall be deemed to be severable and should any section, paragraph, or provision thereof be declared by the courts to be unconstitutional or invalid, such holdings shall not affect the validity of this Ordinance as a whole or any other part thereof, other than the part so declared to be unconstitutional or invalid by court decree. Further, if any court shall declare invalid the application of any provision of this Ordinance to a particular parcel, lot, use, building or structure, such ruling shall not affect the application of said provision to any other parcel, lot, use, building or structure not specifically included in said ruling.

**Section 2.3 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. Vested rights 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, except as provided in Article 7, Nonconforming Lots, Uses and Structures.

**Section 2.4 Repeal**

The Weldon Township Zoning Ordinance adopted on August 8, 2006, and the Village of Thompsonville Zoning Ordinance adopted on August 25, 1997, and all amendments to such ordinances, are hereby repealed as of the effective date of this Ordinance. The repeal of such ordinances and amendments does not affect or impair any act done, offense committed or right accrued or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time it was enforced, prosecuted or inflicted.

**Section 2.5 Effective Date**

This Ordinance shall take effect eight (8) days following adoption and upon publication of a notice of adoption in accordance with the provisions and procedures of the Michigan Zoning Enabling Act, PA 110 of 2006, as amended. Made and passed as follows:

Colfax Township: \_\_\_\_\_, 2015.  
Weldon Township: \_\_\_\_\_, 2015.  
Village of Thompsonville: \_\_\_\_\_, 2015.

**End of Article 2**

## Article 3 GENERAL ADMINISTRATION, ENFORCEMENT and PENALTIES

### **Section 3.1 Purpose**

It is the purpose of this Article to provide for the administration and enforcement of this Ordinance, including the creation of a review and permit process. The primary permit process shall require the issuance of a zoning permit which shall indicate that the uses and plans for which the permit is requested comply with this Ordinance. Upon the issuance of a zoning permit, the applicant may establish the use for which the permit has been issued, including the erection of a building or structure, provided a building permit has been obtained from the Building Inspector demonstrating conformance to the requirements of the Construction Code.

### **Section 3.2 Zoning Permit Required**

**A. When a Zoning Permit is Required:** Except as provided in subsection (C) below, none of the following shall occur until the Zoning Administrator has issued a zoning permit that shall signify the proposed activity conforms to the requirements of this Ordinance and, where required by state law, the Building Inspector certifies proposed structures and buildings comply with the Construction Code through the issuance of a building permit:

1. The initiation of any grading or excavation.
2. The erection, enlargement, alteration, movement or demolition of any wall, structure or building.
3. The use of any land or building or change in the use of any land or building, as delineated in the Permitted Uses tables of Article 4, including the conversion of an abandoned building to an active use.

**B. Zoning Permit Form / Approval:** A zoning permit shall be on a form established for such purpose and the completed form shall identify the specific use authorized, the drawings that graphically portray the proposed alterations and improvements to the property and any conditions made part of such permit. No zoning permit or building permit shall be issued for any structure, building or use of land where the use, construction, addition, or alteration would be in violation of this Ordinance. See Section 3.4 regarding application review procedures.

**C. Zoning Permit Exemption:** A zoning permit shall not be required for the following, but the following shall be subject to the standards and other requirements of this Ordinance:

1. The erection, enlargement, alteration, movement or demolition of any building or structure that is no greater than one-hundred (100) square feet in area.
2. The alteration of any wall of any building provided no change is made to the location of an exterior wall and such alterations are in compliance with all requirements and standards of this Ordinance. A building permit may be necessary for such an alteration pursuant to the Construction Code.
3. Fences for farm operations.

### **Section 3.3 Responsibility for Administration**

**A. General Administration:** The administration and enforcement of this Ordinance shall be the responsibility of the legislative bodies of Colfax Township, Weldon Township and the Village of Thompsonville, the Joint Planning Commission (JPC), the Joint Zoning Board of Appeals (JZBA) and such other personnel as designated by the legislative bodies, in accordance with P.A. 110 of 2006, as amended, and this Ordinance. Such legislative bodies shall appoint a Zoning Administrator who shall act as an officer in the administration and enforcement of this Ordinance.

**B. Duties of the Zoning Administrator:** Under no circumstances is the Zoning Administrator permitted to make changes in this Ordinance or to vary the terms of this Ordinance while carrying out the duties prescribed herein. The Zoning Administrator shall perform the duties specified in this Ordinance including, at a minimum:

1. Review Applications: Undertake and/or assist in the review of zoning permit applications and other applications made under this Ordinance, including applications for plot plans, site plans, special land use approvals and variances.
2. Issue Zoning Permits: Issue zoning permits and other approvals when all provisions of this Ordinance have been met and the necessary approval has been granted by the proper body or official.
3. File of Applications: Maintain files of all applications submitted under this Ordinance, actions on such applications and any performance guarantees associated with permits.
4. Inspections and Violations: Assist in the investigation and resolution of violations of this Ordinance including inspections to investigate, monitor and ensure conformance with this Ordinance. The Zoning Administrator is authorized to issue Notices of Request for Correction of Violation and Violation Citation

Tickets pursuant to Section 3.10.

5. Record of Complaints: The Zoning Administrator shall keep a record of any complaint of a violation of this Ordinance and of the action taken in connection with each complaint.
6. Reports: The Zoning Administrator shall, as requested, report to and attend meetings of the JPC, JZBA and legislative bodies, to report on activities pertaining to the issuance of permits, complaints of violation, actions taken on such complaints and other Ordinance administrative and enforcement matters as may arise.

### **Section 3.4 Zoning Permit Application, Review Procedures and Permit Withholding, Revocation and Expiration**

**A. General Application and Review Procedures:** An application for a zoning permit and applicable fee schedule shall be available from the Zoning Administrator. Upon payment of fees and approval of the application, a zoning permit shall be issued. Whenever the Zoning Administrator determines an application for a single-family or two-family dwelling and accessory uses and structures thereto is in conformity with the provisions of this Ordinance, the Zoning Administrator shall issue the zoning permit. Zoning permit applications for uses, buildings and structures not associated with a single-family or two-family dwelling shall be issued by the Zoning Administrator only after the JPC directs the Zoning Administrator to do so unless provided otherwise by this Ordinance.

1. Plot Plan / Site Plan: An application for a zoning permit shall include the submittal of a plot plan or site plan. An application for a single family or two-family dwelling and accessory structures thereto, shall include the submittal of a plot plan according to subsection (B) below. A site plan shall be required for all other uses, structures and buildings and shall be prepared according to Article 13 (Site Plan Review) unless provided otherwise by this Ordinance.
2. Special Land Uses: In addition to meeting the site plan requirements of Article 13, a zoning permit application for a use classified as a "special land use" according to the Permitted Uses tables of Article 4 shall be processed according to the provisions of Article 14 (Special Land Uses).
3. Variances: Where the approval of a variance by the JZBA is necessary for the approval of a proposed plot plan or site plan, no such plot plan or site plan shall be acted upon by the designated approving body until action on the variance request has first been taken by the JZBA pursuant to Article 15.
4. Incomplete Applications: If zoning permit application materials are not administratively complete when received by the body that is to take action on the application, the body may deny such application or otherwise delay action on the application until it is made complete in a comprehensible manner.
5. Performance Guarantees: A performance guarantee may be required as a condition to the issuance of a permit pursuant to Sec. 3.6 of this Ordinance.
6. Permit Refusal in Writing: In any case where a zoning permit or other approval requested under this Ordinance is refused, the Zoning Administrator shall provide the reasons for the refusal to the applicant in writing. Such notification may include a copy of the meeting minutes and motion containing such reasons.
7. Permit Display: A zoning permit shall be displayed, face out, in a conspicuous location on the property subject to the permit and within twenty-four (24) hours of the receipt of such permit.

#### **B. Single Family and Two-Family Dwellings/Plot Plan Approval**

1. Application Required: Application for a zoning permit for a single family or two-family dwelling, including alterations and accessory structures and buildings thereto, shall be submitted to the Zoning Administrator on a form for that purpose. Three (3) copies of all application materials shall be submitted and shall consist of:
  - a. The completed application form and all permit approvals and supporting documents associated with required state or federal permits.
  - b. An accurate, readable, drawing of scale not less than 1" = 100', constituting a plot plan, identifying the following:
    - 1) Name, address and telephone number of the applicant (and owner if different).
    - 2) A scaled property drawing showing lot lines, dimensions, bearings, lot area, legal description and an arrow pointing north. The Zoning Administrator may require a property survey prepared by a Michigan-licensed surveyor where conditions are present that necessitate a greater level of detail and/or accuracy regarding the location of property lines and/or buildings, such as in the case of an existing or proposed building in the immediate proximity of a lot line.
    - 3) The location and footprint of existing structures and the location, height, footprint and scaled floor plans of proposed structures to be erected, altered or moved on the lot.
    - 4) Distances of buildings and structures from lot lines.

- 5) A description of proposed use(s) of the building(s), land and structures.
  - 6) Configuration of the driveway and parking areas.
  - 7) Existing public and private right-of-ways and easements.
  - 8) Existing and/or proposed location of septic drain field and potable water well.
  - 9) In the case of a corner lot, the designated side and rear yard.
  - 10) Any other information deemed necessary by the Zoning Administrator to determine Ordinance compliance and provide for the enforcement of this Ordinance, such as wetland permits, soil and erosion control permits, Natural Rivers Act permits and health department permits including permits for the addition of habitable space to an existing dwelling or other building.
2. **Application Review and Action:** The Zoning Administrator shall review a zoning permit application and determine its conformity with the provisions of this Ordinance. After conducting a review, the Zoning Administrator shall deny, approve, or conditionally approve the application as it pertains to the requirements and standards of this Ordinance. A plot plan shall be approved if it contains the information required by, and is in compliance with this Ordinance.
    - a. The Zoning Administrator shall notify the applicant in writing of the action on the application including any conditions associated with an approval.
    - b. The decision by the Zoning Administrator shall be made within fifteen (15) days of the receipt of a complete application including copies of all required county, state and federal permits.
  3. **Approved Plot Plans:** At least two (2) copies of an approved application, with any conditions contained within, shall be maintained as part of the Zoning Administrator's records. A third copy shall be returned to the applicant. Each copy of the approved plans shall be signed and dated with the date of approval by the Zoning Administrator. If any variances from the Zoning Ordinance have been obtained from the JZBA, the minutes concerning the variances, duly signed, shall also be filed with the Zoning Administrator's records as a part of the application and delivered to the applicant.
  4. **Plot Plan Changes:** The Zoning Administrator shall review and act on proposed changes to an approved plot plan in the same manner as described by this subsection (B).

### C. Permit Withholding, Revocation and Expiration

1. **Withholding Permit:** A designated approving body may withhold approval of an application pending verification that an applicant has received required county, state or federal permits including under the Natural Rivers Act. Similarly, such body may condition its approval on the receipt of such permits.
2. **Revocation:** A body which grants approval of a permit or application under this Ordinance may revoke or cancel such approval in the case of failure or neglect to comply with this Ordinance, or in the case of any false statement or misrepresentation in the application. The Zoning Administrator may issue a stop work order to halt all construction activities and/or use of the premises pending a revocation decision.
3. **Expiration of Permit:**
  - a. A zoning permit, including the approved plot plan or site plan upon which the permit is based, shall expire after one (1) year from the date of granting such permit unless the development proposed or activity authorized shall have passed its first building inspection by the Building Inspector.
    - 1) Where a zoning permit does not provide for an immediate building or structure, such as in the case of a platted subdivision or site condominium, such permit shall become null and void after one (1) year from the date of granting such permit unless the clearing, preliminary grading and survey staking of roads and drives shall have been completed within such time. Such permit shall become null and void after two (2) years from the date of granting such permit unless utilities and access ways, including roads, have been completed.
  - b. The body that approved a zoning permit may waive or extend the period of time in which the permit is to expire, for multiple periods with each period not to exceed one (1) year, if it is satisfied that the owner or developer is maintaining a good faith intention to proceed with construction and even though the permit and plot/site plan may not comply with the most current standards of this Ordinance due to amendments since the issuance of the permit.
    - 1) In the case where a zoning permit is to expire more than three (3) years following the initial issuance of the permit, no extension shall be granted unless the body that approved the permit finds that surrounding conditions and land uses, and the most current standards of this Ordinance, continue to support the adequacy of the plot/site plan, and the owner or developer is maintaining a good faith intention to proceed with construction.
    - 2) In the case of a multi-phased project, the expiration of a zoning permit for a specific phase shall similarly result in the expiration of all zoning permits previously granted for subsequent phases.
  - c. Should a zoning permit expire, any use, building and/or activity authorized by such permit shall not be initiated or continued except upon reapplication, subject to the provisions of all ordinances in

- effect at the time of reapplication. Upon expiration of the permit, failure to terminate the use for which the permit was issued is declared to be a nuisance per se and a violation of this Ordinance.
- d. Where there is a delay of more than sixty (60) days between the date a site plan is approved and the zoning permit is issued for such project, the time lines specified in this subsection (3) shall be computed from the date of the site plan approval.

### **Section 3.5 Building Permit / Permit of Occupancy Required**

- A. Building Permit:** No grading, excavation, or construction shall be initiated prior to the issuance of a zoning permit and, where required by state law, the Building Inspector certifies proposed structures and buildings comply with the Construction Code through the issuance of a building permit.
- B. Occupancy Permit:** No structure or use shall be occupied, in whole or in part, without first receiving a permit for occupancy from the Building Inspector pursuant to the Construction Code.

### **Section 3.6 Performance Guarantee**

- A. Authority, Purpose and Timing:** To ensure compliance with this Ordinance and any conditions imposed under this Ordinance, the JPC may require that a cash deposit, certified check, irrevocable letter of credit, or surety bond acceptable to the fiduciary municipality and covering the estimated cost of improvements, be deposited with the clerk of the fiduciary municipality, to insure faithful completion of the improvements.
  1. The performance guarantee shall be provided at the time of the issuance of the zoning permit.
  2. This section shall not be applicable to single family and two-family dwellings or improvements for which a performance guarantee has been deposited under the Land Division Act, Public Act 288 of 1967, as amended.
- B. Improvements Covered:** Improvements that shall be covered by the performance guarantee include those features of a project that are considered necessary by the body or official granting approval to protect the natural resources or the health, safety and welfare of residents and future users or inhabitants of the proposed project area including roadways, parking, lighting, utilities, sidewalks, screening and drainage.
- C. Return of Performance Guarantee:** For the return of a performance guarantee or portion thereof, the applicant shall send written notice to the Zoning Administrator of completion of said improvements. The Zoning Administrator shall inspect the improvements and transmit a written recommendation of action to the JPC. The JPC shall approve, partially approve or deny the return of the performance guarantee request and shall notify the applicant in writing of the action of the JPC within forty-five (45) days after receipt of the notice from the applicant of the completion of such improvements. Where approval or partial approval is granted, the clerk of the fiduciary municipality shall release the approved payment to the applicant. The portion of the performance guarantee to be returned shall be proportional to the work completed.
  1. **Lack of Full Completion:** Should installation of improvements fail to meet full completion based on the approved permit application, the JPC may complete the necessary improvements itself or by contract to an independent contractor, and assess all costs of completing the improvements against the performance guarantee. Any balance remaining shall be returned to the applicant.

### **Section 3.7 Timely Action on Applications**

- A. General Intent:** All approvals applied for under this Ordinance shall be acted upon in a timely manner. However, in no case shall the matter of a timely decision undermine the intent of this Ordinance that all requested approvals undergo the necessary and adequate review to ensure all requirements and standards have been met and the public health, safety and welfare is preserved.
- B. Timing of Action:** The following time provisions shall apply unless specifically provided otherwise by this Ordinance or special circumstances arise such as delays associated with the acquisition of county, state or federal permits or the submittal of an incomplete application. The prescribed review periods under (2) and (4) below require that an application must be received by the Zoning Administrator at least thirty (30) days prior to the meeting when the reviewing body would normally begin deliberation on such application and, if submitted within a lesser time, the reviewing body may delay initiating deliberations until its next regularly scheduled meeting or special meeting called for the purpose of deliberating said application.
  1. **Applications Requiring Zoning Administrator Action:** A complete application for a zoning permit for a single-family or two-family dwelling or an accessory structure or use thereto shall be decided upon by the Zoning Administrator within fifteen (15) days of the receipt of the complete application.
  2. **Applications Requiring JPC Action:** Action on an application by the JPC, as in the case of a site plan, special land use, or when making a recommendation to legislative bodies regarding an amendment

petition, shall occur within ninety (90) days of receipt of a complete application. Where a public hearing is required to be held, this time frame shall be extended by thirty (30) days.

3. Applications Requiring Legislative Body Action: Where a legislative body must delay action until receipt of a recommendation from the JPC, the legislative body shall take action on the application within ninety (90) days of the receipt of such recommendation.
4. Applications Requiring JZBA Action: Where the JZBA is required by this Ordinance to act upon a request for a variance, ordinance interpretation, administrative appeal, or other request as provided by this Ordinance, the JZBA shall take action on the request within ninety (90) days of the receipt of a complete application.
5. Public Hearing Notices: See Section 3.11.

### **Section 3.8 Application Fees**

**A. Application Fees Required:** Fees for the administration and review of development proposals, rezoning requests, actions before the JPC and Joint Zoning Board of Appeals, inspections and the issuance of permits required under this Ordinance shall be deposited with the clerk of the fiduciary municipality in advance of processing any application. The amount of such fees shall be established by each legislative body by resolution and may be revised from time to time. Such fees shall be limited to covering actual costs incurred by the JPC and any municipalities represented by the JPC and may include but are not limited to costs associated with conducting meetings and inspections, public notices, postage, photocopying, staff time and mileage.

**B. Professional Review and Fee:** For any application for a zoning permit, variance, or other approval under this Ordinance, the JPC or other reviewing body may also require the payment of a professional review fee when professional input is desired before a decision is made, due to the character or complexity of the proposal or concern over the potential impacts of the project. Input may be sought from such professionals as engineers, planners, attorneys, architects, real estate appraisers and other professionals having expertise in matters pertinent to the application. The applicant is entitled to a refund of any unused professional review fee. If actual professional review costs exceed the amount of the fee, the applicant shall pay the balance due prior to final action on such application.

1. No professional review shall be required for an application for a single-family or two-family dwelling.

### **Section 3.9 Site Inspections**

The Zoning Administrator shall have the authority to make inspections of premises, upon request at reasonable times, for the purposes of verifying application information, monitoring conformance with this Ordinance and for any other purpose associated with responsibilities of the Zoning Administrator granted by this Ordinance. No person shall molest the Zoning Administrator in the discharge of his/her duties. The Zoning Administrator shall seek a search warrant any time a property owner refuses access to a property in order to make an inspection.

### **Section 3.10 Violations, Penalties and Remedies**

**A. Violations are a Nuisance Per Se:** As provided in Section 407 of the Michigan Zoning Enabling Act (MCL 125.3407), any use of land which is commenced or conducted, or any building or structure which is erected, moved, placed, reconstructed, razed, extended, enlarged, altered, maintained, or changed, in violation of any provision of this Ordinance is hereby declared to be a nuisance per se. Any person who disobeys, omits, neglects or refuses to comply with any provision of this Ordinance or any permit or other approval granted hereunder, or any lawful order or determination of the JPC, JZBA, Zoning Administrator, Zoning Enforcement Officer or any authorized deputy sheriff, issued pursuant to this Ordinance, shall be in violation of this Ordinance. A violation is hereby declared to be a nuisance per se.

**B. Violations Are Municipal Civil Infractions:** A violation of this Ordinance is a municipal civil infraction according to Chapter 87 of the Revised Judicature Act of 1961, Public Act 236 of 1961, as amended.

1. Fines: Municipal civil infraction fines shall be \$150 for the first offense and \$500 for the second or other subsequent offense. Each day that a violation occurs shall constitute a separate offense.
  - a. "Subsequent offense" means a violation of the provisions of this Ordinance committed by the same person within 12 months of a previous violation of the same provision of this Ordinance for which said person admitted responsibility or was adjudicated to be responsible, except that offenses committed on subsequent days within a period of one week following the issuance of a citation for a first offense shall all be considered separate first offenses.
2. Additional Costs: Fines shall be in addition to all other costs, damages, expenses and attorney fees incurred by any municipality in enforcing this Ordinance.

**C. Procedures:**

1. **Notice of Request for Correction of Violation:** Whenever the Zoning Administrator determines that a violation of this Ordinance or a permit or other approval issued under this Ordinance has occurred or is occurring and if the violation does not constitute an immediate danger to public safety or the property of others if not corrected, the Zoning Administrator shall give written notice of the violation and request that the violation be corrected within a specified period not exceeding thirty (30) days. This Notice of Request for Correction of Violation is intended to secure compliance with this Ordinance, if possible, without imposition of fines or municipal infraction violation costs.
  - a. Such Notice of Request for Correction of Violation shall be directed to each owner of, or a party in interest, in whose name the property appears on the last local tax assessment records. All notices shall be served upon the person to whom they are directed personally, or in lieu of personal service, may be mailed by certified mail, return receipt requested, addressed to such owner or party in interest at the address shown on the tax records. The Zoning Administrator may issue a stop work order to halt all construction activities and/or use of the premises pending resolution of the violation.
  - b. The Zoning Administrator may grant one or more written extensions of the correction period, provided that each request for extension is in writing and supported by good cause shown and further provided that the total period allowed for correction shall not exceed six months from the date of the initial request to correct. Such an extension may be authorized only where the Zoning Administrator determines that satisfactory progress has been made in attempting to correct the violation and that the violation does not constitute an immediate danger to public safety or the property of others if not corrected.
2. **Issuance of Municipal Civil Infraction:** If the owner or party in interest fails to correct the violation within the time period specified by the Zoning Administrator, or where the Zoning Administrator determines that the violation constitutes an immediate danger to public safety or the property of others if not corrected, a citation for a municipal civil infraction shall be issued. The Zoning Administrator and any other person designated jointly by all legislative bodies and officially deputized according to law are authorized to issue municipal civil infraction citations.

**D. Lien:** If any fines, costs, assessments, damages and/or expenses remain unpaid or unsatisfied after the time permitted for such payment, the legislative body of the municipality in which the property is located may impose and record a lien upon the real property involved, to the extent permitted by law, and may enforce the lien to the extent and in the same manner as is provided by law for the enforcement of unpaid ad valorem real property taxes, including the inclusion of the monetary amount of such lien upon the ad valorem property tax roll, and the collection thereof in the same manner as ad valorem real property taxes are collected.

**E. Other Remedies:** In addition to issuance of a municipal civil infraction citation, the legislative body of the municipality in which the alleged violation is located may also commence and enforce an action in a court of competent jurisdiction seeking injunctive, declaratory or other equitable relief to enforce or interpret any provision of this Ordinance, to require abatement of a violation and to seek such other relief as may be provided by law.

**Section 3.11 Public Hearing Notices**

**A. Hearing Notice Content:** Unless otherwise required by the Michigan Zoning Enabling Act or this Ordinance where applicable, all mail, personal and newspaper notices for public hearings shall do all of the following:

1. Describe the nature of the request including whether the request is for a text amendment, zoning map amendment (rezoning), special land use, variance, appeal, ordinance interpretation or other purpose.
2. Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the subject property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used such as a tax parcel identification number. No street addresses must be listed when eleven (11) or more adjacent properties are proposed for rezoning, or when the request does not involve a specific property.
3. Indicate the date, time and place of the hearing(s).
4. Indicate when and where written comments will be received concerning the request.



**B. Recipients and Means of Notice:** Unless otherwise required by the Michigan Zoning Enabling Act or this Ordinance where applicable, notice shall be provided to the following and shall include the information specified in (A) above.

1. To the general public, by publication of the hearing notice in a newspaper of general circulation in each of Colfax Township, Weldon Township and the Village of Thompsonville.
2. To the owners of property for which approval is being considered, and the applicant if the applicant is different than the property owner, by mail or personal delivery.
3. To all persons to whom real property is assessed within 300 feet of the boundary of the project subject to the request, and to the occupants of all structures within 300 feet of the property, regardless of whether the property or occupant is located in the municipality in which the property subject to the application is located, by mail or personal delivery. If the name of the occupant is not known, the term "occupant" may be used in making notification.
  - a. Subsection (3) above shall not apply in the case of rezoning requests involving eleven (11) or more adjacent properties, or an ordinance interpretation request that does not involve a specific property.
  - b. If a single structure contains more than four (4) dwelling units or other distinct spatial areas owned or leased by different persons, a single notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure.
4. In the case of a text amendment or zoning map amendment, to each electric, gas and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected and the airport manager of each airport, that registers its name and mailing address with the clerk of the municipality in which the property is located that is subject to the public hearing, for the purpose of receiving notices of public hearings, by mail.

**C. Timing of Notice and Determination of Notice Given:** Unless otherwise required by the Michigan Zoning Enabling Act or this Ordinance where applicable, all mail, personal and newspaper notices for public hearings shall be given not less than fifteen (15) days before the date the request will be considered, including applications for zoning map amendments (rezonings), text amendments, special land uses, variances, appeals and ordinance interpretations. The notice under subsection (B) shall be considered to be given when personally delivered or when deposited during normal business hours for delivery with the United States postal service or other public or private delivery service.

**D. Confirmation of Notices Made by Mail or Personal Delivery:** The clerk of the municipality in which the property is located that is subject to the public hearing shall prepare a list of property owners and registrants to whom notice was mailed, as well as anyone to whom personal notice was delivered.

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**End of Article 3**

## Article 4 ZONING DISTRICTS, REGULATIONS and MAP

### **Section 4.1 Establishment of Districts**

For the purpose of this Ordinance, the municipalities of Colfax Township, Weldon Township and the Village of Thompsonville are hereby collectively divided into the following zoning districts, which shall be known by the following respective symbols and names and shall have boundaries as delineated on the Official Zoning Map.

#### Conservation Districts

RC-1	Resource Conservation-1
RC-2	Resource Conservation-2
NR	Natural Rivers District

#### Residential Districts

RR-1	Rural Residential District-1
RR-2	Rural Residential District-2
R-1	Low Density Residential District
R-2	Medium Density Residential District
R-3	High Density Residential District
MF	Multiple Family Residential District
MHC	Manufactured Housing Community District

#### Commercial Districts

C-1	Local Commercial District
C-2	General Commercial District

#### Industrial Districts

I-1	Light Industrial District
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#### Other Districts

PUD	Planned Unit Development District
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### **Section 4.2 Zoning District Map**

**A.** The boundaries of the respective Districts enumerated in Section 4.1 are defined and established as depicted on the Official Zoning Map entitled GREATER THOMPSONVILLE AREA ZONING MAP, which is an integral part of this Ordinance. This map, with all notations and explanatory matter thereon, shall be published as part of this Ordinance as if fully described herein.

**B.** This Official Zoning Map shall be identified by the signature of each legislative body supervisor or president of Colfax Township, Weldon Township and the Village of Thompsonville, attested by each legislative body clerk, and bearing the following: *"This is to certify that this is the Official Zoning Map of the Greater Thompsonville Area Zoning Ordinance adopted on the \_\_\_ day of \_\_\_, 2015."* If, in accordance with the provisions of this Ordinance, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be made on the Official Zoning Map.

**C.** The Official Zoning Map shall be located at the governmental office of the municipality as jointly agreed to by the legislative bodies and shall be the final authority with regard to the current zoning status of all land in the municipalities, along with supporting minutes of each legislative body's meetings regarding zoning district changes, regardless of the existence of copies of the Official Zoning Map which may be made and published from time to time.

### **Section 4.3 Purposes of Zoning Districts**

See Table 4-1.

#### **Section 4.4 Interpretation of District Boundaries**

**A.** Where, due to the scale, lack of details, or illegibility of the Official Zoning Map, there is an uncertainty, contradiction, or conflict as to the intended location of any zoning district boundaries shown thereon, interpretation concerning the exact location of district boundary lines shall be according to the following standards:

1. Boundaries indicated as approximately following roads or highway shall be construed as following the center lines of said roads or highways.
2. Boundaries indicated as approximately following section lines, quarter section lines, quarter-quarter section lines, or lot lines shall be construed as following such lines.
3. Boundaries indicated as approximately following municipal boundary lines shall be construed as following such boundary lines.
4. Boundaries indicated as approximately parallel to the center lines of streets or highways shall be construed as being parallel thereto and at such distance there from as indicated on the Official Zoning Map. If no distance is given, such dimension shall be determined by the use of the scale shown on the Official Zoning Map.
5. Boundaries following the shoreline of a stream, lake, or other body of water shall be construed to follow such shorelines. In the event of change in the shoreline, the boundary shall be construed as moving with the actual shoreline. Boundaries indicated as approximately following the centerlines of streams, canals, or other water courses shall be construed to follow such centerlines.
6. Where the application of the aforesaid rules leaves a reasonable doubt as to the boundaries between two (2) districts, the regulations of the more restrictive district shall govern. The "more restrictive district" shall be the district that places greater restrictions on development based on such factors as the scope of authorized uses, setbacks, lot coverage and related development standards.
7. If the application of the above rules does not result in a clear determination of a district boundary, such boundary may be determined by the Joint Zoning Board of Appeals upon application according to Article 15.

#### **Section 4.5 Permitted Uses in Zoning Districts**

**A. Compliance with Zoning Regulations:** Except as may otherwise be provided in this Ordinance, every building and structure erected, every use of any lot, building, or structure established, every structural alteration or relocation of an existing building or structure, and every enlargement of, or addition to an existing use, building and structure, occurring after the effective date of this Ordinance, shall be subject to all regulations of this Ordinance that are applicable in the District in which such use, building, or structure shall be located. Whenever any fill is placed in any lake or stream, the land thus created shall automatically and without further governmental action thenceforth acquire and be subject to the same zoning regulations as are applicable for lands to which the same shall attach or be adjacent.

**B. Uses Permitted in Each Zoning District:** Tables 4-2 and 4-3 identify the principal land uses permitted in each of the districts enumerated in Section 4.1. No land use shall be established on a lot except in conformance with Tables 4-2 and 4-3 or as may be expressly provided elsewhere in this Ordinance. In order to ensure all possible benefits and protection for the Districts in this Ordinance, the Tables delineate whether a land use permitted in a particular District is a "Use Permitted by Right" or a "Special Land Use".

1. Uses Permitted by Right: Uses permitted by right are the primary uses and structures specified for which the District has been established, and are subject to plot plan (Sec. 3.4) or site plan (Article 13) approval except where provided otherwise.
2. Special Land Uses: Special land uses are uses and structures that have been generally accepted as reasonably compatible with the "uses permitted by right" in the District, but are more apt to present potential injurious effects upon such primary uses and structures within the District or are otherwise unique in character and therefore require special consideration in relation to the welfare of adjacent properties and to the Greater Thompsonville Area as a whole. All such uses shall be subject to a public hearing and site plan approval. See Article 14.

**C. Accessory Uses:** Unless otherwise specified in this Ordinance, accessory uses which are clearly incidental to and customarily associated with the principal use of the property are permitted in all Districts and shall conform to all applicable standards of this Ordinance, including Section 18.8 (Accessory Uses, Buildings and Structures).

**D. Prohibited Uses:**

1. Use Not Listed is Prohibited: Any use of land not specifically permitted is prohibited, including any use of land not specifically identified in Tables 4-2 and 4-3. The Joint Planning Commission (JPC) may be

petitioned to initiate an amendment to the Ordinance to authorize an otherwise prohibited use and standards that will apply for that use. If such an amendment is adopted according to Article 16, then an application can be processed to establish that use.

2. **Non-Compliance with Local, County, State or Federal Law:** No use shall be authorized or permitted that is not in compliance with all local, county, state and federal laws, rules and regulations unless otherwise required by court decree.

#### **Section 4.6 Site Development Requirements of Zoning Districts**

**A. Table 4-4 and Other Articles:** All land uses shall comply with the site development requirements of the District in which it is located, as delineated in Table 4-4, in addition to all other applicable site development provisions of this Ordinance including, but not limited to:

1. Article 7: Nonconforming Lots, Structures and Buildings.
2. Article 8: Standards and Regulations for Specific Land Uses.
3. Article 10: Signs.
4. Article 11: Off-Street Parking and Loading.
5. Article 18: Supplemental Provisions.

**B. Shared Setbacks and Yards Prohibited:** No part of a setback area, yard, or other open space required about or in connection with any use, building or structure, for the purpose of complying with this Ordinance, shall be included as part of a setback area, yard, or other open space similarly required for any other use, building or structure.

**C. Setback and Lot Area Reductions:** No setback area or lot existing at the time of adoption of this Ordinance shall be reduced in dimensions or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established herein, including area and lot width.

**D. Portions of Lots:** No portion of one lot shall be used in the creation of another lot unless each lot resulting from each such reduction, division, or sale, shall conform to all of the requirements established herein.

**E. Most Stringent Provisions Govern:** Wherever any provision of this Ordinance imposes more stringent requirements, regulations, restrictions or limitations than are imposed or required by the provisions of any other law or ordinance, the provisions of this Ordinance shall govern. Whenever the provisions of any other law or ordinance impose more stringent requirements than are imposed or required by this Ordinance, the provisions of such law or ordinance shall govern.

#### **Section 4.7 Special District Provisions**

##### **A. Manufactured Housing Community District (R-MHC)**

1. **Review Procedures:** Pursuant to Section 11 of Public Act 96 of 1987, as amended, the Michigan Mobile Home Commission Act (MHCA), a preliminary plan shall be submitted to the JPC. The preliminary plan shall include the location, layout, general design and general description of the project. The preliminary plan need not include detailed construction plans. In preparing the preliminary plan and when reviewing the plan, the developer and JPC shall generally follow the procedures and requirements in Article 13 of this Ordinance, except where said procedures and requirements are superseded by the requirements in the MHCA or the Manufactured Housing Commission Rules. Pursuant to Section 11 of the MHCA, the JPC shall take action on the preliminary plan within sixty (60) days after the municipality in which the development is to be located receives the preliminary plan.
2. **Development Standards:** All manufactured housing communities shall be constructed and maintained in accordance with the MHCA and the rules and regulations promulgated by the Manufactured Housing Commission pursuant to the authority vested in the Manufactured Housing Commission by the MHCA. The construction of a manufactured housing community shall not be initiated, nor shall a manufactured housing community be inhabited or operated until all necessary permits have been acquired from the Michigan Department of Labor and Economic Growth and all other agencies pursuant to the MHCA.
3. **Use Standards:** Principal uses permitted in the R-MHC District shall be limited to the following and according to the "by right" (BR) and "special land use" (S) classification as provided:

<b>Authorized Principal Uses in the R-MHC District</b>		
1	Assisted living facilities	S
2	Day care centers.	S
3	Manufactured housing communities.	<b>BR</b>
4	Extraction operations.	S

**B. Natural Rivers District (NR)**

1. Boundaries and Applicability: The boundaries of the NR District extend 400 feet from the ordinary high water marks of the Betsie River and Dair Creek, in a perpendicular direction from such ordinary high water mark, except that the NR District shall terminate along Dair Creek at a point 1,000 feet east of Pioneer Road. All land located within 400 feet of such ordinary high water marks shall be subject to the regulations of the NR District.
2. Review Procedures: All uses, structures and buildings within the NR District shall be subject to the requirements of this Ordinance and compliance with state rules and regulations promulgated under the Natural Rivers Act. No zoning permit shall be issued for a proposed use or structure prior to the issuance of all required state approvals under such Act.
3. Development Standards: The following development standards shall apply to all uses, structures and buildings in the NR District in addition to all other provisions of this Ordinance:
  - a. Front Yard Setback: Fifty (50) feet.
  - b. Side Yard Setback: Forty (40) feet, but in no case less than two-hundred (200) feet from the ordinary high water mark of the Betsie River and Dair Creek.
  - c. Rear Yard Setback: One hundred (100) feet, but in no case less than two-hundred (200) feet from the ordinary high water mark of the Betsie River and Dair Creek.
  - d. Minimum Waterfront Frontage: Two hundred (200) feet.
  - e. Minimum Open Space: Ninety-five percent (95%), all of which shall be comprised of grassed, wooded and/or other vegetative conditions.
4. Use Standards: Principal uses permitted in the NR District shall be limited to the following and according to the “by right” (BR) and “special land use” (S) classification as provided:

<b>Authorized Principal Uses in the NR District</b>		
1	Agriculture	<b>BR</b>
2	Areas set aside for the protection of wildlife and natural resources, forest management areas, nature preserves and game refuges.	<b>BR</b>
3	Bed and breakfast.	<b>BR</b>
4	Commercial stables.	S
5	Campgrounds.	S
6	Golf courses and country clubs.	S
7	Mineral Extraction.	S
8	Non-motorized boat liveries, rentals and launching sites.	S
9	Shooting ranges including sportsman clubs.	S
10	Single-family dwellings.	BR

**C. Airport (AP)**

1. Development Standards: See Table 4-4.
2. Use Standards: Principal uses permitted in the AP District shall be as authorized in the C-2 General Commercial and I-1 Light Industrial Districts, according to the same classification of such uses ( “by right” (BR) and “special land use” (S)) in each District.

**Table 4-1  
 PURPOSES of ZONING DISTRICTS**

Table 4-1 identifies the principal purposes of the Districts of this Ordinance.

DISTRICTS	PURPOSE
<b><u>ALL DISTRICTS (except where provided otherwise)</u></b>	
<p><b>All Districts</b></p>	<ol style="list-style-type: none"> <li>1) Uses shall protect natural resources including wetlands, woodlands and water courses.</li> <li>2) Uses shall be coordinated with the Greater Thompsonville Area Master Plan.</li> <li>3) Uses shall minimize negative impacts on surrounding land uses.</li> <li>4) Uses are to complement the Greater Thompsonville Area's character through appropriate architectural design and building scale, building materials, setbacks, signage, landscaping, buffering, open spaces and lighting.</li> <li>5) Uses are to be served by adequate facilities and services including sewage disposal, potable water, fire protection and safe/efficient vehicular and non-motorized travel.</li> <li>6) Residential development shall ensure a healthy residential environment including adequate opportunities for open space, light, air circulation and emergency access.</li> </ol>
<b><u>CONSERVATION DISTRICTS</u> See also "All Districts" purpose statement above.</b>	
<p><b><u>NR</u>                      Natural Rivers</b></p>	<ol style="list-style-type: none"> <li>1. Preserve and enhance the values of the Betsie River/Dair Creek corridors for water conservation, their free flowing condition, and their fish, wildlife, boating, scenic, aesthetic, floodplain, ecologic, historic and recreational values and uses.</li> <li>2. Ensure the proper use of land along the Betsie River/Dair Creek corridors through stringent limitations on uses in the corridors and alterations to the natural features within.</li> <li>3. Implement Part 305 of Public Act 451 of 1994 (as amended), being the Natural Rivers portion of the Michigan Natural Resources and Environmental Protection Act.</li> </ol>
<p><b><u>RC-1 and RC-2</u>                      Resource Conservation</b></p>	<ol style="list-style-type: none"> <li>1) Encourage the conservation of woodlands, wetlands, stream and river corridors and other important open spaces including state forest lands.</li> <li>2) Provide opportunities for very low density rural residential lifestyles that facilitate the preservation of open spaces and natural resources and the region's rural character, with the RC-2 District permitting incrementally higher densities than the RC-1 District.</li> <li>3) Provide opportunities for agriculture, and conservation and outdoor resource-based uses.</li> </ol>
<b><u>RESIDENTIAL DISTRICTS</u> See also "All Districts" purpose statement above.</b>	
<p><b><u>RR-1 and RR-2</u>                      Rural Residential</b></p>	<ol style="list-style-type: none"> <li>1) Provide opportunities for healthy low density rural residential development and lifestyles at densities greater than those of the RC-1 and RC-2 Districts, the RR-2 District permitting incrementally higher densities than the RC-1 District and both Districts available as a buffer between the RC Districts and planned urban growth areas.</li> </ol>
<p><b><u>R-1, R-2, R-3</u>                      Low, Medium and High Density Residential</b></p>	<ol style="list-style-type: none"> <li>1) Provide opportunities for more suburban and urban healthy residential lifestyles and development patterns through incrementally decreasing lot sizes and increasing density.</li> </ol>
<p><b><u>MF</u>                      Multiple Family  <u>MHC</u>                      Manufactured Housing Community</b></p>	<ol style="list-style-type: none"> <li>1) Provide opportunities for apartment, townhouse and similar multiple family developments (MF), and manufactured housing communities (MHC), to meet the varied housing needs of current and future residents.</li> </ol>

Table 4-1 Continued on Next Page

Table 4-1 Continued (Purposes of Zoning Districts):

DISTRICTS	PURPOSE
<b><u>COMMERCIAL DISTRICTS</u></b> See also “All Districts” purpose statement above.	
<p><b><u>C-1</u></b>  <b>Local Commercial</b>  <b>and</b>  <b><u>C-2</u></b>  <b>General Commercial</b></p>	<ol style="list-style-type: none"> <li>1) The C-1 District is intended to provide opportunities for businesses that primarily address the day-to-day retail and service needs of the local population and visitors.</li> <li>2) The C-2 District is intended to provide opportunities for businesses that address the day-to-day retail and service needs of the local population and visitors while also providing greater opportunities for businesses that cater to a more regional population including highway travelers in the Greater Thompsonville Area.</li> <li>3) Facilitate safe, convenient and efficient pedestrian and other non-motorized modes of travel including linkages to neighboring commercial uses and neighborhoods.</li> <li>4) Ensure development is of a character that compliments the intended character of the Greater Thompsonville Area through appropriate architectural design and building scale, building materials, setbacks, signage, landscaping, buffering, open spaces and lighting.</li> </ol>
<b><u>INDUSTRIAL DISTRICTS</u></b> See also “All Districts” purpose statement above.	
<p><b><u>I-1</u></b>  <b>Light Industrial</b></p>	<ol style="list-style-type: none"> <li>1) Provide for a variety of manufacturing and other industrial uses that can be generally characterized as being of low intensity, including comparatively small building sizes and the absence of objectionable external effects.</li> <li>2) Ensure development is of a character that compliments the intended character of the Greater Thompsonville Area through appropriate architectural design and building scale, building materials, setbacks, signage, landscaping, buffering, open spaces and lighting.</li> </ol>
<p><b><u>AP</u></b>  <b>Airport</b></p>	<ol style="list-style-type: none"> <li>1) Recognize the presence of the Thompsonville Airport and provide opportunities for general aviation services.</li> <li>2) Ensure development is of a character that compliments the intended character of the Greater Thompsonville Area through appropriate architectural design and building scale, building materials, setbacks, signage, landscaping, buffering, open spaces and lighting.</li> </ol>
<b><u>OTHER DISTRICTS</u></b> See also “All Districts” purpose statement above.	
<p><b><u>PUD</u></b>  <b>Planned Unit Development</b></p>	<p>See Section 5.1, Planned Unit Development (PUD) District.</p>

End of Table 4-1



**Table 4-2  
Permitted Principal Uses in Conservation and Residential Zoning Districts<sup>1</sup>**

See Sec. 4.7 for Use Provisions for Natural Rivers (NR) District  
and Manufactured Housing Community (MHC) District.

BR = Use Permitted By Right S= Special Land Use<sup>1</sup> – = Prohibited Use

PRINCIPAL USES <sup>1</sup>		ZONING DISTRICTS					
		RC-1 RC-2	RR-1 RR-2	R-1	R-2	R-3	MF
<b>Uses of a Primarily Agricultural, Outdoor Recreation, or Natural Resource Based Character</b>							
1	Agriculture.	BR	BR	–	–	–	–
2	Areas set aside for the protection of wildlife and natural resources, forest management areas, nature preserves and game refuges.	BR	BR	BR	BR	BR	BR
3	Campgrounds.	S	S	–	–	–	–
4	Commercial stables.	S	S	–	–	–	–
5	Extraction operations.	S	S	S	S	S	S
6	Golf courses and country clubs.	S	S	S	S	S	S
6	Non-motorized boat liveries, rentals and launching sites.	S	S	S	S	S	S
7	Retreat Centers.	S	S	–	–	–	–
8	Shooting ranges including sportsman clubs.	S	–	–	–	–	–
<b>Uses of a Primarily Residential Character</b>							
1	Assisted living facilities.	–	–	S	S	S	S
2	Day care, family home.	BR	BR	BR	BR	BR	–
3	Day care, group home.	S	S	S	S	S	S
4	Foster care facility, family home.	BR	BR	BR	BR	BR	–
5	Foster care facility, group home.	S	S	S	S	S	S
6	Manufactured housing communities.	–	See	Sec. 4.7(A)	–	–	–
7	Multiple family dwellings.	–	–	–	–	–	BR
8	Single-family dwellings.	BR	BR	BR	BR	BR	–
9	Two-family dwellings.	–	–	BR	BR	–	–
<b>Uses of a Primarily Commercial, Business or Industrial Character</b>							
1	Bed and breakfast.	BR	BR	S	S	S	–
2	Non-motorized boat liveries, rentals and launching sites.	S	S	S	S	S	S
3	Day care center.	–	–	S	S	S	S
4	Kennels.	S	S	–	–	–	–
5	Sale of trees, shrubs, flowers and other plant material.	S	S	–	–	–	–
6	Sawmills.	S	S	–	–	–	–
7	Veterinarian clinic.	S	S	–	–	–	–
8	Wireless communication towers.	S <sup>2</sup>	– <sup>2</sup>	– <sup>2</sup>	– <sup>2</sup>	– <sup>2</sup>	– <sup>2</sup>
9	Wind energy conversion systems.	S	–	–	–	–	–
<b>Other Uses Not Listed Above</b>							
1	Clubs, lodges and similar social-centered organizations.	S	S	–	–	–	–
2	County, township and village –owned public facilities such as governmental offices, fire stations, police stations and parks,.	S	S	S	S	S	S
3	Public assembly facilities not otherwise addressed in this Table above including schools, churches, libraries and museums.	S	S	S	S	S	S

Footnotes:

- Irrespective of the particular labeling of a cell in this table, the following are classified as a Special Land Use:
  - Any use that exceeds a single building of 10,000 sq. ft. in gross floor area or 20,000 sq. ft. in gross floor area among all buildings on the parcel, excluding farm buildings and single-family residences and accessory building thereto.
  - any use that serves alcohol for consumption on the lot of sale.
- See Article 8 regarding exceptions to the classification of wireless communication towers as “special land uses” or otherwise “prohibited.”

End of Table 4-2

**Table 4-3  
Permitted Principal Uses in Commercial and Industrial Zoning Districts<sup>1</sup>**

See Sec. 4.7 for Use Provisions for Airport (AP) District.

BR = Use Permitted By Right S= Special Land Use<sup>1</sup> – = Prohibited Use

	PRINCIPAL USES	ZONING DISTRICTS		
		C-1	C-2	I-1
	<b>Uses of a Primarily Agricultural, Outdoor Recreation, or Natural Resource Based Character<sup>1</sup></b>			
1	Extraction operations.	S	S	S
2	Non-motorized boat liveries, rentals and launching sites.	S	S	S
	<b>Uses of a Primarily Residential Character</b>			
1	Dwellings when located fully above a business excluding access.	BR	BR	–
	<b>Uses of a Primarily Commercial or Business Character<sup>1</sup></b>			
1	Agricultural service establishments.	–	S	S
2	Animal hospitals and veterinary clinics.	<b>S</b>	<b>S</b>	–
3	Building material sales yard, including retail lumber yards and incidental millwork, and storage facilities for building materials such as sand, gravel, stone and lumber.	–	S	<b>BR</b>
4	Day care center.	S	S	–
5	Funeral homes and mortuaries, including a dwelling occupied by the facility manager.	–	S	–
6	Health clubs.	<b>BR</b>	<b>BR</b>	–
7	Hospitals and convalescent homes.	–	<b>S</b>	–
8	Indoor commercial recreation such as theaters, bowling alleys, skating rinks, video arcades and similar uses.	S	S	–
9	Kennel.	–	S	–
10	Medical clinics.	<b>BR</b>	<b>BR</b>	–
11	Mini-storage.	–	S	<b>BR</b>
12	Motels and hotels, including conference centers.	S	S	–
13	Motor vehicle sales including new or used cars, boats, farm machinery and other vehicles, and the accessory service and repair of such vehicles.	–	S	–
14	Offices and showrooms of plumbers, electricians, decorators and similar trades, where no more than 25% of the floor area occupied by said establishment is used for making, assembling, remodeling, repairing, altering or finishing its products.	S	<b>BR</b>	<b>BR</b>
15	Offices and showrooms of plumbers, electricians, decorators and similar trades, where more than 25% of the floor area occupied by said establishment is used for making, assembling, remodeling, repairing, altering, or finishing its products.	–	S	<b>BR</b>
16	Offices which perform services on the premises such as financial institutions, insurance offices, medical offices, real estate offices, attorneys, architects and similar offices.	<b>BR</b>	<b>BR</b>	–
17	Offices of an executive, administrative, clerical and similar character, in which the principal function of the office does not entail on-site visits by customers.	<b>BR</b>	<b>BR</b>	–
18	Outdoor commercial recreation facilities.	–	S	S
19	Personal service establishments that perform services on the premises within an enclosed building, such as shoe repair, salons, photographic studios and dry cleaners.	<b>BR</b>	<b>BR</b>	–
20	Restaurants, Class 1	<b>BR<sup>2</sup></b>	<b>BR<sup>2</sup></b>	–
21	Restaurants, Class 2	<b>S</b>	<b>S</b>	–
22	Retail sales such as groceries, foods, beverages, drugs, appliances, furniture, clothing, dry goods, books, flowers, jewelry and hardware, within an enclosed building.	<b>B</b>	<b>BR</b>	–
23	Service station.	S	S	–
24	Sexually oriented business.	–	<b>S</b>	<b>S</b>
25	Taverns.	<b>BR</b>	<b>BR</b>	–
26	Vehicle / car wash facility.	–	S	–
27	Vehicle repair shop.	–	S	S
28	Wholesale sales.	S	S	S
29	Wireless communication facilities	<b>S<sup>3</sup></b>	<b>S<sup>3</sup></b>	<b>S<sup>3</sup></b>

Table 4-3 Continued Next Page. See End of Table for Footnotes.

(Table 4-3 continued)

**BR = Use Permitted by Right    S= Special Land Use<sup>1</sup>    – = Prohibited Use**

PRINCIPAL USES		ZONING DISTRICTS <sup>1</sup>		
		C-1	C-2	I-1
<b>Uses of a Primarily Industrial Character<sup>1</sup></b>				
1	Assembly of electrical appliances, electronic instruments and devices, including the manufacture of small parts such as computer parts.	–	–	<b>BR</b>
2	Junkyards and salvage yards.	–	–	S
3	Manufacturing, assembling or treatment of articles or merchandise from previously prepared materials such as bone, glass, canvas, cork, felt, hair, leather, paper, plastics, stone, wood and sheet metal. "Previously prepared materials" are materials processed or created at another location and transported to the lot in this District.	–	–	<b>BR</b>
4	Monument and art stone production and sales.	–	–	<b>BR</b>
5	Manufacturing, compounding, processing, treatment, fabrication or packaging of such products as: drugs, perfumes, pharmaceuticals, toiletries, bakery goods, candy, ceramics, clothing, jewelry, instruments, optical goods, hardware and cutlery and food products (except fish, sauerkraut, vinegar, yeast, rendering or refining of fats and oils and similar food products involving the creation of odors or other offensive impacts).	–	–	S
6	Plastic molding and extrusion.	–	–	S
7	Printing and publishing.	<b>BR</b>	<b>BR</b>	<b>BR</b>
8	Production, processing or testing utilized in product prototyping.	–	–	<b>BR</b>
9	Tool and die manufacturing.	–	–	<b>BR</b>
10	Warehousing, storage and transfer establishments, and truck terminals.	–	–	S
<b>Other Uses Not Listed Above<sup>1</sup></b>				
1	Clubs, lodges and similar social-centered organizations.	<b>BR</b>	<b>BR</b>	<b>BR</b>
2	County, township and village –owned public facilities such as governmental offices, fire stations, police stations, public parks and public parking lots.	<b>BR</b>	<b>BR</b>	<b>BR</b>
3	Public assembly facilities not otherwise addressed in this Table above including schools, churches, community centers, outdoor theaters, libraries and museums.	S	S	S
4	Privately-owned parking lots.	S	S	S

**Footnotes for Table 4-3**

1. Irrespective of the particular labeling of a cell in this table, the following are classified as a Special Land Use:
  - a. Any use that exceeds 8,000 sq. ft. in gross floor area in the C-1 District and any use that exceeds 15,000 sq. ft. in gross floor area in the C-2 or I-1 District.
2. Outdoor areas associated with a standard restaurant that are used or intended to be used for eating, drinking, sporting activities and/or other gathering of persons, are permitted by special land use only when such outdoor areas exceed 750 square feet in area or otherwise permit more than thirty (30) persons to occupy such area.
3. See Article 8 regarding exceptions to the classification of wireless communication towers as "special land uses" or "prohibited."

**End of Table 4-3**

**Table 4-4  
SITE DEVELOPMENT REQUIREMENTS<sup>1</sup>**

All principal land uses and buildings shall comply with the site development requirements of Table 4-4 unless otherwise specified by this Ordinance. See Footnote 1.

Zoning District	Minimum Lot Area	Minimum Lot Width and Frontage	Maximum Building Heights	Maximum Lot Coverage Minimum Open Space <sup>10</sup>	Minimum Yard Setback <sup>2</sup>		
					Front	Side (each)	Rear
<b>RC-1</b> Resource Conservation	15 acres	200 ft. <sup>3</sup>	40 ft. <sup>4</sup>	$\frac{25\%}{75\%}$ <sup>10</sup>	50 ft.	40 ft. <sup>6</sup>	50 ft.
<b>RC-2</b> Resource Conservation	10 acres	330 ft. <sup>3</sup>	40 ft. <sup>4</sup>	$\frac{25\%}{75\%}$ <sup>10</sup>	50 ft.	40 ft. <sup>6</sup>	50 ft.
<b>RR-1</b> Rural Residential-1	5 acres	250 ft. <sup>3</sup>	40 ft. <sup>4</sup>	$\frac{25\%}{75\%}$ <sup>10</sup>	40 ft.	20 ft. <sup>6</sup>	20 ft.
<b>RR-2</b> Rural Residential-2	2 acres	150 ft. <sup>3</sup>	40 ft. <sup>4</sup>	$\frac{25\%}{75\%}$ <sup>10</sup>	40 ft.	20 ft. <sup>6</sup>	20 ft.
<b>R-1</b> Low Density Residential	15,000 SF	75 ft. <sup>3</sup>	40 ft. <sup>4</sup>	$\frac{25\%}{75\%}$ <sup>10</sup>	25 ft. <sup>5</sup>	10 ft. <sup>6</sup>	40 ft.
<b>R-2</b> Medium Density Residential	10,000 SF <sup>10</sup>	80 ft. <sup>3</sup>	28 ft. <sup>4</sup>	$\frac{30\%}{70\%}$ <sup>10</sup>	20 ft.	5 ft. <sup>6</sup>	20 ft.
<b>R-3</b> High Density Residential	6,000 SF <sup>10</sup>	60 ft. <sup>3</sup>	28 ft. <sup>4</sup>	$\frac{35\%}{65\%}$ <sup>10</sup>	20 ft.	5 ft. <sup>6</sup>	20 ft.
<b>MHC</b> Manufactured Housing Community	Conformance with Rules and Regulations of the Michigan Manufactured Housing Commission. See Section 4.7(A).						
<b>MF</b> Multiple Family	2 acres	150 ft. <sup>3</sup>	40 ft. <sup>4</sup>	$\frac{35\%}{65\%}$ <sup>10</sup>	30 ft.	20 ft. <sup>6</sup>	40 ft.
<b>C-1</b> Local Commercial	5,000 SF	60 ft. <sup>3</sup>	28 ft. <sup>4,5</sup>	$\frac{70\%}{30\%}$ <sup>10</sup>	20 ft. <sup>7</sup>	5 ft. <sup>6,8</sup>	20 ft. <sup>9</sup>
<b>C-2</b> General Commercial	1 acre	100 ft. <sup>3</sup>	40 ft. <sup>4,5</sup>	$\frac{50\%}{50\%}$ <sup>10</sup>	25 ft. <sup>7</sup>	20 ft. <sup>6,8</sup>	40 ft. <sup>9</sup>
<b>I-1</b> Light Industrial	2 acres	200 ft. <sup>3</sup>	40 ft. <sup>4,5</sup>	$\frac{50\%}{50\%}$ <sup>10</sup>	50 ft.	25 ft. <sup>6,8</sup>	40 ft. <sup>9</sup>
<b>AP</b> Airport	240 acres	660 ft. <sup>3</sup>	40 ft. <sup>4</sup>	$\frac{50\%}{50\%}$ <sup>10</sup>	50 ft.	40 ft. <sup>6,8</sup>	50 ft. <sup>9</sup>
<b>PUD</b> Planned Unit Development	See Article 5						
<b>NR</b> Natural Rivers	See Section 4.7(B)						

SF = Square Feet

**Footnotes for Table 4-4  
Site Development Requirements**

1. Other Standards and Regulations: All uses shall comply with the site development requirements of Table 4-4, unless specified otherwise by this Ordinance. See also Article 8 – Standards and Regulations for Specific Land Uses; Article 10 – Signs; Article 11 - Off-Street Parking and Loading; Article 18 - Supplemental Provisions including provisions addressing landscaping and screening, access and private roads, accessory structures, fences and dwelling standards including minimum floor area; and other Articles as applicable.
2. Waterfront Lot Setbacks: In the case of a waterfront lot, the required minimum setback from the ordinary high water mark shall be 200' in the AP and NR Districts and one-hundred (100) feet in all other Districts.
3. Configuration of Lots: All lots shall conform to the following configuration requirements:
  - a. For lots less than ten (10) acres, the depth of the lot shall not exceed four (4) times its width.
  - b. The minimum frontage/lot width standard of Table 4-4 shall extend from the front lot line to the required building setback line and continue over at least seventy percent (70%) of the lot area.
  - c. Lesser frontage and width standards than those of Table 4-4 may be approved where the front lot line abuts a curvilinear road segment, such as a cul-de-sac, where without such reduction, such lots would be unnecessarily excessive in overall width or area or otherwise result in irregular or impractical configurations. However, such reduction shall not exceed forty percent (40%) and the minimum front yard setback shall be increased to where the lot width complies with the standard of Table 4-4.
4. Height Exceptions: The following exceptions shall apply except where otherwise regulated by this Ordinance:
  - a. Agricultural buildings and structures, such as barns and silos, shall not be subject to height limitations.
  - b. Buildings associated with congregational or other gatherings, including auditoriums, may exceed the height limitations of Table 4-4 provided the building is set back an additional one (1) foot for each one (1) foot of height in excess of the District's height limitation.
  - c. The following height exemptions apply provided no portion of the building or structure exceeding the District's height limitation may be used for human occupancy and the site plan approving body finds the exemption shall not undermine the character, use and enjoyment of nearby properties:
    - 1) Those features that are purely ornamental in purpose such as church spires, belfries, cupolas, domes, ornamental towers, flagpoles and monuments, and similar features, provided such features do not exceed seventy-five (75) feet in height from the ground surface and occupy no more than ten percent (10%) of the structure's first floor area.
    - 2) Those necessary appurtenances to mechanical or structural functions, such as chimneys and smokestacks, water tanks, elevator and stairwell structures, and ventilators, but not to exceed one hundred (100) feet in height above the ground surface below.
    - 3) Public utility structures.
5. Height Reductions: In addition to the height limitations of Table 4-4, that portion of a structure in a Commercial or Industrial District that is within fifty (50) feet of an existing dwelling shall not exceed the height of the dwelling by more than twenty percent (20%).
6. Corner Lot Side Yard Setbacks: For a corner lot, the minimum required front yard setback shall apply to both yards abutting a road right-of-way/easement except that in the case of a dwelling, the side yard setback may be reduced by the minimum amount necessary to ensure a thirty (30) foot buildable lot width. However, in no case shall such setback be less than ten (10) feet. "Buildable lot width" shall be defined as the dimensional width of the lot excluding both required side yard setback dimensions.
7. C-1 and C-2 District Front Yard Setback: The minimum front yard setback in the C-1 and C-2 Districts shall be as specified in Table 4-4 except that where there exists two or more principal buildings along the same frontage and within 100 feet of the lot in question, the minimum front yard setback for such lot shall be equal to the average setback established by such buildings. The site plan approving body may waive or modify this requirement where it finds that such modification or waiving will result in a more advantageous overall form or pattern of development, as depicted in a site plan, taking into consideration such factors as the encouragement of continuous storefronts, beneficial pedestrian circulation and public spaces, pedestrian and vehicular safety, visibility and orderly development.

8. C-1, C-2, I-1 and AP District Side Yard Setback: The required side yard setbacks in the C-1, C-2, I-1 and AP Districts shall not apply in the case of shared-wall construction. The required side yard setback shall be increased by ten (10) feet where the side lot line abuts a Conservation or Residential District.
9. C-1, C-2, I-1 and AP District Rear Yard Setback: The minimum rear yard setback specified in Table 4-4 for the C-1, C-2, I-1 and AP Districts shall be increased by ten (10) feet where the rear lot line abuts a Conservation or Residential District.
10. Landscaped Area: A minimum of fifty percent (50%) of the required open space in Conservation and Residential Districts shall be comprised of grassed and/or other vegetated conditions such as planting beds, gardens and other landscaped areas. See also Sec. 18.18 regarding required landscaping/screening for commercial, industrial and other uses subject to site plan approval.

**End of Article 4**

## **Article 5**

# **PLANNED UNIT DEVELOPMENT (PUD) DISTRICT**

### **Section 5.1 Purpose**

The provisions of this Article provide enabling authority and standards for the submission, review and approval of applications for planned unit developments (PUDs), pursuant to the Michigan Zoning Enabling Act. It is the intent of the Article to authorize the use of PUD regulations to permit flexibility in the regulation of land development to encourage beneficial innovation in land use and variety in design, layout and type of structures constructed; achieve economy and efficiency in the use of land, natural resources, energy and the provision of public services and utilities; encourage useful open space; and provide better housing, employment and shopping opportunities. The provisions of this Article are not intended as a device for ignoring this Ordinance or the planning upon which it is based. To this end, the provisions of this Article are intended to result in land use and development substantially consistent with the goals, objectives and policies of the Greater Thompsonville Area Master Plan, with modifications and departures from Ordinance requirements in accordance with standards provided in this Article to insure appropriate, fair and consistent decision making.

### **Section 5.2 PUD Is a Separate District**

A PUD is permitted as a separate zoning district and only when determined to be in compliance with the provisions of this Article. The approval of a PUD shall require an amendment of the Zoning Map constituting a part of this Ordinance so as to designate the property "PUD" and the PUD shall be subject to the approved PUD application.

### **Section 5.3 Minimum Eligibility Criteria**

- A. The following minimum eligibility criteria shall be met in order for PUD approval:
1. Recognizable and Substantial Benefit: The PUD shall result in a recognizable and substantial benefit to the ultimate users of the project and to the greater Thompsonville area. Such benefit must otherwise be unfeasible or unlikely under the regulations of other Districts.
  2. Availability and Capacity of Public Services: The proposed type and intensity of use shall not result in an unreasonable burden on the availability and use of existing public services, facilities and utilities.
  3. Compatibility with the Master Plan: The proposed development shall be in accordance with the goals and policies of the Greater Thompsonville Area Master Plan.
  4. Compatibility with the PUD Intent: The proposed development shall be consistent with the intent and spirit of Section 5.1.
  5. Economic Impact: The proposed development shall not impede the continued use, enjoyment and development of surrounding properties for uses permitted on such properties.
  6. Unified Control of Property: The proposed development shall be under single ownership or control such that there is a single person or entity having responsibility for completing the project in conformity with this Ordinance and the specifications of the PUD approval.

### **Section 5.4 Use and Design Standards**

**A. Permitted Uses and Mix of Uses:** Any land use authorized in this Ordinance is permitted in a PUD as a principal or accessory use provided that public health, safety and welfare are not impaired and the essential character of the proposed PUD meets the general intent of the Greater Thompsonville Area Master Plan. Where the Master Plan provides for primarily residential development patterns, commercial and other nonresidential uses may be permitted as part of a PUD which also contains a residential component, provided that the residential component shall be dominant. The determination of the dominance of the residential component shall take into account the extent to which the non-residential use serves residents in the PUD compared to others who may travel to the site; the amount of traffic generated by the non-residential use compared to the residential component; the operational hours of the non-residential use; the proportional land area allocated to the non-residential use; and building floor area allocated to the non-residential use.

**B. General Site Development Standards and Waivers:** The site development standards for all proposed individual land uses and facilities in a PUD shall conform to this Ordinance, including such standards pertaining to lot area and dimensions, density, lot coverage, setbacks, parking, loading, landscaping and screening, road widths and similar requirements, except that the Joint Planning Commission (JPC) may waive such standards where such modifications will result in a higher quality of development than would be possible without the modifications.

1. Unless a waiver is granted, standards pertaining to lot area and dimensions, density, lot coverage and setbacks shall comply with those standards of the District in which the PUD is to be located, prior to the rezoning or the PUD parcel to the PUD District.
2. Unless a waiver is granted, mixed uses shall comply with the standards applicable for each individual use, including the standards contained in Article 8, Standards for Specific Land Uses. If regulations are inconsistent with each other, the regulations applicable to the most dominant use shall apply.
3. The waiving of development standards may be authorized only upon a finding by the JPC that there are adequate features or planning mechanisms designed into the project to achieve the objectives intended to be accomplished with respect to each of the standards from which a waiver is sought.

### **Section 5.5 Approval Standards**

**A.** Unless a waiver has been expressly authorized under this Ordinance, each application and site plan for a PUD shall conform to all applicable provisions of this Ordinance and the following:

1. Site Plan Approval Standards, Section 13.4.
2. General Approval Standards for Special Land Uses, Section 14.6.

### **Section 5.6 Procedure for Review and Approval**

**A. Optional Reapplication Conference:** Prior to the submission of a preliminary site plan for PUD approval, the applicant may request a meeting with the JPC Chairperson, Zoning Administrator and supervisor or president of the municipality within which the PUD is to be located, together with such consultants and local officials and staff as the parties deem appropriate. The purpose of the meeting is for the prospective applicant to inform officials of the general theme for the PUD and to provide the prospective applicant with information regarding land development policies, procedures, standards and requirements pertaining to the proposed PUD. Statements made in the course of a preapplication conference shall not be legally binding commitments nor be construed to reflect the views of other officials and bodies. At the preapplication conference (or conferences), the applicant may present a general sketch plan of the proposed PUD.

#### **B. Preliminary Plan: Application, Public Hearing and Action**

1. **Application:** The applicant shall submit to the Zoning Administrator at least thirty (30) copies of a preliminary plan and an application form supplied by the Zoning Administrator. The Zoning Administrator shall forward copies to the Planning Commission. The preliminary plan shall comply with the requirements of Section 13.3(A) and include a detailed text description of the proposed development, proposed phasing if applicable and all Ordinance standards for which the applicant is seeking a waiver.
2. **JPC Review and Preliminary Report:** The JPC shall review the preliminary plan and shall be entitled to make reasonable inquiries of and receive answers from the applicant. Following review of the preliminary plan submittal, the Planning Commission shall act on the preliminary plan as if it were an application for rezoning, and in doing so, shall follow the provisions of Article 16. Following the public hearing required by Article 16 and any fact finding and additional studies, the JPC shall prepare and transmit a report to each legislative body stating its preliminary conclusions and recommendation, the basis for its preliminary recommendation, and any recommended conditions relating to an affirmative decision. The report shall document the preliminary plan's conformance with the applicable requirements of this Article and Ordinance, including the approval standards of Sections 13.4 and 14.6, and the extent to which the JPC supports the waivers being requested by the applicant and any concerns regarding the same.
  - a. Nothing in this subsection (2) shall be construed to require the JPC to take action on the same date as the hearing, and the JPC may require additional information from the applicant or other entities.
3. **Legislative Body Review:** Within sixty (60) days of the receipt of the JPC's preliminary report, each legislative body shall submit in writing any comments and concerns regarding the JPC's recommendation, including recommended conditions in association with a conditional approval of the preliminary site plan. Where no correspondence is received within such time, it shall be assumed that the respective legislative body has waived its right of review.



4. JPC Action: The JPC shall review the comments of the legislative bodies and take final action to approve, approve with conditions, or deny the PUD preliminary site plan. The JPC shall prepare a final report on the preliminary site plan and submit the report to each legislative body. The report shall present the JPC's final conclusions and recommendation regarding the preliminary site plan, the basis for its decision and any conditions relating to an affirmative decision. The report shall document the preliminary plan's conformance with the applicable requirements of this Article and Ordinance, including the approval standards of Sections 13.4 and 14.6, and the extent to which the JPC approves the waivers being requested by the applicant.
5. Amendment Ordinance to Rezone: Following action by the JPC on the preliminary PUD application, each legislative body shall take action to approve or deny the rezoning of the subject property to a PUD designation. An approval of the PUD rezoning shall be by amendment ordinance according to Section 16.3(C) and (D). The effect of the approval of such an amendment ordinance by each legislative body shall be to authorize the fundamental PUD character and layout as approved by the JPC and to authorize a change on the Zoning Map to classify the subject property as "PUD." The approval of such an amendment ordinance is required by all legislative bodies to effectuate the rezoning of the subject property to "PUD" and no single legislative body may attach any conditions of approval as part of the amendment ordinance that are not similarly part of the amendment ordinance adopted by each of the other legislative bodies.

### C. Final Plan and Permit Issuance

1. Application: Within eighteen (18) months following the JPC's approval of the preliminary site plan and the rezoning of the subject property to the PUD District, the applicant shall submit to the Zoning Administrator at least thirty (30) copies of a final plan, or phase one of a final plan, conforming with Section 13.3 and including a detailed text description of the proposed development and all Ordinance standards subject to a proposed waiver. If the final plan has not been submitted within such period, the preliminary plan approval shall become null and void unless the JPC extends the time for submission of the final plan upon a showing by the applicant that no material change of circumstances has occurred having bearing on the original action of the JPC, found upon inspection by the JPC to be valid.
  - a. The Zoning Administrator shall record the date of the receipt of the final site plan and transmit copies to the JPC and other agencies or individuals selected to review such plans including but not necessarily limited to local municipal departments, consultants, County Drain Commissioner, County Road Commission and County Health Department.
2. JPC Action: The JPC shall review the final plan and shall be entitled to make reasonable inquiries of and receive answers from the applicant. The JPC shall take final action to approve, deny, or approve with conditions the final plan and shall prepare a report stating its conclusions, decision and the basis for its decision and any conditions relating to an affirmative decision. In reviewing the final plan, the JPC shall consider the applicable requirements of this Article and Ordinance, including Sections 13.4 and 14.6.
3. Issuance of Zoning Permit / Expiration: If and when the final PUD plan is approved, all improvements and use of the property shall be in conformity with the final PUD plan and any conditions imposed. The applicant shall record an affidavit with the Register of Deeds containing the legal description of the entire project, specifying the date of approval and declaring that all future improvements shall be carried out in accordance with the approved PUD unless a site plan revision is approved by the JPC upon request or approval of the applicant or applicant's transferee and/or assignees. Upon receipt of the recorded documents, the Zoning Administrator shall issue a zoning permit for that portion of the PUD project receiving final site plan approval.
  - a. An approved final PUD plan shall become null and void three (3) years from the date of its approval unless the approved project has been completed within such time period. The JPC may extend such approval time for multiple periods of no greater than one (1) year. No extension shall be granted unless the JPC finds that surrounding conditions and land uses, and the most current standards of this Ordinance, continue to support the adequacy of the site plan.
  - b. Where new standards or regulations have been made part of this Ordinance since the date of the PUD approval, the JPC may waive compliance with such new standards and regulations for the remaining portion of the project to be completed upon a finding that conformance to the new standards would unreasonably burden the completion of the project and continued compliance with the standards on which the PUD plan was originally approved will not undermine the public health, safety and welfare including the project's impact on surrounding land uses.

**Section 5.7 Phasing**

**A.** In developments which are to be predominantly residential in character but include nonresidential components, the JPC may require a phasing plan to ensure that a specified number or percentage of the proposed residential units are constructed prior to or concurrently with nonresidential components, and such phasing plan may include other requirements to ensure appropriate phasing. These same provisions shall apply in other mixed-use developments including those of a predominantly commercial character but which are to include residences as well.

**End of Article 5**

**Article 6**  
**(RESERVED for FUTURE USE)**

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**End of Article 6**

## **Article 7**

# **NONCONFORMING LOTS, USES and STRUCTURES**

### **Section 7.1 Purpose**

It is recognized that there exists lots, structures and uses within the Districts of this Ordinance and subsequent amendments, which were lawful before this Ordinance was passed or amended, which would be prohibited, regulated or restricted under the terms of this Ordinance or subsequent amendment. It is the purpose of this Article to permit legal nonconforming lots, structures and uses to continue until they are removed or discontinued, and to provide for their maintenance and repair but not their expansion, enlargement, extension or other alteration which in any way increases its nonconformity, except as otherwise provided by this Article.

### **Section 7.2 Nonconforming Lots**

**A.** Notwithstanding limitations imposed by other provisions of this Ordinance, any use and customary accessory structures may be erected on any single lot of record in existence on or before the date of adoption or amendment of this Ordinance where such use is an authorized "use permitted by right" according to Tables 4-2 and 4-3 of Article 4, even though such lot fails to meet the requirements for area, width and/or frontage that are applicable in the District, provided there is compliance with all other provisions of this Ordinance.

1. If two or more lots or combinations of lots and portions of lots share continuous frontage and share a common side lot line or portion thereof, and are in single ownership of record at the time of passage or amendment of this Ordinance as recorded in the County Register of Deeds, and if all or part of the lots do not meet the requirements established for area, width and/or frontage, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance. No portion of said parcel shall be used or divided in a manner that diminishes compliance with the area, width and frontage requirements of this Ordinance.

### **Section 7.3 Nonconforming Uses**

**A.** Where, on the date of adoption or amendment of this Ordinance, a lawful use 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:

1. No nonconforming use shall be enlarged or increased in area or bulk or in the number of structures and buildings, or moved or extended to occupy a greater area of land, than as existed on the date of adoption or amendment of this Ordinance except as follows:
  - a. A nonconforming use may be extended throughout any portion of a building in which it is located upon a determination by the Planning Commission that no additional off-street parking shall be necessary, no change shall occur to the essential character of the use as viewed from neighboring properties and adjacent public right-of-ways, and the use and enjoyment of adjacent properties shall not be adversely affected.
2. A change of tenancy or ownership of a nonconforming use is allowed provided there is compliance with the provisions of this Article.
3. Any nonconforming use of land or structure, or combination thereof, which is superseded by a permitted use, shall thereafter conform to the regulations for the District in which such use is located and a nonconforming use may not thereafter be resumed or otherwise established in association with such land or structure.
4. If a nonconforming use of any building, structure, land or premises or part thereof ceases for any reason for a period of more than one (1) year, or where the use is destroyed to an extent of more than 50% of its replacement cost, the subsequent use of the property shall thereafter conform to this Ordinance for the respective District. Conditions that shall be considered in determining the cessation of a nonconforming use shall include, but need not be limited to, disconnection of utilities, the property has fallen into a state of disrepair, the removal of equipment necessary for such use, discontinuation of mail service and the expiration of a license necessary for the business.
  - a. The above specified minimum one (1) year cessation period shall not include the time during which ownership or possession of the property is subject to court proceedings, an insurance settlement dispute, or an ongoing criminal investigation.

5. No nonconforming use may be changed to another nonconforming use except upon approval of the Joint Zoning Board of Appeals (JZBA), upon finding that such change in use will be more conforming to the intent of the District in which it is located than the existing nonconforming use. In making such a determination, the JZBA shall consider the anticipated change in intensity of use, in vehicular and pedestrian traffic, hours of operation and other aspects of the proposed use.
6. Where nonconforming status applies to a structure and use in combination, removal or destruction of the structure to an extent of more than fifty percent (50%) of its replacement cost, exclusive of foundations, shall eliminate the nonconforming status of the land and all subsequent uses and structures on the land shall conform to the respective District regulations.

#### **Section 7.4 Nonconforming Structures**

**A.** Where a lawful structure exists on the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance or subsequent amendment by reason of restrictions on area, lot coverage, height, setbacks, yards or other characteristics of the structure or location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No nonconforming structure may be enlarged or altered so as to increase its nonconformity such as in the case of a building's height or the cubic content of the portion of a building encroaching into a required setback.
2. Should a nonconforming structure be destroyed by any means to an extent of more than fifty percent (50%) of its replacement cost, exclusive of foundations, it shall not be reconstructed except in conformity with the provisions of this Ordinance including the site development standards for the respective District. In identifying the extent of destruction and the cost to replace the damaged structure, the Zoning Administrator may seek a written opinion from a qualified building appraiser and the opinion shall include the basis for the opinion.
3. Should a nonconforming structure be destroyed by any means to an extent of less than fifty percent (50%) of its replacement cost, exclusive of foundations, it may be reconstructed in the same location provided the reconstruction does not extend beyond the foundation that supported the nonconforming portion of the structure and no aspect of the reconstruction shall be more nonconforming than the previous structure.
4. Should such structure be moved for any reason for any distance, it shall thereafter conform to the regulations for the District in which it is located after it is moved.
5. A nonconforming structure may undergo ordinary repairs and maintenance, including the repair and refurbishing of wall exteriors, roofing, windows, fixtures, wiring and plumbing, provided the nonconformity existing at the time of Ordinance adoption or amendment shall not be increased, including the cubic content of any nonconforming portion of such structure.
6. Nothing in this Article shall require any alterations to a structure under construction that received a zoning permit but which, during construction, the structure was made nonconforming by adoption or amendment of this Ordinance, provided the approved foundation for such structure is more than fifty percent (50%) complete at the time of Ordinance adoption or amendment.

#### **Section 7.5 District Changes**

Whenever the boundary of a District is changed so as to transfer land from one District to another District, the provisions of this Article shall also apply to any existing lots, uses and structures that become nonconforming as a result of the boundary change.

#### **Section 7.6 Illegal Nonconformities**

Nonconforming lots, uses and structures existing on the effective date of this Ordinance or amendment thereto, that were established without the lawfully required procedures and approvals at such time of establishment, shall be declared illegal nonconformities and are not entitled to the status and rights accorded legally established nonconformities by this Article.

**End of Article 7**

## Article 8 STANDARDS AND REGULATIONS for SPECIFIC LAND USES

### **Section 8.1 Purpose and Applicability**

**A. Purpose:** The purpose of this Article is to establish standards and regulations in association with certain land uses to ensure such uses minimize negative impacts upon adjacent land uses and the Thompsonville area as a whole, and encourage orderly development in coordination with surrounding conditions and in the development site itself. Where deemed beneficial to provide greater clarification of the purpose or character of regulations presented in this Article, some Sections are accompanied by a further defined "purpose" statement.

**B. Applicability:**

1. Unless otherwise specified, each use addressed in this Article shall be subject to all setback, lot area and other standards of the District in which the use is located.
2. Where this Article establishes a standard more stringent than that required elsewhere in this Ordinance, including Table 4-4 of Article 4, the standard of this Article shall apply.
3. Any requirements of this Article regarding application submittal data, plans and drawings shall be in addition to the data requirements of Article 13, Site Plan Review.
4. Compliance with the standards in this Article does not relieve the owner or operator of a permitted use from complying with requirements and standards of other ordinances and county, state and federal laws and rules promulgated under such laws.

### **Section 8.2 Airports**

**A. Compliance with Table 4-4:** See Table 4-4 for standards pertaining to minimum lot area, width, frontage and yard setbacks, and maximum building height and lot coverage, except as follows:

1. An airport shall not be established on any parcel less than one-hundred eight (180) acres in area and 1,500 feet in width.
2. No runway shall be located within seven-hundred fifty (750) feet of a lot line.
3. No airport shall be established within 1,000' of an existing dwelling.
4. Maximum lot coverage shall not exceed ten percent (10%).

**B Additional Standards:**

1. The lot shall have frontage on a state highway or a paved primary road and take its access from such road.

### **Section 8.3 Bed and Breakfasts**

**A. Compliance with Table 4-4:** See Table 4-4 for standards pertaining to minimum lot area, width, frontage and yard setbacks, and maximum building height and lot coverage.

**B Additional Standards:**

1. No bed and breakfast use shall be permitted within a subdivision plat or site condominium or on any property where there exists another bed and breakfast within one thousand (1,000) feet, measured as a straight line distance between the structures.
2. The exterior appearance of the structure shall not be altered from its single family dwelling character.
3. There shall be no employees on the premises except those residing in the dwelling.
4. Meals may be served to overnight guests only. No separate or additional kitchen facilities shall be provided for the guests.
5. The number of bedrooms available for use by guests shall not exceed six (6) and all rooms utilized for sleeping shall be part of the dwelling.
6. No receptions, private parties or activities, for which a fee is paid, shall be permitted except as may be expressly authorized in association with the special land use approval of a bed and breakfast.
7. Lavatories and bathing facilities shall be available to all persons using the premises, at a minimum rate of one (1) bathroom for each two (2) bedrooms available for rent.
8. All parking areas for guests shall be set back a minimum distance of twenty (20) feet from all lot lines and screened to minimize impacts on neighboring properties.
9. The sale or offer for sale of goods is permitted provided such sales area does not exceed one hundred fifty (150) square feet in floor area.

### **Section 8.4 Private Campgrounds**

**A. Compliance with Table 4-4:** See Table 4-4 for standards pertaining to minimum lot area, width, frontage and yard setbacks, and maximum building height and lot coverage, except as follows:

1. The minimum lot area shall be fifteen (15) acres and shall have a minimum width of six-hundred sixty (660) feet.
2. All campsites, common use and recreation areas, restrooms and principal and accessory buildings shall be setback a minimum distance of one hundred (100) feet from all lot lines.
3. Maximum lot coverage shall not exceed ten percent (10%)

**B Additional Standards:**

1. No more than one (1) permanent dwelling shall be allowed in a campground, which shall only be occupied by the owner, manager or an employee.
2. A common use area shall be provided at a rate of five hundred (500) square feet per campsite, except that a minimum of ten thousand (10,000) square feet shall be provided.
3. A convenience store may be permitted within a campground as an accessory and subordinate use to the campground where the campground exceeds more than 40 campsites, provided the Joint Planning Commission determines the proposed store location will significantly discourage use of the store by non-campers. No convenience store shall be established except as may be expressly authorized as part of an approved campground application.
4. Each campsite shall be clearly identified by stakes or markers.
5. Each campsite shall have a picnic table and if fires are permitted, a designated place for such fires.
6. A private campground shall be state-licensed.

### **Section 8.5 Commercial Stables**

**A. Compliance with Table 4-4:** See Table 4-4 for standards pertaining to minimum lot area, width, frontage and yard setbacks, and maximum building height and lot coverage, except as follows:

1. A commercial stable shall not be established on any parcel less than ten (10) acres in area and three-hundred thirty (330) feet in width.
2. Buildings and structures housing animals, and manure storage areas, shall be set back a minimum distance of fifty (50) feet from lot lines.
3. No public viewing areas, such as bleachers or designated assembly and viewing areas in association with special events such as shows, exhibitions and contests, shall be permitted within one hundred (100) feet of a lot line.

**B Additional Standards:**

1. A vegetative strip of at least fifty (50) feet wide shall be maintained around all surface waters.
2. The facility shall be constructed and maintained so that manure, dust and drainage shall not create a nuisance or hazard to adjoining property or uses.

### **Section 8.6 Convalescent and Nursing Homes**

**A. Compliance with Table 4-4:** See Table 4-4 for standards pertaining to minimum lot area, width, frontage and yard setbacks, and maximum building height and lot coverage.

**B. Special Performance Standards:**

1. The lot shall have frontage on at least one (1) paved road classified by the Benzie County Road Commission as a primary road according to PA 51 of 1951, and take its access from such road.
2. There shall be provided easily accessible and usable outdoor areas for walking, sitting and general relaxation, in an amount of ten percent (10%) or more of the site area or one hundred (100) square feet per patient bed according to design capacity, whichever is greater, but in no case shall less than ten thousand (10,000) square feet be provided. No single designated outdoor area shall be less than 1,000 square feet in area.



### **Section 8.7 Day Care Centers**

**A. Compliance with Table 4-4:** See Table 4-4 for standards pertaining to minimum lot area, width, frontage and yard setbacks, and maximum building height and lot coverage.

**B Additional Standards:**

1. Day care center buildings authorized in Conservation or Residential Districts shall be of an overall residential character including exterior construction materials and general architecture. The property, including landscape and structural elements, shall be maintained in a manner that is consistent with the character of the area.
2. No approval shall be granted prior to the applicant's receipt of a license from the Michigan Office of Child and Adult Licensing unless required otherwise by law.

### **Section 8.8 Day Care Facilities, Group Homes**

**A. Compliance with Table 4-4:** See Table 4-4 for standards pertaining to minimum lot area, width, frontage and yard setbacks, and maximum building height and lot coverage.

**B Additional Standards:**

1. A group home day care facility shall not be located closer than fifteen-hundred (1,500) feet to any of the following facilities as measured along a road, street, or place maintained by this state or a local unit of government and generally open to the public as a matter of right for the purpose of vehicular traffic, not including an alley:
  - a. Another group home day care facility licensed by the State of Michigan.
  - b. An adult foster care group home licensed by the State of Michigan.
  - c. A facility offering substance abuse treatment and rehabilitation services to seven (7) or more people which is licensed by the State of Michigan.
  - d. A community correction center, resident home, halfway house or other similar facility which houses an inmate population under the jurisdiction of the Department of Corrections.
2. All outdoor play areas shall be enclosed with fencing, a minimum of four (4) feet high and shall comply with all administrative rules of PA 116 of 1973, as amended.
3. The property, including landscape and structural elements, shall be maintained in a manner that is consistent with the character of the surrounding area. No play equipment shall be located in the front yard.
4. At least one (1) off-street parking space shall be provided for each non-family employee of the group day care home in addition to the parking normally required for the dwelling. A driveway may be used for this purpose. An off-street drop-off area is to be provided with the capability to accommodate at least two (2) automobiles in addition to the parking required for non-family employees of the dwelling and the parking normally required for the residence.
5. Hours of operation shall not exceed sixteen (16) hours in a twenty-four (24) hour period.
6. No approval shall be granted prior to the applicant's receipt of a license from the Michigan Office of Child and Adult Licensing unless required otherwise by law.

### **Section 8.9 Extraction Operations**

**A. Additional Materials to be Submitted:** In addition to the information required by Article 13 for site plan review, the following information shall be provided:

1. Location of all buildings within two hundred (200) feet of any activity proposed for the site.
2. Detailed proposal as to method of operation, what type of machinery or equipment will be used, estimated period of time that such operation will cover and all haul roads and truck entrance locations to be used.
3. Detailed description of the material to be extracted, the anticipated average amount of material to be extracted each year, the total estimated area to be devoted to extraction, the planned progression of extraction across the site and corresponding time frames, the location of each principal phase, number of acres included in each phase and the estimated length of time to complete extraction of each phase.
4. Proposed plans for fencing.
5. Depth to and directional flow of groundwater, and analysis data documenting the extent to which the extraction operation may undermine surface and ground water conditions of nearby properties such as in the case of lowering water levels of surface water bodies and ground water resources from which wells rely.

6. Proposed side slopes and depths for all portions of the extracted area, including interim and final slopes.
7. Detailed storm water management plans that delineate how runoff is to be removed from extraction areas including the delineation of proposed interim and finished grading and revegetation, directional flow of swales and other drainage courses, settling ponds and retention/detention ponds, points of discharge of runoff, the avoidance of stagnant ponding and measures to minimize erosion and sedimentation of existing on-site and off-site water bodies.
8. The proposed location of any buildings, storage areas, stockpiling areas and sorting or crushing equipment as appropriate.
9. A detailed reclamation plan that complies with the following:
  - a. Describes in detail the intended reclamation use of the site upon completion of extraction activities, the spatial arrangement of proposed reclamation uses, and preliminary final grading of the site.
  - b. Depiction of finished, stabilized, side slopes, and provisions for revegetation and stabilization.
  - c. The inclusion of a landscape plan, including an inventory of plant/tree species to be used, sizes and locations, and the manner in which vegetation shall be restored upon the site including appropriate seeding of grasses or the planting of trees and shrubs to establish a permanent vegetative cover on the land surface to minimize erosion. The landscape plan shall provide that a layer of arable topsoil shall be spread over the excavated area, except exposed rock surfaces, to a minimum depth of four (4) inches in accordance with an approved grading plan and intended reclamation use.
  - d. Final slopes no greater than a 3:1 (horizontal:vertical) ratio.
  - e. No noxious, flammable or toxic backfill and grading materials shall be used.
  - f. Provides for the removal of all rubbish, debris, structures, buildings and equipment within 365 days of the termination of extraction operations.
  - g. The inclusion of a reclamation schedule that provides, in part, that reclamation shall be carried out progressively so as to ensure that no active extraction area exceeds five (5) acres in area, unless expressly authorized otherwise upon a finding that no practical alternatives exist and the public health, safety and welfare shall be ensured.

**B. Compliance with Table 4-4:** See Table 4-4 for standards pertaining to minimum lot area, width, frontage and yard setbacks, and maximum building height and lot coverage, except as follows:

1. Minimum lot area shall be twenty (20) acres.
2. Notwithstanding any other minimum setbacks required by this Ordinance, all extraction activities, including alteration of existing topographic conditions, fixed and temporary buildings and equipment, washing and stockpiling of materials, truck parking and truck storage areas, shall be set back a minimum distance of one hundred (100) feet from all lot lines and two hundred (200) feet from a residence existing at the time an application is submitted.

**C. Additional Standards:**

1. Rumble strips shall be provided along access drives to discourage the tracking of dirt onto adjacent roads. Public streets within 1000 feet of the exit of the extraction site shall be kept reasonably clear on a daily basis of mud, dirt and debris from vehicles exiting the site.
2. Measures shall be employed as necessary to prohibit windborne dust, sand, or other materials from leaving the extraction site, including the seeding of exposed earth, use of berms and vegetative screens and the application of chemicals to non-vegetated areas provided such chemicals are biodegradable and non-toxic.
3. No topsoil shall be removed from the extraction site except as may be delineated on an approved site plan or otherwise authorized as part of an approval of the extraction operation.
4. Extraction areas shall be graded in a fashion which will not cause water to accumulate in stagnant pools.
5. Truck or heavy vehicle traffic related to extraction operations shall use major thoroughfares for access to the greatest extent feasible. The applicant shall make an adequate financial guarantee with Benzie County Road Commission to address any additional road maintenance and/or improvements necessitated by extraction operation truck traffic.
6. Extraction operations, including crushing, washing, processing, loading and transport operations, shall commence no earlier than 7:00 a.m. and cease no later than 7:00 p.m. on weekdays and, on Saturdays between May 1st through November 30th, no earlier than 7:00 a.m. and cease no later than 5:00 p.m. Extraction operations shall not occur on Sundays, Christmas Day and Thanksgiving Day. A modification of these limitations may be made upon a finding that specific conditions are present or are to be established that support more lenient limitations.

7. All temporary structures shall be removed from the premises upon completion of the extraction activity unless said structures are of sound construction and are compatible with the approved reclamation plan.
8. The site shall be rehabilitated progressively as extraction areas are worked or abandoned so that they shall be in a condition of being entirely lacking in hazards and be inconspicuous, and blended with the general surrounding ground form. Reclamation of the site concurrent with extraction activities shall be undertaken to the extent that the reclamation activities will not interfere with the excavating activity or if the extraction activity will damage the reclaimed areas. Extraction areas shall be reclaimed pursuant to the approved reclamation plan. The excavator shall be required to post an acceptable performance guarantee pursuant to Section 3.6 of this Ordinance to address the reclamation costs for each five (5) acres of land to be disturbed or fraction thereof. Extraction activities shall not be initiated on any location of the site until such performance guarantee has been posted for that area of the site.
9. Any expansion of an extraction operation beyond that area covered by a valid zoning permit shall be subject to the special land use provisions of Article 14.
10. Any performance bond that may be required according to Section 3.6 may cover anticipated yearly or other periodic inspections.
11. All areas which are subject to current extraction operations, or past extraction operations but which have yet to be reclaimed or otherwise exhibit slopes in excess of 3:1 (horizontal to vertical), shall be fenced to a minimum height of six (6) feet. Any gates made part of such fencing shall be secured at all times when the site is unattended by the operator. Such fencing shall include signs no less than three (3) square feet in area and spaced no greater than two hundred (200) feet apart, with the following or similar notice: "Warning – Danger, Excavation in Progress."

**D. Abandonment/Termination of Use:**

1. An operator shall submit written notice to the Zoning Administrator of the abandonment of an extraction operation within six (6) months of such abandonment.
2. When extraction operations have ceased for more than 365 consecutive days or when, by examination of the premises or other means, the Zoning Administrator determines that the extraction operation, or portion thereof, has been abandoned, the Zoning Administrator shall give the owner written notice of the JPC's intention to declare the extraction operation abandoned. Within thirty (30) days following receipt of such notice, the owner shall have an opportunity to submit evidence that the use of the extraction operation, or portion thereof, is continuing.
3. The JPC shall then render a decision as to the extent to which extraction operations may continue or the operation shall be declared as abandoned. Upon a declaration of abandonment, the owner shall complete all provisions of the approved reclamation plan not otherwise completed to date, within six (6) months of such declaration, except upon a finding by the JPC that there exist special or unique conditions that support a different time frame for completion.
4. Where an extraction operation has been declared abandoned, a new application and permit shall be necessary before additional extraction activities may occur.

**E. Time Limitation on Permit:** A permit for an extraction operation shall be valid for three (3) years. No less than every three (3) years from the issuance of such permit, the applicant shall submit project status documents delineating the status of extraction operations to date including the current limits of extraction, reclamation efforts undertaken and completed to date, updated phasing plans for the remainder of the approved extraction area and the status of any alleged violations and corrective actions. The JPC shall consider such documents and the recommendation of the Zoning Administrator, and upon finding such documents are satisfactory, the JPC shall renew the permit for an additional three (3) years. The JPC shall not deny the renewal of such permit if the extraction operation is in compliance with the approved zoning permit and all conditions made part of the permit.

**F. No Very Serious Consequence:** When reviewing and taking action on a special land use application for an extraction operation, and in addition to reviewing such application according to the general special land use approval standards of Section 14.6, such application shall also be reviewed to determine whether adequate documentation has been submitted demonstrating that "no very serious consequences" will result by the approval of such application. The determination of "no very serious consequence" may be based on any of the following factors as may be applicable:

1. The relationship of extraction and associated activities with existing land uses.
2. The impact on existing land uses in the vicinity of the property.
3. The impact on property values in the vicinity of the property and along the proposed hauling route serving the property, based on credible evidence.

4. The impact on pedestrian and traffic safety in the vicinity of the property and along the proposed hauling route serving the property.
5. The impact on other identifiable health, safety and welfare interests in the Thompsonville area.
6. The overall public interest in the extraction of the specific natural resources on the property.

### **Section 8.10 Foster Care Facilities, Group Homes**

**A. Compliance with Table 4-4:** See Table 4-4 for standards pertaining to minimum lot area, width, frontage and yard setbacks, and maximum building height and lot coverage.

**B Additional Standards:**

1. Any outdoor children's' play area shall be enclosed with fencing, a minimum of four (4) feet high.
2. The property, including landscape and structural elements, shall be developed and maintained in a manner that is consistent with the general character of residential properties within the general area.
3. An off-street drop-off area is to be provided with the capability to accommodate at least two (2) automobiles in addition to the parking required for employees.
4. The facility shall provide a loading/unloading area of adequate dimensions near a barrier-free entrance to the facility.
5. No approval shall be granted prior to the applicant's receipt of a license from the Michigan Office of Child and Adult Licensing unless required otherwise by law.

### **Section 8.11 Golf Courses, Country Clubs and Driving Ranges**

**A. Compliance with Table 4-4:** See Table 4-4 for standards pertaining to minimum lot area, width, frontage and yard setbacks, and maximum building height and lot coverage, except as follows:

1. All principal and accessory buildings, driving stations, parking areas, temporary sanitary facilities and trash receptacles and outdoor swimming pools and surrounding deck areas, shall be set back a minimum distance of one-hundred (100) feet from all lot lines.

**B Additional Standards:**

1. The design of buildings shall be of an overall residential or lodge character and exterior materials shall be primarily wood, siding, stone or brick.
2. Fairways and driving ranges shall have sufficient width and shall be oriented in such a manner and set back a sufficient distance to prevent golf balls from being hit outside the perimeter of the golf course. Where necessary, buffering conditions shall be in place to minimize the safety threats upon adjacent land uses due to errant golf balls.
3. Accessory uses may include managerial facilities, maintenance sheds, restrooms, lockers, restaurants and drinking establishments, racket sports, swimming facilities, clubhouses and other uses having a customary accessory relationship with a country club, provided all standards of this Ordinance are met and the approving body determines that such uses are clearly accessory and subordinate in character to the principal use of the parcel as an outdoor recreational facility.
4. A minimum fifty (50) foot buffer zone between turf areas and natural water bodies, watercourses or wetlands shall be maintained. The buffer zone may be selectively pruned or thinned, and weeds and dead plant material may be removed. However, the buffer shall consist of natural vegetation and shall not be chemically treated.
5. A hydrogeological study shall be completed and submitted to document the anticipated impact of the golf course on groundwater supply. This study shall inventory and analyze well logs from surrounding properties, giving consideration to the depth of the wells and quality of water. The study shall further estimate the quantity of water that will be used on a daily basis during the peak watering periods and shall evaluate the impact of watering operations on surrounding wells. The study shall be performed by an engineer or hydrologist licensed in the State of Michigan.
6. Detailed plans for hazardous materials storage shall be provided. Buildings in which hazardous materials are stored shall be designed to contain spills, shall not have floor drains that discharge into a septic system or other pathway to the groundwater, shall be lockable and shall be kept locked. An inventory manifest of stored hazardous materials must be posted at the entrance of the storage building and filed with all fire departments serving the Thompsonville area. Plans for emergency containment and clean-up shall also be provided to such fire departments.

### **Section 8.12 Hospitals**

**A. Compliance with Table 4-4:** See Table 4-4 for standards pertaining to minimum lot area, width, frontage and yard setbacks, and maximum building height and lot coverage.

**B Additional Standards:**

1. The lot shall have frontage on a state highway or a paved primary road and take its access from such road.
2. Ambulance and emergency entrance areas shall be visually screened from the view of adjacent residential uses and residentially-zoned land by a structure or masonry wall of six (6) feet or more in height.

### **Section 8.13 Junkyards**

**A. Compliance with Table 4-4:** See Table 4-4 for standards pertaining to minimum lot area, width, frontage and yard setbacks, and maximum building height and lot coverage, except as follows:

1. The lot shall have a minimum area of ten (10) acres and a minimum width of three-hundred thirty (330) feet.
2. All storage, dismantling, or other work on junk shall be set back at least one-hundred (100) feet from all lot lines.

**B Additional Standards:**

1. A solid fence or wall enclosure at least eight (8) feet in height, but no greater than ten (10) feet in height, shall be provided around all sides of the area used to store, dismantle, or otherwise work on junk. Such fence or wall shall be of sound construction, painted or otherwise finished neatly and inconspicuously. All activities shall be confined to within the enclosed area including storage or stockpiling of materials; disassembly of materials, parts and vehicles; and the storage or parking of all equipment and operative and inoperative vehicles. There shall be no stocking of material above the height of the enclosure.
2. There shall be no storing, dismantling, or other work on junk within three hundred (300) feet of a church, school, public building, park, cemetery, dwelling, or Residential District.
3. No junkyard shall be used for the dumping or disposal of household, commercial, or industrial garbage and trash.
4. Outdoor burning is prohibited.
5. Between the hours of 5:00 p.m. and 8:00 a.m., all processes involving the use of equipment for cutting, compressing, or packaging shall be conducted within a completely enclosed building.
6. All roads, driveways, parking lots and loading and unloading areas within any junk yard shall be paved, watered, or chemically treated so as to limit the nuisance caused by wind-borne dust.
7. The operation shall be licensed by the Michigan Secretary of State.
8. Any materials listed on the Michigan Critical Materials Register (gasoline and solvents) require secondary containment and a Pollution Incident Protection Plan filed with the Michigan Department of Environmental Quality.
9. No inoperable vehicle shall be maintained on the site for more than three (3) days except where all fluids and other hazardous materials in such vehicle, including but not limited to batteries, fuels, oils and coolants, are fully drained. Such fluids shall be disposed of in accordance with all local, county, state and federal regulations. The leaking of such materials onto the ground is prohibited.
10. All junk material shall be fully removed from the site prior to the termination of said use.
11. The lot shall have frontage on a state highway or a paved primary road and take its access from such road.

## **Section 8.14 Kennels**

**A. Compliance with Table 4-4:** See Table 4-4 for standards pertaining to minimum lot area, width, frontage and yard setbacks, and maximum building height and lot coverage, except as follows:

1. A kennel shall not be established on any parcel less than five (5) acres in area and three-hundred (300) feet in width.
2. Buildings where animals are kept, runs and group exercise areas (versus walking trails) shall not be located closer than sixty (60) feet to any lot line and no closer than one-hundred (100) feet to any existing residence on an adjacent lot or a proposed residence on an adjacent lot and for which a building permit has been issued.

**B Additional Standards:**

1. The premises shall be kept in a clean and sanitary manner to prevent the accumulation of flies or fleas, the spread of disease or offensive odor. The site plan application materials shall document the manner in which animal stalls are to be constructed and animal waste is to be disposed, and measures to be taken to protect against odors, flies, fleas and the spread of disease.
2. All animals must be licensed and maintained in a healthful and careful manner, and all kennel operations shall comply with all applicable county, township, state and federal regulations.
3. Kennel buildings used to house animals shall have concrete floors throughout and shall be fully enclosed, heated, ventilated, and insulated in such a manner that animal noises are minimized.
4. Habitual barking or unusual noise from the kennel which results in a nuisance to neighboring land owners or residents is prohibited.
5. Outdoor runs, pens or exercise yards shall not be used between the hours of 9:00 p.m. and 7:00 a.m.
6. Animals shall be kept confined and not allowed to run at large on the property except as part of supervised training.
7. Outdoor runs and exercise yards are prohibited in a Commercial District.

## **Section 8.15 Mini Storage Facilities**

**A. Compliance with Table 4-4:** See Table 4-4 for standards pertaining to minimum lot area, width, frontage and yard setbacks, and maximum building height and lot coverage.

**B Additional Standards:**

1. No storage of hazardous, toxic, or explosive materials shall be permitted at the facility. Signs shall be posted at the facility describing such limitations.
2. There shall be a minimum of thirty (30) feet between storage buildings for driveway, parking, and fire lane purposes. Where no parking for loading or unloading is permitted within the building separation areas, said building separation need only be twenty-two (22) feet. Traffic direction and parking shall be designated by signaling or painting.
3. No retail, wholesale, fabrication, manufacturing, or service activities may be conducted from the storage units.
4. Storage spaces shall not contain more than 500 square feet each.
5. All storage shall be within the enclosed building area unless specifically provided for otherwise as part of an approved site plan, as in the case of the storage of recreational vehicles. No outdoor storage shall occur within a front yard and within fifty (50) feet of a side and rear lot line.

## **Section 8.16 Motels and Hotels**

**A. Compliance with Table 4-4:** See Table 4-4 for standards pertaining to minimum lot area, width, frontage and yard setbacks, and maximum building height and lot coverage.

**B. Additional Standards:**

1. Each unit shall contain at least a furnished bedroom and bath and a minimum gross floor area of two hundred fifty (250) square feet.
2. Motels and hotels shall provide customary services such as maid service, linen service and telephone and/or desk service.
3. A hotel or motel may include accessory services including meeting rooms and restaurants provided such uses are contained within the motel building, comply with the provisions of this Ordinance including adequate off-street parking in addition to the motel itself, and such uses are made part of the zoning permit application for which approval is granted.
4. A caretaker's residence may be established within the motel only.

### **Section 8.17 Multiple Family Developments**

**A. Compliance with Table 4-4:** See Table 4-4 for standards pertaining to minimum lot area, width, frontage and yard setbacks, and maximum building height and lot coverage, except as follows:

1. The portion of a building within one hundred (100) feet of a Conservation or Residential District shall not exceed twenty (20) feet in height.
2. Buildings shall be a minimum twenty-five (25) feet from the edge of a parking lot or access drive not otherwise comprising a road right-of-way.

**B. Special Performance Standards:**

1. The minimum distance between any two buildings on the lot shall be equal to fifty (50) feet except that the minimum distance between any two buildings on the lot that are generally arranged end-to-end shall be the height of the taller building but no less than twenty (20) feet.
2. There shall be provided easily accessible and usable open space in the development in an amount of ten percent (10%) or more of the site area or one hundred (100) square feet per dwelling unit, whichever is greater, but in no case shall less than ten thousand (10,000) square feet be provided. No single designated open space shall be less than 1,000 square feet in area. Such open space shall be available for recreation and leisure.
3. In no case shall a residential building be more than one hundred fifty (150) feet from the parking lot from which it is served.
4. Accessory buildings, structures and uses that are clearly customary and incidental to the functioning of the development are permitted, including business and administrative offices, laundry facilities and auxiliary storage for tenants, and community buildings.
5. All access drives shall have a minimum pavement width of thirteen (13) feet for one-way streets and twenty-four (24) feet for two-way streets.
6. The minimum floor area for multiple family dwelling units shall be as follows:
  - a. Efficiencies: 400 sq. ft. of heated living area.
  - b. One bedroom units: 720 sq. ft. of heated living area.
  - c. Two bedroom units: 850 sq. ft. of heated living area.
  - d. Three bedroom units: 950 sq. ft. of heated living area.
  - e. Four or more bedroom units: 1,050 sq. ft. of heated living area, plus 100 sq. ft. of heated living area for each additional bedroom in excess of the fourth bedroom.

### **Section 8.18 Open Air Businesses (On-Site Sales of Vehicles, Landscape Supplies, Outdoor Furniture and Similar Outdoor Sales)**

**A. Compliance with Table 4-4:** See Table 4-4 for standards pertaining to minimum lot area, width, frontage and yard setbacks, and maximum building height and lot coverage.

**B Additional Standards:**

1. All outdoor sales, storage or display areas shall include a building of a minimum two hundred (200) square feet in area, which functions in association with the business.
2. All outdoor sales, storage and display areas shall comply with the minimum setback standards for the building on the premises.
3. The lot shall have frontage on a state highway or a paved primary road and take its access from such road.
4. In the case of vehicle sales, the following shall apply:
  - a. All repair, assembly, disassembly or maintenance of vehicles shall occur within a closed building except minor maintenance including tire, oil and wiper replacement.
  - b. All vehicle display and storage areas shall be asphalt or concrete paved except where the approving body determines such paving is not necessary due to the prohibition of public access to such areas, the limited use of such areas on a day-to-day basis, or other reasons the approving body finds applicable.
5. Outdoor broadcasting of voice or music shall be prohibited.

## **Section 8.19 Open Space Preservation Communities**

**A. Purpose:** It is the purpose of Open Space Communities (OSPC) to provide opportunities for residential development which, because of the more flexible standards available to OSPCs under this Section and according to Section 506 of the Michigan Zoning Enabling Act, more effectively encourage the preservation of open spaces and natural resources including woodlands, wetlands and sensitive environmental areas, and the Thompsonville area's rural character. The regulations of this Section intend to accomplish these purposes, in part, by providing for the grouping or clustering of new homes on smaller lots than typically required by the District within which the OSPC is to be located, so that the remainder of the site can be preserved as open space.

**B. The following site and developmental requirements shall apply:**

1. Uses: Uses within an OSPC shall be limited to those dwelling types authorized by the District in which the OSPC is located and customary accessory uses to dwellings, in addition to the open space as required by this Section.
2. Number of Lots/Dwellings: The number of dwellings and lots authorized in an OSPC shall be the number attainable by the Conventional Plan according to subsection (C)(2) below plus an additional twenty-five percent.
3. Minimum Lot Area and Width
  - a. Lot Area: The minimum lot area shall be that which is necessary for acquisition of all required public health permits and approvals including potable water and on-site sewage disposal where such public utilities are not available. Where such public utilities are provided, the minimum lot area shall be no less than thirty-five percent (35%) of the normally required lot area of the respective District.
  - b. Lot width: Minimum lot widths shall be of such dimension so that no lot has a depth greater than four (4) times its width, but in no case shall a lot be less than sixty-five (65) feet in width.
4. Setbacks
  - a. The following front, side and rear yard setbacks shall apply except that in no case shall a building be located within seventy-five (75) feet of the perimeter lot line of the OSPC parcel. Where the approving body finds the natural or proposed topography, vegetation, or other conditions provide adequate screening and buffering within the context of surrounding development patterns, the above referenced setbacks may be reduced by no greater than fifty percent (50%).
    - 1) Front yard: twenty-five (25) feet.
    - 2) Side yard: ten (10) feet.
    - 3) Rear yard: twenty (20) feet.
  - b. In addition to subsection (a) above, a minimum (75) foot setback shall be maintained along lakes, ponds, rivers, streams and wetlands, except where a greater setback may be required by the Natural Rivers Act. The setback standards of this subsection (b) shall not prohibit trails, boardwalks, observation platforms or other similar structures that enhance passive enjoyment of the site's resources within the setback provided such features are expressly authorized as part of an approved site plan.
5. Guarantee of Open Space: An OSPC shall include permanently dedicated open space. Such required open space shall remain perpetually in an undeveloped state by means of a conservation easement, plat dedication, restrictive covenant, or other legal means that runs with the land, acceptable to the approving body. Further subdivision of open space land or its use for other than conservation, agricultural uses, or preservation in an undeveloped state, is prohibited. The applicant shall guarantee to the satisfaction of the approving body that all open space portions of the development will be maintained in perpetuity and in the manner approved. Documents shall be presented that bind all successors and future owners in fee title to commitments made as a part of the proposal. For the purposes of this Section, "undeveloped state" shall be construed to mean a natural state preserving natural resources, natural features, or scenic or wooded conditions; agricultural use; open space; or a similar use or condition. Land in an undeveloped state does not include a golf course but may include a recreational trail, picnic area, children's play area, greenway, or linear park. For the purposes of this Section, "greenway" shall be construed to mean a contiguous or linear open space, including habitats, wildlife corridors and trails, that link parks, nature reserves, cultural features, or historic sites with each other, for recreation and conservation purposes. Land in an undeveloped state may be, but is not required to be, dedicated to the use of the public.
  - a. The open space conveyance shall:
    - 1) Indicate the proposed allowable use(s) of the dedicated open space.
    - 2) Require that the dedicated open space be maintained by parties who have an ownership



interest in the open space, and establish a funding mechanism to ensure the same.

- 3) Provide for maintenance to be undertaken by the municipality in which it is to be located, in the event that the dedicated open space is inadequately maintained or is determined by the JPC to be a public nuisance, with the assessment of costs upon the property owners.
6. Open Space Preservation Area, Character and Priorities
    - a. A minimum of fifty percent (50%) of the OSPC parcel shall be designated as permanent open space. However, in no case shall the required open space area be characterized by year-round submerged land such as ponds, lakes and year-round submerged wetlands. In addition, no more than fifty percent (50%) of the required open space area shall be characterized by wetlands not otherwise submerged year-round.
    - b. Open space shall be located on the parcel to meet the following objectives:
      - 1) Greatest preservation priority shall be placed upon water courses and bodies, MDNRE-regulated wetlands, floodplains and mature woodlands. Other on-site natural resources shall also be considered in the location of open spaces and overall design of the project including farmland, tree lines, wetlands not regulated by the MDNRE and panoramic rural views.
      - 2) To promote the effective preservation of the existing character along the public road frontages that the OSPC abuts.
      - 3) To ensure the open space area is of a unified character comprised predominantly of large contiguous areas, except where special conditions may exist that support a more fragmented configuration of the open space.
  7. Vehicular and Pedestrian Access and Circulation
    - a. All dwellings within an OSPC shall gain access from an interior road within the OSPC.
    - b. A non-motorized circulation system may be required along one or both sides of the roads of the OSPC and/or through other portions of the OSPC, to ensure safe non-motorized travel. The circulation system shall be coordinated with existing or planned pedestrian ways, roads and activity centers in the area. Non-motorized circulation networks shall encourage ease of access from residences to the designated open space areas.
    - c. Access points or paths shall be provided to afford pedestrian access to designated open space and common areas. These access points shall link the open space to the road system, sidewalks, or the remainder of the development.
    - d. All public roads shall conform to the requirements and standards of the Benzie County Road Commission. All private roads shall conform to the requirements and standards of this Ordinance.

**C. Special Application and Approval Requirements:** OSPCs are classified as special land uses and OSPC applications shall be reviewed and acted upon according to Article 13 (Site Plan Review) and Article 14 (Special Land Uses), in addition to the following:

1. Unified Control: The application shall demonstrate that the proposed development shall be under single ownership or control, such that there is a single person or entity having proprietary responsibility for the full completion of the project. The applicant shall provide sufficient documentation of ownership or control in the form of agreements, contracts, covenants and/or deed restrictions that indicate that the development will be completed in its entirety as proposed.
2. Conventional Plan: At the time the applicant submits a site plan for the OSPC, the applicant shall also submit a conventional plan which shall illustrate a practical and reasonable manner for developing the project parcel according to the conventional development standards of the District in which it is located including the normally required minimum lot area and width. This plan shall identify the total number of lots and dwellings reasonably attainable. The approving body shall make the final determination as to the number of dwellings and lots reasonably attainable by conventional design. This information shall be used when determining the permissible number of dwellings and lots for an OSPC proposal.
  - a. The conventional plan referenced in subsection (2) above need not be an engineered set of construction drawings, but shall be of such detail and clarity to demonstrate conformity with all state, county and township regulations including, but not limited to, potable water and sewage disposal, storm water management including necessary detention and retention ponds, and general road design and construction. The conventional plan shall demonstrate the feasibility of the proposed plan both in regard to its construction and its negligible impact upon sensitive environmental resources including wetlands and drainage courses and, in doing so, shall include the following: natural features such as wetlands, woodlands, flood plains, streams, rivers, county drains, lakes, ponds and topography (at two-foot intervals), and man-made features such as existing roads, structures, utilities, easements and adjacent land use conditions. A conventional plan shall not be considered by the JPC if it determines that it does not provide the necessary level of detail or information to assess such conventional plan for the purposes of subsection (2) above.

3. Recording of Approval Action/Permit Issuance: The applicant shall record an affidavit with the County Register of Deeds containing the full legal description of the project site, specifying the date of final approval, and declaring that all improvements will be carried out in accordance with the approved OSPC plan unless a change is approved by the JPC. In addition, all deed restrictions and easements shall be duly filed with the Register of Deeds of the County. Copies of recorded documents shall be presented to the Zoning Administrator. Upon receipt of the recorded documents, the Zoning Administrator shall issue a zoning permit for the OSPC.

### **Section 8.20 Private Landing Strips**

**A. Compliance with Table 4-4:** See Table 4-4 for standards pertaining to minimum lot area, width, frontage and yard setbacks, and maximum building height and lot coverage, except as follows:

1. Runways, helicopter pads, hangars, maintenance buildings and any other structures associated with the landing strip shall be located a minimum of one-hundred fifty (150) feet from all lot lines.

**B Additional Standards:**

1. Except in the case of helicopter pads, runways shall be twelve hundred (1,200) feet in land length and fifty (50) feet in width, with a clear approach in each direction of 10:1 (horizontal to vertical) for a distance of 10,000 feet, except where the applicant can demonstrate that the intended type of aircraft to be used has standard operational characteristics that make such standards excessive such as in the case of "ultra light" aircraft.
2. Approval of landing strips shall not be made prior to the receipt of the Federal Aviation Authority's review of the proposed landing strip.

### **Section 8.21 Sexually Oriented Businesses**

**A. Purpose:** There is convincing documented evidence that sexually oriented businesses, because of their very nature, can facilitate and support undesirable and detrimental patterns of activity in their vicinity. These impacts are incompatible with activities and uses in residential areas, near educational, recreational and religious facilities, and among local businesses and their immediate neighborhood. Such impacts can be exacerbated when such businesses locate in close proximity to each other or near establishments serving alcoholic beverages. Impacts contribute to blight and downgrading the quality of life in the adjacent area. The Thompsonville area desires to prevent adverse effects and thereby protect the health, safety and welfare of the citizenry, preserve the property values and character of surrounding neighborhoods and deter the spread of blight. It is not the intent of this Ordinance, including this Section, to suppress any activity protected by the First Amendment of the United States Constitution or the Michigan Constitution, but to enact content neutral provisions that address the adverse effects of sexually oriented businesses. It is the purpose of this Section to regulate sexually oriented businesses and related activities to promote the health, safety and general welfare. It is not the intent of this Section to condone or legitimize the distribution of sexually oriented materials.

**B. Definitions:** For the purposes of this Section, the following terms, phrases and definitions shall apply:

1. Adult Bookstore: A commercial establishment that, as a principal business purpose, offers for sale or rental or for any form of consideration any one or more of the items set forth in subsection (a) or (b):
  - a. Books, magazines, periodicals or other printed matter or photographs, films, motion picture video or other video reproductions, slides, or other visual representations or media, that depict or describe specified anatomical areas or specified sexual activity.
  - b. Instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.

The sale of such materials shall be deemed to constitute a "principal business purpose" of an establishment if it comprises ten percent (10%) or more of sales volume or occupies ten percent (10%) or more of the display area or visible inventory within the establishment.

2. Adult Live Entertainment Center: A nightclub, bar, restaurant, or similar commercial establishment that features one (1) or more of the following:
  - a. Persons who appear in the state of nudity.
  - b. Live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities.
  - c. Films, motion pictures, video reproductions, slides and other photographic reproductions or visual media that are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

3. Adult Motel: A hotel or motel or similar commercial establishment that provides or permits one (1) or more of the following:
  - a. Accommodations to the public for any form of consideration and provides patrons with closed-circuit television (as distinguished from commercial cable services) transmissions, films, motion pictures, videos, slides, or other photographic reproductions or visual media that are characterized by the depiction or description of specified sexual activities or specified anatomical areas.
  - b. Sleeping rooms for rent for a period of time that is less than twelve (12) hours.
  - c. The sub-renting of a sleeping room for a period of time that is less than twelve (12) hours by the tenant or occupant of the room.
4. Adult Motion Picture Theater: A commercial establishment that shows films, motion pictures, videos, slides, or other photographic reproductions or visual media, that depicts or describes specified anatomical areas or specified sexual activities, including commercial establishments that offer individual viewing booths. This phrase shall not apply to a motel or hotel, as defined in this Ordinance, which offers for a fee the viewing of movies within a customer's room including movies that depict specified anatomical areas or specified sexual activity.
5. Adult Sexual Paraphernalia Store: An establishment having, as part of its stock in trade, paraphernalia designed or usable for sexual stimulation or arousal.
6. Adult Theater: A theater, concert hall auditorium, or similar commercial establishment that features a person or persons who appear in a state of nudity or live performances that are characterized by exposure of specified anatomical areas or specified sexual activities.
7. Escort: A person who, for any form of consideration and regardless of who pays that consideration, agrees to act or offers to act as a companion or date for another person, or who agrees or offers to privately model lingerie or to privately perform a strip tease for another person.
8. Escort Agency: A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.
9. Manager's Station: A designated area from which a premises is managed or supervised.
10. Massage Parlor: Any establishment having a fixed place of business where massages are administered for a fee or other consideration including but not limited to massage parlors, sauna baths and steam baths. This definition shall not be construed to include a hospital, nursing homes, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, or physical therapist duly licensed by the State of Michigan, nor barber shops or beauty salons in which massages are administered only to the scalp, face, neck, or shoulders. This definition shall not be construed to include a nonprofit organization operating a community center, swimming pool, tennis court, or other educational, cultural, recreational and athletic facilities for the welfare of the residents of the area, nor practices of massage therapists who meet two (2) or more of the following criteria:
  - a. Proof of graduation from a school of massage licensed by the State of Michigan.
  - b. Official transcripts verifying completion of at least three hundred (300) hours of massage training from an American community college or university; plus three (3) references from professional massage therapists who are members of a massage association referred to in this section.
  - c. Certificate of professional membership in the American Massage Therapy Association, International Myomassethics Federation, or other recognized massage association with equivalent professional membership standards.
  - d. A current occupational license from another state.
11. Nude Model Studio: Any place where a person who displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by other persons who pay money or any form of consideration, but does not include the following:
  - a. An educational institution funded, chartered, or recognized by the State of Michigan.
  - b. Any modeling session for a local, nonprofit organization that is not open to the public or to any persons other than members of the organization, that is for the purpose of instruction in the artistic depiction in two (2) dimensional or three (3) dimensional media of the human form, during which no specified sexual activities occur and during which the model remains in a fixed pose.
12. Open Dance Hall: An establishment where open dancing by patrons is available during at least four (4) days per week with or without partners furnished by the establishment.
13. Public Nudity or State of Nudity: Knowingly or intentionally displaying in a public place, or in any other place for payment or promise of payment by any person, including, but not limited to payment or promise of payment of an admission fee, any individual's genitals or anus with less than a fully opaque covering, or a female individual's breast with less than a fully opaque covering of the nipple and areola. Public nudity does not include any of the following:

- a. A woman's breast feeding of an infant irrespective of whether the nipple is covered during or incidental to the feeding.
  - b. Any display of any part of the anatomy occurring as part of the regular curriculum of an educational institution that is funded, chartered, or recognized by the State of Michigan.
14. Sexual Encounter Center: A business or commercial enterprise, except that which is part of the practice of and under the supervision and control of a physician, psychologist or psychiatrist licensed to practice in Michigan, that, as one of its principal business purposes, offers for any form of consideration one (1) or more of the following:
- a. Physical contact in the form of wrestling or tumbling between persons of the opposite sex.
  - b. Activities between male and female and/or persons of the same sex when one (1) or more of the persons are in a state of nudity.
15. Sexually Oriented Business: A business or commercial enterprise engaging in or consisting of an adult bookstore, adult live entertainment center, adult motel, adult motion picture theater, adult sexual paraphernalia store, adult theater, escort, escort agency, massage parlor, nude model studio, open dance hall, or sexual encounter center.
16. Specified Anatomical Areas: Any of the following:
- a. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breast at or below the top of the areola.
  - b. Human male genitals in a discernibly turgid state even if completely and opaquely covered.
17. Specified Sexual Activities: Any of the following:
- a. The fondling or any other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts.
  - b. Sex acts, actual or simulated, including intercourse, oral copulation or sodomy;
  - c. Masturbation, actual or simulated.
  - d. Human genitals in a state of sexual stimulation or arousal.
  - e. Excretory functions as part of or in connection with any of the activities set forth in (a) – (d) above.

**C. Compliance with Table 4-4:** See Table 4-4 for standards pertaining to minimum lot area, width, frontage and yard setbacks, and maximum building height and lot coverage.

**D. Additional Standards:**

1. No exterior portion of the sexually oriented business, including signage, shall have any words, lettering, photographs, silhouettes, drawings, or pictorial representations of a sexual or explicit manner except to the extent otherwise permitted by the provisions of this ordinance.
2. All doors providing access into or from the interior of an adult entertainment shall be doors that serve the adult entertainment use only and provide direct access to the outdoors such as in the case of a parking lot or other common outdoor area. No adult entertainment use shall be accessed from an indoor common area such as in the case of an enclosed mall or similar access arrangement. These limitations shall not prohibit an adult entertainment use from being part of a building devoted to multiple tenants or uses provided direct access to the adult entertainment use is from the outdoors only and such access serves the adult entertainment use only.
3. Separation Requirements
  - a. No sexually oriented business shall be located within seven hundred fifty (750) feet of any of the following:
    - 1) A church, synagogue or regular place of worship.
    - 2) A public or private elementary or secondary school.
    - 3) A Residential District.
    - 4) A dwelling irrespective of the District.
    - 5) A public park.
    - 6) A licensed day-care center or preschool.
  - b. No sexually oriented business shall be located within one thousand (1,000) feet of any other sexually oriented business.
  - c. For the purposes of subsection (3)(a) and (b) above, measurement shall be made as a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as part of the premises where a sexually oriented business is conducted to the nearest property line of the premises of a public park, church, synagogue, regular place of worship, public or private elementary or secondary school or preschool, or licensed day care center, or to the nearest boundary of a Residential District or dwelling. However, the distance between any two (2) sexually oriented business uses shall be made from the closest exterior wall of the structure in which each business is located and in no case shall a sexually oriented business be located in the

- same building, structure, or portion thereof, containing another sexually oriented business.
- d. A sexually oriented business lawfully operating as a conforming use shall not be rendered a non-conforming use by the subsequent location of a use within the separation requirements of subsection (3)(a) and (c) above.
4. Signs of a minimum 24" by 36" size shall be posted on both the exterior and interior walls of the entrances of the business, in a location that is clearly visible to those entering and exiting the business. In addition, such signs shall be posted in at least two (2) conspicuous places, easily viewed by persons occupying the premises. Such signs shall have lettering that is at least two (2) inches in height, with the following printed statements:
    - a. Persons under the age of eighteen (18) years are not permitted to enter the premises.
    - b. No alcoholic beverages of any type are permitted within the premises unless specifically authorized by a permit issued under this Ordinance and pursuant to a license duly issued by the Michigan Liquor Control Commission.
  5. No merchandise or activities of the establishment shall be visible from any point outside the establishment.
  6. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access, at an illumination of not less than one (1) foot candle measured at floor level.
  7. A sexually oriented business that offers live entertainment shall provide all of the following:
    - a. A dressing room for performers with direct access between said dressing area and the performance area or stage, so that the performer may enter the performance area without entering the area from which patrons view the performance. The dressing area for performers shall be separate and not freely accessible from areas of the business accessible to patrons, and such dressing area shall contain hot and cold running water and toilet facilities.
    - c. All performances shall occur on a stage elevated at least eighteen inches (18") above the immediate floor level and removed at least six feet (6') from the nearest employee or patron.
    - d. At least one (1) employee shall be on duty and situated in a manager's station at all times that any patron is present inside the premises.
    - e. The interior of the premises shall be configured in such a manner that there is an unobstructed view from the manager's stations of every area of the premises to which any patron is permitted access for any purpose excluding rest rooms. Said unobstructed view from manager's stations shall remain unobstructed by any doors, walls, merchandise or display racks, or other materials at all times. No patron shall be permitted to access any area of the premises which has been designated on the approved site plan as an area in which patrons shall not be permitted.
    - f. Rest rooms shall not contain any video reproduction equipment.

**E. Additional Application Requirements:** In addition to complying with the submittal requirements of Article 13, Site Plan Review, and Article 14, Special Land Uses, application for an adult entertainment use shall include the following additional information:

1. A diagram of the premises specifying the location of manager's stations. A manager's station shall not exceed thirty-six (36) square feet of floor area.
2. The location of all overhead lighting fixtures and illumination levels (in foot candles) at floor level throughout the premises.
3. Any portion of the premises in which patrons are not permitted.

## **Section 8.22 Shooting Ranges**

**A. Compliance with Table 4-4:** See Table 4-4 for standards pertaining to minimum lot area, width, frontage and yard setbacks, and maximum building height and lot coverage, except as follows:

1. Minimum lot area shall be forty (40) acres for outdoor firearm shooting activities and shall be twenty (20) acres for outdoor archery-only shooting activities.

### **B Additional Standards:**

1. An outdoor shooting range's boundaries shall be clearly posted with warning signs around its perimeter. All vehicular access shall be controlled by locked gates.
2. A site plan for the range, whether indoor or outdoor, shall clearly indicate all safety provisions to prohibit any projectile discharged within the confines of a shooting range from exiting the range.
3. All indoor and outdoor activities, including the shooting of projectiles and storage of projectiles, shall comply with the most current published standards and guidelines of the National Rifle Association and Field Archery Association, as applicable.

4. Outdoor shooting hours shall be between 10:00 a.m. and 6:00 p.m. but not past sundown, as published by the National Weather Service, unless expressly authorized otherwise by the JPC.
5. Outdoor shooting ranges shall be configured to minimize the potential for lead to enter surface waters, ground water and wetlands. Application materials shall include a lead management plan that shall specify measures to address the containment, migration, removal and disposal of lead.

### **Section 8.23 Vehicle / Car Wash Establishments**

**A. Compliance with Table 4-4:** See Table 4-4 for standards pertaining to minimum lot area, width, frontage and yard setbacks, and maximum building height and lot coverage.

**B Additional Standards:**

1. The facility shall have frontage on and gain direct access to a paved road.
2. All washing activities shall be carried on within an enclosed building or under a covered structure with side walls separating individual washing bays.
3. Vacuuming activities shall be set back a minimum of one hundred (100) feet from property used for residential purposes.
4. Maneuvering lanes and stacking lanes shall be located on the site and shall provide sufficient room to avoid waiting cars encroaching into a road right-of-way.
5. Each bay shall be graded and drained to collect run-off originating in the bay.
6. Trash containers shall be provided and emptied as necessary to prohibit litter.

### **Section 8.24 Vehicle Repair Shops and Service Stations**

**A. Compliance with Table 4-4:** See Table 4-4 for standards pertaining to minimum lot area, width, frontage and yard setbacks, and maximum building height and lot coverage, except as follows:

1. Fuel pumps and pump canopies shall be setback a minimum distance of twenty-five (25) feet from all lot lines, as shall all above and below ground storage of fuel and other flammable materials.

**B Additional Standards:**

1. In the case of a service station, the lot shall have frontage on a state highway or a paved primary road and take its access from such road.
2. Hydraulic hoists, service pits, lubricating, greasing, washing and repair equipment and operations shall be located within a completely enclosed structure, and all storage of vehicle parts and dismantled vehicles, and repair work, shall occur in such structure.
3. Vehicles rendered inoperative for any reason, and vehicles without current license plates and registration, shall not be maintained on the property for more than fifteen (15) days. Such vehicles shall be parked or stored in a building, or an enclosed area, in a side or rear yard, which shall be setback from all lot lines the minimum distance required for principal buildings in the District.
4. All lighting mounted to the underside of a canopy shall be fully recessed.
5. The application materials shall identify the extent, quantities and types of explosive, flammable or otherwise hazardous materials that may be used, and the measures to be used for proper handling, storage and disposal of such materials.

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## **Section 8.25 Private Wind Energy Conversion Facilities ( Private WECF)**

### **A. Definitions, Authorization and Approval Procedures:**

1. Definitions: For the purposes of this Section, the following phrases shall have the following meanings:
  - a. Private Wind Energy Conversion Facility (Private WECF): An electricity generating facility consisting of one or more wind turbines, and may include cables, wires and other structures and buildings accessory to such facility, that is used to serve only the parcel on which the private WECF is located, and which facility generates no greater than thirty (30) kilowatts total peak capacity. A private WECF shall be construed as an accessory structure to the principle use of the parcel. This definition shall not be construed to prohibit a private WECF from transmitting or otherwise selling back to a public utility any excess generated electricity.
  - b. Wind Turbine: A wind energy system that converts wind energy into electricity through the use of a wind turbine generator, and includes the turbine, blade, tower and base, and may include a transformer.
2. Authorization: Private WECFs shall be construed as accessory structures, as defined in this Ordinance, and are permissible in all districts.
3. Approval Procedures:
  - a. Zoning Administrator Approval. A private WECF that meets the conditions of subsection (1) or (2) below is subject to Zoning Administrator approval according to Section 3.4(B). The applicant shall submit a plot plan containing the information required by Section 3.4(B) and any additional information necessary to demonstrate conformance with the standards of subsection (B) below. The Zoning Administrator shall approve such application upon finding that the WECF application complies with the standards and regulations of this Section and Ordinance.
    - (1) The private WECF is no greater than sixty (60) feet in height, measured from the ground elevation below to the highest point of the wind turbine including to a blade tip in its highest vertical position if such tip is the highest point, and is to be located a minimum of one-hundred fifty (150) feet from an existing building on another lot.
    - (2) The private WECF is no greater than twenty (20) feet in height, measured from the ground elevation below to the highest point of the wind turbine including to a blade tip in its highest vertical position if such tip is the highest point, and is to be no closer to a lot line than two (2) times the height of the WECF.
  - b. JPC Approval. A private WECF that is not subject to Zoning Administrator approval according to subsection (a) above shall be subject to JPC approval. The applicant shall submit a plot plan containing the information required by Section 3.4(B) and any additional information necessary to demonstrate conformance with the standards of subsection (B) below. The JPC shall approve such application upon finding that the WECF application complies with the standards and regulations of this Section and Ordinance, and that the WECF is sited to maximize compatibility with surrounding conditions to the greatest extent practical.

### **B. Standards:**

1. Visual Appearance
  - a. A private WECF shall be a non-reflective, non-obtrusive color (e.g. white, gray, black). The appearance of the turbine, tower and any ancillary facility shall be maintained throughout the life of the WECF.
  - b. A private WECF shall not be artificially lighted, except to the extent required by the FAA or other applicable authority, or otherwise necessary for the reasonable safety and security thereof.
  - c. A private WECF shall not be used for displaying any advertising (including flags, streamers, or decorative items), except for identification of the turbine manufacturer.
2. Ground Clearance: The lowest extension of any exposed blade or other exposed moving component of a private WECF shall be at least twenty (20) feet above the ground, at the highest point of the natural grade within fifty (50) feet of the WECF, and at least twenty (20) feet above any outdoor surfaces intended for human use including balconies or roof gardens, that are located below the WECF.
  - a. There shall be required no minimum clearance for any exposed blade or other moving component where the movement is of a horizontal nature and the design and construction of the WECF does not permit access below such moving features or the moving features are a minimum of five (5) feet above the ground below.

3. **Noise:** Noise emanating from the operation of a private WECF shall not exceed the lowest ambient sound level that is present between the hours of 9:00 p.m. and 9:00 a.m. at any property line of a residential or agricultural used parcel or from the property line of parks, schools, hospitals and churches. Noise emanating from the operation of a private WECF shall not exceed, at any time, the lowest ambient noise level plus 5 dBA that is present between the hours of 9:00 p.m. and 9:00 a.m. at any property line of a non-residential or non-agricultural use parcel.
4. **Vibration:** Vibrations shall not be produced which are humanly perceptible beyond the lot on which the WECF is located.
5. **Guy Wires:** Guy wires are prohibited.
6. **Electrical System:** All electrical systems shall comply with all state, county and National Electrical Codes.
7. **Design:** The design of a private WECF shall conform to industry standards.
8. **Height:** A private WECF shall not exceed a height of eighty (80) feet, measured from the normal ground elevation below to the highest point of the wind turbine including to a blade tip in its highest vertical position.
9. **Setbacks:**
  - a. A private WECF and test tower shall be set back from all lot lines, public right-of-ways, public easements, occupied buildings and overhead utility lines, a distance equal to the height of the wind turbine, as measured from the normal ground elevation at the wind turbine base to the highest point of the wind turbine including to a blade tip in its highest vertical position.
  - b. If mounted directly on a roof or other elevated surface of an existing structure, the setback for a private WECF shall be a minimum of fifteen (15) feet from all lot lines, public right-of-ways, public easements, occupied buildings and overhead utility lines.
  - c. If a private WECF is affixed by any extension to the side, roof, or other elevated surface, then the minimum fifteen (15) foot setback in (b) above shall be increased by the same dimension as the extension.
10. **Shadow Flicker:** A private WECF shall be sited in such a manner to minimize shadow flicker from the blades on any road or on any building on an adjacent property existing at the time the application is considered. The approving body may require the applicant to submit a shadow report illustrating or otherwise delineating the projected shadow pattern of the WECF on June 21 and December 21, specific to the Thompsonville area, including the source and basis for such projections.

## **Section 8.26 Wireless Communication Facilities**

- A. Definitions:** For the purposes of this Section, the following phrases shall have the following meanings:
1. **Collocate:** To place or install wireless communications equipment on an existing wireless communications support structure or in an existing equipment compound. "Collocation" has a corresponding meaning.
  2. **Equipment compound:** An area surrounding or adjacent to the base of a wireless communications support structure and within which wireless communications equipment is located.
  3. **Wireless communications equipment:** The set of equipment and network components used in the provision of wireless communications services, including, but not limited to, antennas, transmitters, receivers, base stations, equipment shelters, cabinets, emergency generators, power supply cables and coaxial and fiber optic cables, but excluding wireless communications support structures.
  4. **Wireless communications support structure:** A structure that is designed to support, or is capable of supporting, wireless communications equipment, including a monopole, self-supporting lattice tower, guyed tower, water tower, utility pole, or building.
  5. **Wireless Communication Facility:** All structures and accessory facilities, and improvements thereto, relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals; including, but not limited to, equipment compounds, wireless communications equipment and wireless communications support structures. Not included in this definition are: citizen band radio facilities; short wave receiving facilities; radio and television broadcast reception facilities; satellite dishes; federally licensed amateur (HAM) radio facilities; towers for personal communications only; and governmental facilities that are subject to state or federal law or regulations that preempt municipal regulatory authority.



6. **Class One Wireless Communication Facility:** Any wireless communication facility and modifications thereto that meet all of the following requirements:
  - a. No construction or other improvements provide for the erection of a new wireless communications support structure, but may provide for an increase in height of an existing tower as provided by subsection (d)(1) below.
  - b. All proposed wireless communications equipment will be collocated on an existing wireless communications support structure or in an existing equipment compound.
  - c. The existing wireless communications support structure or existing equipment compound is in compliance with this Ordinance or was previously approved by the municipality in which it is located.
  - d. The proposed collocation of equipment shall not do any of the following:
    - 1) Increase the overall height of the wireless communications support structure by more than 20 (twenty) feet or 10% (ten percent) of its original height, whichever is greater.
    - 2) Increase the width of the wireless communications support structure by more than the minimum necessary to permit collocation.
    - 3) Increase the area of the existing equipment compound to greater than 2,500 square feet.
    - 4) Be in violation of the terms and conditions of any previous final approval of the wireless communications support structure or equipment compound by the then-designated approving body.
7. **Class Two Wireless Communication Facility:** The erection of a new wireless communications support structure, or any modification of an existing wireless communication facility that is not classified as Class One Wireless Communication Facility.

**B. Application, Review and Approval for Class One Wireless Communication Facility:** A Class One Wireless Communication Facility constitutes a use permitted by right in any district, subject to site plan approval according to Article 13.

1. **Application Review Time Frame and Fees**

- a. After a Class One application for a wireless communication facility is filed with the JPC, the JPC shall determine whether the application is administratively complete. Unless the JPC proceeds as provided under subsection (b) below, the application shall be considered to be administratively complete when the JPC makes that determination or the passing of fourteen (14) business days after the JPC receives the application, whichever occurs first.
- b. If, before the expiration of the fourteen (14) day period under subsection (a) above, the JPC notifies the applicant that the application is not administratively complete, specifying the information necessary to make the application administratively complete, or notifies the applicant that a fee required to accompany the application has not been paid, specifying the amount due, the running of the 14-day period under subsection (a) above is tolled until the applicant submits to the body or official the specified information or fee amount due. The notice shall be given in writing or by electronic notification. A fee required to accompany any application shall not exceed actual, reasonable costs to review and process the application or \$1,000.00, whichever is less.
- c. The JPC shall approve or deny the application not more than sixty (60) days after the application is considered to be administratively complete. If the JPC fails to timely approve or deny the application, the application shall be considered approved and the JPC shall be considered to have made any determination required for approval.

**C. Application, Review and Approval for Class Two Wireless Communication Facility:** A Class Two Wireless Communication Facility constitutes a special land use and shall be subject to this Ordinance's provisions addressing the same including compliance with Article 13 (Site Plan Review), Article 14 (Special Land Uses) and the following provisions:

1. **Application Review Time Frame and Fees:** The provisions of subsection (B)(1) above shall apply to Class Two applications for wireless communication equipment except that the JPC shall approve or deny the application not more than ninety (90) days after the application is considered to be administratively complete.
2. **Additional Application Requirements:** In addition to submitting the information required for all special land use applications, including a site plan pursuant to Article 13, each applicant for a Class Two wireless communication facility shall provide the following additional information. Any information of an engineering nature that the applicant submits, whether civil, mechanical, electrical, or structural, shall be certified by a licensed professional engineer of applicable expertise registered in the State of Michigan.
  - a. An inventory of its existing towers, antennas, or sites approved for towers or antennas, that are within the Thompsonville area and one (1) mile of the border thereof, including specific information

about the location, height and design of each tower, the distance from the proposed tower, the owner(s)/operator(s) of the existing tower(s), and any additional information that is relevant in terms of potential collocation or in demonstrating the need for the proposed facility.

- b. Elevation drawings of the proposed tower and any other structures.
- c. The distance between the proposed tower to dwellings within a one-half (1/2) mile radius, and the distance to Residential districts and platted and similar neighborhood developments.
- d. Method of fencing and finished color and, if applicable, the method of camouflage.
- e. A written statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennae for future users.
- f. Identification of the entities providing the lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, long distance providers, and/or the public switched telephone network (backhaul routes) for the tower(s) described in the application, and other cellular sites owned or operated by the applicant in the Thompsonville area.
- g. A description of the suitability of the use of existing towers, other structures, or alternative technology not requiring the use of towers or structures, to provide the services of the proposed new tower.
- h. A certification by a professional engineer of applicable expertise licensed in Michigan that all construction features of the tower comply with the requirements of all agencies having jurisdiction and the State Construction Code.

**D. Compliance with Table 4-4:** See Table 4-4 for standards pertaining to minimum lot area, width, frontage and yard setbacks, and maximum building height and lot coverage, except as follows:

- 1. The lot on which a tower is located shall comply with the minimum lot area requirement of Table 4-4. A smaller portion of said lot may be leased for tower purposes and such leased area need not comply with the area requirements of Table 4-4.
- 2. Class Two towers and antennas shall be set back from lot lines a minimum distance equal to the tower's height, including antennas, except where the application documents that the tower is designed to fall upon itself, in which case the minimum setback shall be one-half the height of the tower but not less than one-hundred (100) feet.
- 3. No tower shall exceed one hundred ninety five (195) feet in height, measured from the base of the tower to the highest point of the tower including antennae. All towers and antenna shall comply with the height restrictions of any airport management plan filed with and approved by the Michigan Aeronautics Commission.

**E. Additional Standards:**

- 1. Separation Distances: The following separation distances shall apply to Class Two wireless communication facilities except that the approving body may reduce the standard separation distance by no greater than twenty-five percent (25%) upon a finding that there exist on-site or surrounding conditions that mitigate the need for such separation distances and that the purpose of this Ordinance will be preserved. Separation distances shall be measured from the base of the tower to the lot line of the off-site use except where otherwise noted.

Off-Site Use or Designated Area	Separation Distance
Single-family and two-family dwellings.	300 feet or 150% of the tower's height, whichever is greater.
Vacant land zoned for single-family or two-family dwellings, including vacant land that has received site plan approval for residential use.	200 feet or 100% of the tower's height, whichever is greater.
Vacant residentially zoned land not otherwise addressed above.	100 feet or 100% of the tower's height, whichever is greater.
Land not zoned for residential use, whether vacant or otherwise.	The setback standards of Table 4-4 or the tower's height, whichever is greater.
Another communication tower.	1 mile, measured by a straight line between the base of the existing and proposed tower.

2. Fencing and Lighting
  - a. The base of a tower shall be fenced with a minimum six (6) foot high fence with anti-climbing measures.
  - b. Towers and antenna shall not be artificially lighted unless required by the Federal Aviation Administration or Federal Communications Commission. If lighting is required, the lighting plan shall cause the least disturbance to surrounding uses.
3. Tower Construction
  - a. Towers shall be of monopole construction. Guy wires are prohibited.
  - b. Towers shall be of a white, light gray, silver or other similar color that blends with the background sky, and shall be constructed of or treated with corrosive resistant material.
  - c. All towers and antennas including all support systems, antenna mounts, structural and electrical components, and wind load resistance, shall comply with the most current standards and regulations of the Federal Aviation Authority, Federal Communications Commission, State Construction code and all other codes and agencies having jurisdiction, and shall be maintained in compliance.
  - d. All new communication towers shall be designed and constructed so as to accommodate collocation of a minimum of three (3) wireless communication facilities.
4. Landscaping and Signage
  - a. Signage shall be limited to emergency information only except as may be required by law.
  - b. Trees shall be established, if not already present, that effectively screen the view of the tower facility from nearby residential properties, and shall provide for coniferous plantings spaced at no greater than fifteen (15) feet apart and located within forty (40) feet of the perimeter of the tower facility and within any leased land area comprising the tower facility.
5. Presence of Personnel: No persons shall be located on a communication tower site except for the occasional presence of personnel associated with periodic maintenance or emergency conditions.
6. General Design: The design of buildings and structures shall, to the greatest extent practical, use materials, colors, textures and screening that will encourage their compatibility with surrounding buildings. Where an antenna is installed on a structure other than a tower, the antenna and supporting equipment shall be of a color to make the antenna and equipment as visually unobtrusive as reasonably practical.
7. Collocation
  - a. Statement of Policy: It is the policy of the Thompsonville area to minimize the overall number of newly established locations for communication towers within the community, and encourage the use of existing structures or towers while promoting the public health, safety and welfare and minimizing negative impacts of such sites. If a provider fails or refuses to permit collocation on a facility owned or otherwise controlled by it, where collocation is feasible, the result will be that a new and unnecessary additional structure will be compelled, contrary to the Thompsonville area's policy for collocation. The provisions of this subsection are designed to carry out and encourage conformity with this policy.
  - b. Feasibility of Collocation: Collocation shall be deemed to be feasible and practical for purposes of this subsection (7) except where satisfactory evidence is submitted demonstrating that no existing tower, structure or alternative technology can accommodate the applicants proposed antenna. Such evidence may consist of any of the following:
    - 1) No existing towers or structures are located within the geographic area that meets applicants engineering requirements.
    - 2) Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
    - 3) Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
    - 4) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
    - 5) The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
    - 6) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

- 7) The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable micro cell network using multiple low-powered transmitters/receivers attached to a wire line system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.
- c. Requirements for Collocation:
  - 1) A permit for the construction and use of a communication tower shall not be granted unless and until the applicant demonstrates that a feasible collocation is not available for the coverage area and capacity needs.
8. Removal
  - a. Any tower that is not operated for a continuous period of 365 days shall be considered abandoned, and the owner of such tower shall remove the same and the site shall be restored to the condition it existed prior to the placement of the tower within ninety (90) days of receipt of notice from the zoning administrator for such removal. In the case where there are multiple users of a single tower, removal of the tower shall be not be required until all users cease use of the tower for a continuous period of 365 days.
  - b. If the required removal of a facility has not been completed within ninety (90) days of the condition specified in subsection (a) above, the facility may be removed with reliance on the security posted at the time application was made for establishing the facility.
9. Nonconforming Towers/Antenna: Nonconforming towers and antennas shall be subject to the provisions of Article 7, Nonconforming Lots, Uses and Structures, except that a nonconforming tower or antenna that is damaged or destroyed may be rebuilt provided the new tower is of the same type, height and location of the original tower, and the tower facility is of no greater intensity than the original facility. This provision shall apply provided all building permits for the new tower are acquired within 180 days of the damage date. If such permits are not acquired within this time frame or said permits expire, the tower or antenna shall be deemed abandoned and subject to the removal provisions of subsection (8) above.

**End of Article 8**

**Article 9**  
**(RESERVED for FUTURE USE)**

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**End of Article 9**

## Article 10 SIGNS

### **Section 10.1 Purpose**

The purpose of this Article is to provide a framework in which the identification and informational needs of all land uses can be harmonized with community interests in public health, safety and welfare, including the preservation of the Thompsonville area's overall rural character and that of its business and residential areas. It is intended through the provisions contained herein to give recognition to the legitimate needs of business, industry and other activities, in attaining their identification and informational objectives, while recognizing that unrestricted or unregulated signage does not support the desired character of the Thompsonville area nor benefit either private enterprise or the community-at-large as it creates traffic safety hazards, visual clutter, confusion for vehicle drivers, visual blight and decreased property values, and undermines economic development initiatives.

### **Section 10.2 Definitions**

- A. Electronic Message Center (EMC) Signs:** A sign that is capable of displaying words, symbols, figures or images that can be electronically or mechanically changed by remote or automatic means.
- B. Free-Standing Sign:** A sign not attached to a principal or an accessory building, including signs supported by a center or multiple poles, posts and panels, and ground signs, but excluding off-premises signs unless provided elsewhere in this Article.
- C. Ground Sign:** A free-standing sign of comparatively limited height and which is designed in such a manner that the face of the sign structure extends down to the ground, similar to a monument, or which includes supports or poles that are less than two (2) feet in height.
- D. Off-Premises Advertising Sign:** A sign which identifies goods, services, facilities, events, or attractions which are available or provided at a location other than the lot or parcel upon which such sign is located (commonly referred to as a "billboard").
- E. Projecting Sign:** A sign perpendicular (90°) to the wall to which it is attached, and designed to be viewed from a position other than facing such wall.
- F. Sign:** Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, banner, flag, pennant, trade names or marks, or other representation, or combination thereof, designed for the purpose of directing attention to, advertising or identifying an individual, a firm, an association, a profession, a business, a commodity or product, an activity, a philosophy, or an idea, which is located upon any land or structure on or in any building.
- G. Temporary Sign:** A sign designed to be moved periodically and erected for comparatively short periods of time such as in the case of a "grand opening" sign, a sign announcing an upcoming community event, or a construction sign in association with the development of property.
- H. Wall Sign:** A sign which is attached directly to a building wall with the sign area surface flat against or generally parallel to the building wall, within eight (8) inches from the face of the wall, including signs painted on a building wall and signs on a projecting rigid or non-rigid fabric marquee, canopy or awning-type structure. A wall sign shall not be construed to include a sign projecting away from the wall to which it is attached and referred to as a projecting sign, a sign attached to a roof, or a sign attached to a wall but which extends above the lowest portion of the roof.

## **Section 10.3 General Standards and Regulations**

### **A. Compliance, Permits and Review**

1. Compliance Required: No sign shall be erected, used or maintained unless in compliance with the regulations of this Article.
2. Required Permit/Review: All signs shall require a zoning permit prior to placement, erection, replacement or alteration unless exempted by subsection (4) below. If site plan review is required for a proposed project that a proposed sign shall be part of, the proposed signage shall be reviewed as part of the site plan review procedure for the entire project, pursuant to Article 13 and a separate sign application is not necessary. If the proposed signage is to be part of an existing development for which site plan approval has already been granted or was not necessary, the Zoning Administrator shall review the sign application to ensure all applicable ordinance standards have been met prior to issuing a permit for the sign.
3. Application Information: Application for a zoning permit for a sign shall include the following minimum information:
  - a. Name, address and telephone number of the owner and applicant, if other than the owner.
  - b. The location of the proposed sign (street address and tax identification number).
  - c. Placement of the sign on, and/or in relation to, existing buildings and structures.
  - d. A fully dimensioned scale drawing of the plans, specifications and method of construction and/or attachment to the building or ground. Drawings shall include the colors and materials types to be used.
  - e. Written consent of the owner of the lot, building and/or structure, if other than the applicant.
  - f. A copy of all construction, electrical, or other permits required and issued for the sign.
  - g. Any other information the approving body may require to establish conformance with the Ordinance.
4. Signs Exempt from Permit/Review: The following signs are exempt from the provisions of subsection (2) above but shall conform to all other regulations and standards of this Article including sign area and height.
  - a. Signs required by a public agency having jurisdiction over a road right-of-way.
  - b. Official notices issued by a public agency, court, or government official.
  - c. Signs painted on operating, licensed commercial motorized vehicles.
  - d. Ordinary maintenance, servicing, repainting, cleaning, altering, or changing the information of an existing sign, provided the size, location and/or structure are not changed.
  - e. National, State, local and personal flags which contain no advertising of products or services.
  - f. Indoor signs affixed to or covering windows.
  - g. Signs authorized under Section 10.4.

### **B. Materials, Construction, Design and Maintenance:**

1. Building Code: All signs shall be constructed and maintained in a manner consistent with building code provisions and maintained in good structural condition at all times, free of hazards to the general public. Signs shall not be constructed from materials that are remnants or manufactured for a different purpose.
2. Integrally Designed: A sign shall be integrally designed so that its elements are of a unified character as opposed to being comprised of an assemblage of different sign types and materials. No support shall be used to accommodate multiple sign units or faces intended to serve the same business, tenant or occupant or a lot.
3. Width/Length Ratio: No free-standing sign shall have a dimension that exceeds five times that of its opposite dimension, such as in the case of a sign's width and length.
4. EMC Signs:
  - a. An EMC sign shall be an integral part of a larger freestanding or wall sign, and no more than forty percent (40%) of the freestanding or wall sign area shall be comprised of the EMC sign area but in no case shall an EMC sign exceed twelve (12) sq. ft. in area.
  - b. That portion of a freestanding or wall sign comprised of an EMC sign shall not exceed a height of five (5) feet in a Conservation or Residential District and eight (8) feet in all other districts.
5. Maintenance: All signs shall be kept neatly painted, stained, sealed or preserved including all metal parts and supports. Signs shall be maintained free of peeling material, fading, rust, rot, insect infestation or other conditions reflective of a state of disrepair.



**C. Lighting:**

1. Authorized Lighting: Signs may be illuminated unless specified otherwise, and may be internally or externally illuminated unless specified otherwise.
2. Moving Illumination: No sign shall include flashing, blinking, moving or variable intensity illumination except as authorized in subsection (6) below in association with an electronic message center (EMC) sign.
3. Exterior Illumination Levels: Exterior sign light sources shall not exceed 150 watts per sign face.
4. Interior Illumination: Interior illumination shall be limited to individual letters, lettering, symbols and logos on a sign. All other sign elements shall be opaque or otherwise not illuminated.
5. Source of Illumination: The source of sign illumination shall be shielded from traffic and adjacent properties and said source shall not be visible beyond the property line of the lot on which the sign is located. All externally lit signs shall be illuminated by lights affixed to the sign and directed downward on the sign face only. This subsection (5) shall not apply to neon lights, and exposed bulbs not exceeding fifteen (15) watts, provided such signs shall not exceed four (4) sq. ft. in area.
6. EMC Signs:
  - a. An image on an EMC sign, and any portion of an image on an EMC sign, shall stay constant for a minimum of thirty (30) seconds, without any change in movement, light intensity or color. Message scrolling and similar moving messages are prohibited.
  - b. Any change or transition in display on an EMC sign shall not exceed one (1) second in duration.
  - c. An EMC sign shall have no message changes during hours that the business or use is not open or otherwise available to the public, except that in no case shall an EMC sign in a Conservation or Residential District have any message changes during the hours from 5:00 p.m. to 8:00 a.m.
  - d. An EMC sign shall be equipped with automatic dimming technology that automatically adjusts the sign's brightness in direct correlation with ambient light conditions. No EMC sign shall exceed a brightness level of 0.3 foot candles above ambient light as measured using a foot candle meter at a distance determined by the square root of the sign's square foot area multiplied by 100. An example of such a determination in the case of a 12 sq. ft. sign is:

$$\sqrt{(12 \times 100)} = 34.6 \text{ feet measuring distance}$$

**D. Measurements**

1. Sign Area: The area of a sign shall be computed by calculating the square footage of a sign face as measured by enclosing the most protruding points or edges of all sign faces of the sign within a parallelogram, rectangle, triangle, or circle, or combination thereof, including any framing.
  - a. Where a sign has two (2) or more similarly shaped faces placed back-to-back, parallel to one another and less than eighteen (18) inches apart from one another, the area of the sign shall be the area of one (1) face.
  - b. Where a sign has two (2) faces placed back-to-back, parallel to one another and less than eighteen (18) inches apart from one another, but the signs are of differing sizes, the sign area shall be that of the larger sign.
  - c. In the case of a sign with three or more faces, the area of the sign shall be the area of all faces combined.
2. Sign Setbacks: Sign setbacks shall be measured from the lot line horizontally to the nearest edge of the sign. The "nearest edge of the sign" shall be the leading edge of the sign closest to such lot line as viewed from above in plan or bird's eye view.
3. Sign Height: The height of a ground sign shall be measured from the highest point of the sign, including all frame and structural members of the sign, to the average ground elevation within ten (10) feet of the sign base. The height of a sign placed upon a berm shall be measured from the base elevation of the berm.

**E. Prohibited Signs:**

1. Traffic Interference Signs:
  - a. Signs which, due to location, design, color, or lighting, encourage confusion among drivers due to unauthorized traffic signs, signals or devices, or signs that make use of the words "stop", "look", "danger" or any word, phrase, symbol or character in such manner as to interfere with, mislead or confuse drivers or pedestrians.
  - b. Signs that obstruct free and clear vision of approaching, intersecting or merging traffic.
2. Moving and Flashing Signs: Signs that have flashing lights, visible moving parts, visible revolving parts or visible mechanical movement of any type, or other apparent visible movement irrespective of the cause of the movement.
  - a. Banners, pennants, festoons, spinners and streamers, and similar devices, which move due to wind

or mechanical devices and which are intended to draw attention to a location are considered moving signs and are prohibited except as otherwise expressly authorized in association with a temporary sign according to Sec. 10.4.

- b. This subsection (2) shall not be construed to prohibit EMC signs or signs that rely on light-emitting diodes (LEDs) provided such signs are in compliance with Sec. 10.3(C).
3. Right-of-Way Signs: Signs placed in, upon, or over any public right-of-way, alley, or other public place, except that signs for the sole purpose of providing directional information for religious institutions, schools, governmental entities and bona fide public service organizations are permitted in such public place upon approval of the governmental entity having jurisdiction over such right-of-way.
4. Signs Affixed to Natural Features: Signs affixed to trees, shrubs, rocks or similar natural features, except for "warning" and "no trespassing signs" no greater than two (2) sq. ft. in area and spaced no less than one-hundred (100) feet apart from each other.
5. Roof Signs: Signs affixed to a roof or which are affixed to a wall and exceed the height of the lowest portion of the roof.
6. Vehicle Signs: Signs on parked vehicles, within view of a public right-of-way or adjacent lot, where the sign is the primary use of the vehicle.
7. Banners: Signs comprised of banners except as otherwise expressly authorized in association with a temporary sign according to Sec. 10.4.
8. Sexual Content: Signs that have any words, lettering, photographs, silhouettes, drawings, or pictorial representations of a sexually explicit character including any sign elements portraying "specified anatomical areas" or "specified sexual activities" as defined in Section 8.21(B), Sexually Oriented Businesses.
9. Other Signs: All other signs not expressly authorized by this Ordinance.

#### **Section 10.4 Signs Permitted in All Districts**

**A.** The following signs are permitted in all Districts, subject to the standards and limitations prescribed herein in addition to those of Section 10.3, and such signs shall be set back a minimum distance of ten (10) feet from all lot lines.

1. Dwelling identification and home occupation signs: No more than one (1) sign shall be erected for the purpose of identifying a dwelling unit, a home occupation, or family home day care facility. Such sign shall not exceed two (2) sq. ft. in sign area and may be illuminated. These limitations shall not prohibit the display of an additional non-illuminated address identification sign posted along the abutting road for postal and emergency identification purposes where such sign complies with the most current guidelines published by the U.S. Postal Service.
2. Development Identification: A residential or non-residential development consisting of a platted subdivision, condominium subdivision, multiple family development, manufactured housing community, or other unified development consisting of at least five (5) dwelling units or at least three (3) buildings used for commercial, industrial or institutional purposes, shall be permitted one (1) sign per vehicle entrance having a sign area not exceeding twenty-four (24) sq. ft. and a height not exceeding six (6) feet. The sign shall be for the sole purpose of identifying the development and may be illuminated.
3. Real Estate/Dwelling Unit/Personal Property Availability Signs:
  - a. One (1) non-illuminated sign advertising the sale or lease of the lot, building, building space, or residence on which the sign is located shall be permitted, provided no more than one (1) sign shall be erected for each two hundred (200) feet of road frontage or portion thereof, no sign shall exceed an area of four (4) sq. ft. and a height not exceeding four (4) feet.
  - b. A platted subdivision, site condominium, multiple family development, manufactured housing community, or other unified residential or non-residential development consisting of at least five (5) dwelling units, or three (3) acres of land in the case of a non-residential development, is permitted one sign advertising the sale or lease of lots, buildings or residences, not exceeding sixteen (16) sq. ft. in area and five (5) feet in height. Such sign may be illuminated and the sign shall be removed within six (6) months after the sale of ninety percent (90%) of all lots, units, or buildings within said development.
  - c. In addition to (a) and (b) above, a maximum of two (2) additional non-illuminated signs, not to exceed an area of four (4) sq. ft. each and four (4) feet in height, may be erected in a development of multiple dwellings or units for the purpose of directing the public to a model home or rental office in such development.

4. Construction Signs: Non-illuminated signs identifying the owners, financiers, contractors, architects and engineers of a project under construction and for which a zoning permit has been granted, provided such signs do not exceed a cumulative total of sixteen (16) sq. ft. in area per road frontage and a maximum eight (8) feet in height. The permissible area for construction signs for nonresidential projects shall be twenty-four (24) square feet. Construction signs shall be erected no earlier than thirty (30) days prior to the commencement of construction and shall be removed no later than thirty (30) days after a certificate of occupancy is issued or eighteen months, whichever occurs first.
5. Bulletin Board: A single bulletin board sign shall be permitted on a lot in any district that is used for a religious institution, school, museum, library, or other similar institution. Such sign shall have a maximum height of six (6) feet, shall not exceed eighteen (18) sq. ft., and shall not be included in sign area calculations for compliance with Table 20-1. Such sign may be illuminated.
6. Political or philosophical signs related to a candidate running for office, or a proposition up for public vote, or a political or philosophical view, provided such signs shall not exceed four (4) sq. ft. in area and four (4) feet in height. Where the sign pertains to a public vote, such signs in Commercial and Industrial Districts shall not exceed thirty-two (32) sq. ft. in area and six (6) feet in height during the 60-day period prior to and the 15-day period after the respective vote. Political or philosophical signs shall not be illuminated.
7. Directional Signs: Signs that are used solely for the purpose of providing traffic directions or instructions in association with a lot on which they are located, such as "entrance," "exit," "in," and "out," are permitted in all districts on the lot on which they serve provided such signs shall not exceed three (3) sq. ft. in area and three (3) feet in height. Such signs may be illuminated, and shall not count toward the permissible sign area standards of Table 10-1.
8. Warning Signs: Non-illuminated warning signs such as no trespassing, no hunting and warning of electrical current or animals, provided that such signs do not exceed two (2) sq. ft.
9. Building Signs: Signs carved into stone, concrete, or similar material, or made of bronze, aluminum, or other noncombustible material, which identify the name of a building, a building's date of erection, or monumental citations, provided such signs do not exceed ten (10) sq. ft. in area and are an integral part of the building structure. Such signs may be illuminated.
10. Stick-On Signs: Miscellaneous stick-on and painted signs affixed to vending machines, gas pumps, ice containers and similar outdoor items of less than six (6) feet in height, indicating the contents or announcing on-premises sales, provided each sign does not exceed two (2) sq. ft. in area. Such signs shall not be illuminated.
11. Historical Markers: Historical markers, plaques, or signs describing township, county, state or national designation as an historic site or structure by the State Historical Commission, including centennial farms, not exceeding twenty (20) sq. ft. in area and six (6) feet in height. Such signs may be illuminated.
12. Public Notice Signs: Signs and notices of a governmental entity as may be deemed necessary and appropriate by the unit of government.
13. Bed and Breakfast Signs: Signs for an authorized bed and breakfast, comprised of a wall sign no greater than twelve (12) sq. ft. in area or a freestanding sign of no greater than twelve (12) sq. ft. and six (6) feet in height.
14. Temporary sign, public event: Non-illuminated temporary signs containing public messages concerning special events sponsored by governmental agencies, nonprofit organizations, religious institutions, schools, museums, libraries, or other similar institutions, subject to the following restrictions:
  - a. The sign shall not be displayed for more than thirty (30) days.
  - b. No more than one (1) sign may be erected on the lot to which the sign applies.
  - c. The sign shall not exceed eighteen (18) square feet in area.
  - d. The sign shall be located no closer than twenty (20) feet from all lot lines.
15. Temporary sign, grand opening: Non-illuminated temporary signs intended to announce the opening of a public or private facility, including a business but excluding a home occupation, subject to the following restrictions:
  - a. The sign shall not be displayed for more than thirty (30) days.
  - b. No more than one (1) sign may be erected on the lot to which the sign applies.
  - c. The sign shall not exceed thirty-two (32) square feet in area.
  - d. The sign shall be located no closer than twenty (20) feet from all lot lines.
  - e. Wind-blown devices, such as pennants, spinners and streamers may be used as part of or in association with such sign.

16. Temporary sign, seasonal celebration: Non-illuminated temporary signs in celebration of a national, local, or religious holiday subject to the following limitations:
  - a. Such temporary signs shall not exceed sixteen (16) sq. ft. in area except in a Residential District, in which case such signs shall not exceed six (6) square feet.
  - b. No more than one (1) temporary celebration sign may be displayed on a lot at any single time.
  - c. A temporary celebration sign shall be not erected prior to sixty (60) days before the holiday date and shall be removed within thirty (30) days following the holiday date.
  - d. The area of a temporary celebration sign shall not be applied to the total allowable sign area according to Table 10-1 of this Article.
17. Temporary sign, special purpose: Non-illuminated temporary signs for purposes not otherwise addressed above in this Section 10.4 are permitted subject to the following limitations:
  - a. Such temporary signs shall not exceed ten (10) sq. ft. in area except in a Residential District, in which case such signs shall not exceed six (6) square feet.
  - b. No more than one (1) temporary special purpose sign may be displayed on a lot at any single time.
  - c. The total number of days that a lot may have temporary special purpose signs shall not exceed fourteen (14) during any calendar year.
  - d. The area of a temporary special purpose sign shall not be applied to the total allowable sign area according to Table 10-1 of this Article.

### **Section 10.5 Additional Signs Permitted by District**

In addition to the signs permitted by Section 10.4 and the limitations thereof, signs pertaining to an authorized and approved principal use of a lot may be erected on such lot provided the signs are wall signs, projecting signs or freestanding signs unless specified otherwise, and comply with the District standards of Table 10-1. Nothing in Table 10-1 shall be construed as authorizing a sign, sign area or sign height that is otherwise prohibited by Section 10.4.

### **Section 10.6 Off-Premises Advertising Signs**

**A. Off-Premises Advertising Signs:** Off-premises advertising signs are permitted in compliance with the Highway Advertising Act, P.A. 106 of 1972, as amended, and the following additional limitations:

1. An off -premises advertising sign is permitted only on a lot in an Industrial or Commercial District and where such lot has frontage along M-115.
2. An off -premises advertising sign shall be set back from all lot lines a minimum distance of fifty (50) feet but in no case shall such a sign be located within one hundred (100) feet of a Residential District or a dwelling existing at the time of erection of the sign.
3. There shall be a minimum of one thousand (1,000) feet between any two off-premises advertising signs along the same side of the highway. A double-face or V-type sign shall be construed as a single sign.
4. An off-premises advertising sign's total sign area facing any single direction shall not exceed one-hundred fifty (150) sq. ft.
5. An off -premises advertising sign shall not exceed a height of fifteen (15) feet above the average grade. Average grade shall be determined by the ground on which the billboard sits or the grade of the abutting road, whichever is higher.
6. Off-premises advertising signs shall not be illuminated.

### **Section 10.7 Nonconforming Signs**

**A. Continuance:** The continuance of a lawful use of any sign existing on the date of adoption of this Ordinance or amendment thereto, although such sign may not conform to the provisions of this Article, shall be permitted according to Article 7. In no case shall the provisions of Article 7 be construed to authorize any of the following:

1. Replacing a nonconforming sign with another nonconforming sign.
2. Structurally altering a nonconforming sign so as to prolong the life of the sign or to change its shape, size, type, or design.
3. Continuing to use or permit to remain in place a nonconforming sign after the activity, business, or use to which it relates has been discontinued for ninety (90) days or longer.
4. The reconstruction of a nonconforming sign upon its removal or destruction.

**Table 10-1**

In addition to the signs permitted by Section 10.4 and the limitations thereof, signs pertaining to an authorized non-residential principal use on a lot may be erected on such lot provided the signs are wall signs, projecting signs, or freestanding signs unless specified otherwise, and comply with the District standards of Table 10-1 below. Nothing in Table 10-1 shall be construed as authorizing a sign, sign area or sign height that is otherwise regulated by Section 10.4.

See "Special Provisions" on following page.

FS = Free-Standing Sign    WS = Wall Sign    PS= Projecting Sign

District See Sec 4.1 for District Classification	Authorized Signs And Number	Maximum Area of Signs	Maximum Sign Height	Minimum Sign Setback from Lot Lines
<b>Conservation</b>	<b>FS:</b> One (1)	<b>FS:</b> 24 sq. ft.	<b>FS:</b> 8'; 5' for ground sign.	<b>FS:</b> Compliance with Table 4-4 of Article 4.
	<b>WS:</b> One (1)	<b>WS:</b> 24 sq. ft.	<b>WS:</b> Top of roof wall.	
<b>Residential</b> See Sec. 10.4 for dwellings.	<b>FS:</b> One (1)	<b>FS:</b> 24 sq. ft.	<b>FS:</b> 8'; 5' for ground sign.	<b>FS:</b> Compliance with Table 4-4 of Article 4.
	<b>WS:</b> One (1)	<b>WS:</b> 32 sq. ft.	<b>WS:</b> Top of wall.	
<b>Commercial</b>	<b>FS:</b> One (1)	<b>FS:</b> 1 sq. ft. for each 2' of building length generally oriented to the road, measured as a straight line between building corners, except no sign must be less than 16 sq. ft. and no sign shall be greater than 32 sq. ft. <b>WS:</b> 10% of the vertical area of the building façade to which the sign is attached, except no sign must be less than 16 sq. ft. and no sign shall be greater than 150 sq. ft. <b>PS:</b> 6 sq. ft.	<b>FS:</b> 10'; 5' for ground sign.	<b>FS:</b> Compliance with Table 4-4 of Article 4.
	<b>WS:</b> One (1)		<b>WS:</b> Top of wall.	
	<b>PS:</b> One (1)		<b>PS:</b> 12'	
<b>Industrial</b>	<b>FS:</b> One (1)	<b>FS:</b> 1 sq. ft. for each 2' of building length generally oriented to the road, measured as a straight line between building corners, except no sign must be less than 16 sq. ft. and no sign shall be greater than 24 sq. ft. <b>WS:</b> 10% of the vertical area of the building façade to which the sign is attached, except no sign must be less than 16 sq. ft. and no sign shall be greater than 10 sq. ft.	<b>FS:</b> 8'; 5' for ground sign.	<b>FS:</b> Compliance with Table 4-4 of Article 4.
	<b>WS:</b> One (1)		<b>WS:</b> Top of wall.	

**Table 10-1**  
**Special Provisions**

1. **Window Signs:** No sign affixed to or covering a window which is intended to be viewed from the outside shall exceed one-quarter (25%) of the total window area except in the case of the advertising of the grand opening of a business according to Section 10.4. Window signage in excess of a total of sixteen (16) sq. ft. shall be applied to the calculation of total wall sign area.
2. **Corner Lot:** The standards of Table 10-1 shall apply to each frontage separately for a corner or through lot, provided each frontage meets the minimum lot width standard of the district in which it is located and the frontage is along a road classified as "primary" according to the Benzie County Road Commission.
3. **Roadside Stand:** One (1) sign may be erected for the purpose of advertising the sale of agricultural produce, erected on the lot where such produce was cultivated, or on a separate lot or portion of a lot under same ownership as the lot where such produce was cultivated and in a district that authorizes agriculture. Such sign shall not exceed sixteen (16) sq. ft. in area and shall be displayed only during the seasonal period when the sale of produce is available.
4. **Business Center Signs:**
  - a. Business Center Defined: For the purpose of this subsection (1), a business center shall be defined as a grouping of two or more business establishments on one (1) or more lots that are linked architecturally or otherwise developed as a unified grouping of businesses and may share parking and access.
  - b. Freestanding Signs: A business center shall be permitted one (1) free-standing sign, not to exceed forty-eight (48) sq. ft. in area and twelve (12) feet in height, for the purpose of identifying the business center and displaying a directory of the individual businesses or tenants contained within. Such sign shall not exceed thirty-two (32) sq. ft. where no directory is provided.
    - (1) In the case of a business center that exceeds three hundred (300) linear feet of building facade along a single road, one (1) additional freestanding sign is permitted provided a minimum of three hundred (300) feet is maintained between such signs.
    - (2) In the case of a business center comprised of multiple buildings, one (1) ground sign shall be permitted for each building provided such sign is located in the immediate proximity of the building to which it pertains and does not exceed five (5) feet in height and eighteen (18) sq. ft. in area.
  - c. Wall Signs: A business center shall be permitted one (1) wall sign according to the height and area standards of Table 10-1, for the purpose of identifying the business center and which may include information on individual businesses or tenants located within. In addition, the business center shall be permitted one (1) wall sign for each business or tenant space having frontage along a public road or parking area, and such sign shall be attached to the façade of such business or tenant space.
    - (1) The total area of all wall signs shall not exceed ten percent (10%) of the vertical surface area of the facade forming the building frontage generally oriented to the road frontage or parking area.
    - (2) The total wall sign area for a specific business or tenant having frontage along such public road or parking area shall not exceed ten percent (10%) of the vertical surface area of the frontage facade comprising the specific business or tenant facade.
5. **Projecting Signs:**
  - a. One projecting sign shall be permitted for each entrance of a business or separate commercial establishment within a building provided the sign is placed on the same plane as the building entrance.
  - b. A projecting sign shall not project more than four feet from the building.
  - c. A projecting sign shall project from the wall at an angle of 90 degrees.
  - d. A projecting sign shall maintain a minimum clearance from the ground of eight (8) feet.
  - e. A projecting sign shall be mounted to the building by a single mounting bracket. Support chains and support material below the sign are prohibited.
  - f. A projecting sign shall be at least five (5) feet from any adjoining building.
  - g. A projecting sign shall not be internally illuminated.

**End of Article 10**

## Article 11 OFF-STREET PARKING and LOADING

### Section 11.1 Purpose

It is the purpose of this Article to establish standards and requirements to ensure that appropriate parking and circulation shall be adequately provided and maintained on each lot in every District for the off-street parking of motor vehicles as may be necessary, including in association with employees and patrons, ingress, egress and the receiving and distribution of goods. It is the purpose of this Article to prevent hazards and undue interferences among and between vehicles and pedestrians and protect the public health, safety and welfare.

### Section 11.2 General Requirements

**A. Fractional Space:** When units of measurement determining the number of required parking spaces result in a fractional space, any fraction to and including one-half (1/2) shall be disregarded and fractions over one-half (1/2) shall require one (1) parking space.

**B. Requirements for a Use Not Mentioned:** In the case of a use not specifically mentioned, the requirements of off-street parking for a use which is mentioned and which is most similar to the use not listed shall apply. This determination shall be made during site plan review proceedings.

**C. Use of Off-Street Parking Areas:** Off-street parking areas shall be reserved for the parking of vehicles used to service the establishment to which it is accessory and by its patrons. No commercial repair work, storage, selling or any other activity shall be conducted in an off-street parking area except as may be authorized as part of site plan approval proceedings or other approval under this Ordinance.

**D. Building Additions or Other Increases in Floor Area:** Whenever a use requiring off-street parking is increased in area, or when interior building modifications result in an increase in capacity for any premises use, additional parking shall be provided and maintained in the proper ratio to the increased floor area or capacity.

**E. Decrease in Parking Areas:** No off-street parking area that exists on the date of adoption of this Ordinance or which is provided subsequent thereto, for the purpose of complying with this Ordinance, shall thereafter be relinquished or reduced in any manner below the requirements established by this Ordinance unless additional parking area or space is provided sufficient to meet the requirements of this Article.

**F. Location and Joint Use of Parking Areas:** All off-street parking areas shall be located on the same lot, or on the adjacent premises in the same District as the use they are intended to serve, but in no case shall such off-street parking areas be located more than 300' from the uses the parking areas are intended to serve except upon a finding by the Joint Planning Commission (JPC) that, within the context of the specific use and anticipated vehicle and pedestrian patterns, no practical alternative is available and a greater distance shall not encourage excessive traffic in nearby residential areas or otherwise undermine public safety for pedestrians or motorists. The joint use of parking facilities by two or more uses may be granted during site plan review proceedings whenever such joint use is practical and satisfactory to each of the uses intended to be served, and when all requirements of this Article are met.

1. **Computing Capacities:** In computing capacities of any joint use, the total space requirement shall be the sum of the individual requirements that will occur at the same time. If space requirements for individual uses occur at distinctly different times, the total of such off-street parking facilities required for joint or collective use may be reduced below the sum total of the individual space requirements.
2. **Record of Agreement:** A copy of a proposed agreement between joint users, when the joint uses are located on separate lots, shall be filed with the application for a zoning permit and a copy shall be recorded with the County Register of Deeds upon approval of the application. The agreement shall include a guarantee for continued use of the parking facility by each party and a provision requiring written approval by all joint users and the site plan approving body for termination of such agreement. No such joint use shall be approved if vehicular access between the two lots requires the use of a public or private road.

**G. Barrier-Free Parking Spaces:** Barrier-free parking spaces shall be provided in accordance with the most current standards and rules of the Michigan Department of Labor, Construction Code Commission, Barrier Free Design Division. Such spaces shall be placed in the most convenient locations to facilitate access into a building. Such spaces shall be clearly identified by both adequate paint striping and wall or post signs.

**Section 11.3 Site Development Requirements for Off-Street Parking**

All off-street parking areas, except for single family and two family dwellings, shall be designed, constructed and maintained in accordance with the following standards and requirements.

**A. Marking and Designation:** Parking areas shall be so designed and marked as to provide for orderly and safe movement and parking of vehicles.

**B. Driveways:**

1. Adequate ingress and egress to the parking area by means of clearly limited and defined drives shall be provided. A driveway shall not be used for off-street parking except where specifically designed to accommodate such parking and approved during site plan review proceedings.
2. Two-way drives for ingress and egress to a parking area shall be not less than twenty-five (25) feet wide and all turning radii shall comfortably accommodate vehicle turning patterns.
3. Each entrance to and exit from an off-street parking area shall be at least twenty-five (25) feet from any lot line, fifty (50) from another driveway, and seventy-five (75) feet from an intersection. The site plan approving body may modify these standards as applied to a specific site plan based on review comments by the Benzie County Road Commission or Michigan Department of Transportation.

**C. Surface:** All required off-street parking areas intended to accommodate four (4) or more spaces, including aisles and driveways, shall be paved with concrete, bituminous asphalt or similar material approved by the JPC. The JPC may waive this requirement in the case of a lot outside of a Commercial or Industrial District upon its determination that such paving is not in character with the surrounding and intended land use pattern, the lack of paving will not cause a dust or noise nuisance to current and future residents and the nature of the use generates comparatively low traffic volumes on a day-to-day basis. Paved parking spaces shall be marked with striping.

**D. Drainage:** All required off-street parking areas shall provide adequate surface drainage facilities to collect and properly manage storm water runoff. Off-street parking areas shall be drained so as to prevent increased rates of runoff onto abutting properties and public roads.

**E. Location/Setback:**

1. An off-street parking lot shall be set back a minimum distance of ten (10) feet from all lot lines except that an off-street parking lot that serves a principally non-residential use shall be located a minimum twenty-five (25) feet from any lot line adjacent to or within a Conservation or Residential District. Where an off-street parking area is to principally serve a non-residential use and have a capacity of fifty (50) or more vehicles, such parking area shall be set back a minimum of twenty-five (25) feet from a road right-of-way.
2. Off-street parking areas shall be designed and arranged to prohibit a parked vehicle from being closer than five (5) feet to a building, including any bumper overhang.

**F. Lighting:** Required off-street parking areas shall be provided adequate light levels to enable pedestrians to safely move through such areas during hours when the use is operational. All lighting shall comply with Section 18.24.

**G. Parking Spaces and Maneuvering Lanes:** Each parking space within an off-street parking area shall be provided with adequate access by means of maneuvering lanes. The layout of off-street parking areas shall comply with the following minimum standards:

Parking Pattern	Maneuvering Lane Width		Parking Space Width	Parking Space Length
	One-Way	Two-Way		
0° (Parallel)	12 ft.	22 ft.	9 ft.	22 ft.
30° to 53°	14 ft.	22 ft.	9 ft.	18 ft.
54° to 74°	14 ft.	22 ft.	9 ft.	18 ft.
75° to 90°	15 ft.	24 ft.	9 ft.	18 ft.

**H. Service Drives and Connections to Adjacent Parking Areas:** To minimize traffic hazards and congestion and protect the public health, safety and welfare through appropriate access management, the JPC may require the development of a parcel in a Commercial or Industrial District to include one or both of the following improvements, where practical and feasible:

1. Off-street parking areas shall provide for direct vehicular access to existing or potential off-street parking areas on adjacent parcels to minimize the necessity for additional curb cuts onto public roads to gain access to nearby lots or businesses.



2. Off-street parking areas shall include a service drive across the front or rear of the respective lot to collect traffic from parking areas and funnel the traffic to one or more curb cuts along a public road, so as to reduce the number of curb cuts that would otherwise be required if each parking area accessed the public road. Such service drives shall be designed to afford connections to existing or potential service drives on adjacent parcels.

**I. Number of Spaces:** See Section 11.4.

**J. Landscaping and Screening:**

1. A minimum four (4) foot high vertical screen, of a minimum fifty percent (50%) opacity, shall be erected within five (5) feet of any parking lot with a capacity of six (6) vehicles or more, and shall be comprised of berms, plant materials and/or fencing or walls. Where plant material is to provide the necessary screening, the installed plants shall be of such size and shape so as to attain the minimum fifty percent (50%) opacity following three (3) full growing seasons. Specific plans and construction materials shall be submitted as part of a site plan for the proposed off-street parking.
2. Where any off-street parking area is within twenty (20) feet of the Thompson Avenue right-of-way, between a point sixty (60) feet west of the 2<sup>nd</sup> Street centerline and extending east to a point sixty (60) feet east of the Michigan Avenue centerline, the screen required by subsection (1) shall comply with the following requirements:
  - a. The screen shall be comprised of a masonry, wrought iron, or similar decorative and low maintenance material, along with shrub and tree plantings.
  - b. Fencing shall be a minimum of five (5) but not more than six (6) feet in height, and no portion of a masonry wall shall exceed a height of three (3) feet.
  - c. Plantings shall be provided along the road-side portion of the fence/wall. While plant materials need not be evenly spaced, there shall be installed one (1) shrub per ten (10) feet of screen length, and one (1) tree per twenty (20) feet of screen length, or portion thereof. Shrubs shall be a minimum height of three (3) feet at the time of planting and trees shall be a minimum height of ten (10) feet at the time of planting. All required plant materials shall be located on the road side of the fence /wall.
3. All plant material shall comply with the provisions of Section 18.18(D).
4. The requirements of subsection (J) may be modified through site plan review proceedings provided the JPC makes a finding that identifies characteristics of the site or site vicinity that would make the required parking lot screening unnecessary, inappropriate, or ineffective, or where it would impair vision at a driveway or street intersection. No modifications shall be made that would cause a parking lot to be more visible from a residence or a lot within a Conservation or Residential District.

## **Section 11.4 Parking Space Requirements**

**A. Compliance with Required Number of Parking Spaces:**

1. **Required Spaces:** The minimum number of off-street parking spaces to be provided on each lot shall be as specified in this Section according to land use type. Where a lot is comprised of multiple uses, such as in the case of a motel with a restaurant or a building comprised of office and retail tenants, the total number of spaces to be provided shall be the sum of all of the individual uses except as may be otherwise provided by the Article.
2. **Waivers:** Where it can be demonstrated according to the discretion of the JPC that the parking requirements of this Section would result in more parking spaces than are necessary for the parking needs of a particular use, the JPC may approve a parking plan with fewer spaces than required by this Section according to the following requirements:
  - a. The applicant shall provide written evidence to the JPC that the parking proposed on the site for the specific use is sufficient to meet the parking needs of those who will patronize the use as well as the parking needs for employees during the largest working shift. Such evidence may consist of: arrangements for nearby shared parking, evidence that the proposed use will also be patronized by pedestrians, evidence from the parking history of the proposed use or a use similar to the proposed use at other locations, or that there is sufficient designated parking within the road right-of-way and such designated parking is authorized by the governmental entity having jurisdiction over the road right-of-way and the use of such right-of-way will not result in a visible increase in traffic congestion or traffic hazards.
  - b. If a plan is approved to allow fewer parking spaces than required by this Section, such parking plan shall only apply to the stated use. All other uses shall comply with the requirements of this Section.
  - c. The JPC may require a reserved parking area on the lot for possible future use, and the JPC may subsequently require the applicant to construct such parking spaces on the lot if the JPC finds that the reduced number of parking spaces is not adequate to meet the parking needs of the use and

public safety and welfare is at risk. Upon such a determination, the applicant shall convert the reserve parking area into available parking spaces, meeting all requirements of this Article, within six (6) months of such determination. The approved site plan shall clearly identify the location of this reserve parking area including parking spaces and aisles, and no buildings, structures or similar improvements shall be established in the reserve parking area.

**B. Residential Uses:**

1. One and Two Family Dwellings: Two (2) spaces for each single family dwelling unit.
2. Multiple Family Dwellings: Two (2) spaces for each multiple family dwelling unit plus one space per five (5) units for guest parking, and one (1) additional parking space shall be provided for each employee of the largest work shift.
3. Assisted Living Facilities and Group Homes (adult foster care): One (1) space for every three (3) residents of the home, and one (1) additional parking space shall be provided for each employee of the largest work shift.

**C. Commercial Uses:** In addition to the parking spaces required below, an additional one (1) parking space shall be provided for each employee of the largest work shift.

1. Housing, Lodging and Care Facilities:
  - a. **Bed and Breakfast**: One (1) space for each rental room.
  - b. **Hospital**: One (1) space for each two (2) beds.
  - c. **Motels and Hotels**: One (1) space for each sleeping unit.
  - d. **Medical Clinics**: Two (2) spaces for each examination or treatment room.
  - e. **Day Care Centers, Child Care Center, Nursery School, School of Special Education**: One (1) parking space for each 350 sq. ft. of usable floor space or one (1) space for each seven enrolled persons, whichever is greater, and a drop-off area capable of accommodating six (6) vehicles.
  - f. **Nursing Facility, Convalescent Home and Home for the Aged**: One (1) space for each three (3) beds.
  - g. **Senior Independent Housing**: One (1) space per living unit.
2. Recreation:
  - a. **Par 3 Golf Courses**: Three (3) spaces for each hole.
  - b. **Par 4 or Greater Golf Courses**: Four (4) spaces for each hole.
  - c. **Miniature Golf Courses**: Two (2) spaces for each hole.
  - d. **Roller Skating Rinks and Pool and Billiard Rooms**: One (1) space for every three (3) persons allowed based on the maximum capacity of the facility as determined by the State Fire Marshall.
  - e. **Bowling Alleys**: Three (3) spaces for each alley.
  - f. **Athletic Clubs, Physical Exercise Establishments, Health Studios, Self-Defense Clubs**: One (1) space per three (3) patrons based on the occupancy load established by the State Fire Marshall.
3. Retail Sales:
  - a. **Automobile or Machinery Sales**: One (1) space for each 200 sq. ft. of showroom floor area. Spaces used for storage of vehicles for sale shall not be used to meet parking requirements.
  - b. **Clothing, Furniture, Appliance, Hardware, Automobile, Machinery Sales**. One (1) space per six hundred (600) square feet of gross floor area.
  - c. **Service Stations**: Two (2) spaces for each repair and service stall (a service stall is not considered a parking space) and one (1) space for every two hundred (200) sq. ft. of gross floor area exclusive of stall areas.
  - d. **Standard Restaurants, Taverns, Bars**: One (1) space for every three (3) seats provided plus one (1) additional space for each fifty (50) sq. ft. of standing room available to customers.
  - e. **Restaurant, Drive-Through (with indoor eating facilities)**: One (1) space for every three (3) seats and fifteen (15) sq. ft. of floor area devoted to placing orders, plus sufficient area for eight (8) stacking spaces for drive-through windows.
  - f. **Restaurant, Drive Through (no indoor eating facilities)**: One (1) space for every 15 sq. ft. of usable floor area.
  - g. **Restaurant, Carry-Out (no indoor eating facilities)**: One (1) space for every fifteen (15) sq. ft. of usable floor area, provided a minimum of five (5) spaces are provided.
  - h. **Supermarket, Convenience Store, Self-Service Food Store**: One (1) space for every three-hundred (300) sq. ft. of useable floor area.
  - i. **Retail Stores and Facilities, (not otherwise specified above)**: One (1) space for every two hundred (200) sq. ft. of gross floor area.

4. Offices and Services:

- a. **Banks and Financial Institutions:** One (1) parking space for every 250 sq. ft. of usable floor area plus sufficient area for five (5) stacking spaces for the first drive-through window and two (2) spaces for each additional window.
- b. **Barber Shops and Beauty Parlors:** Two (2) spaces for each chair and other treatment station.
- c. **Vehicle Service/Repair:** Two (2) spaces for each service bay, but not less than six (6) spaces.
- d. **Car Wash, Automatic:** For those systems which do not operate as a continuous conveyor system accommodating multiple vehicles at a single time, there shall be provided one (1) or more queuing lanes to accommodate vehicles waiting to enter the system. The queuing lane shall be configured to accommodate a minimum of eighty (80) percent of the number of vehicles capable of moving through the system according to the manufacture's hourly rated capacity for the system. A linear dimension of twenty (20) feet per vehicle shall be used for determining the required queuing lane(s) length.
- e. **Car Wash, Self-Service:** For those systems that require the vehicle occupant to wash the vehicle, there shall be provided one (1) or more queuing lanes to accommodate vehicles waiting to be washed. The queuing lane(s) shall be configured to accommodate up to five (5) times the maximum number of vehicles able to be undergoing some phase of washing at the same time. A linear dimension of twenty (20) feet per vehicle shall be used for determining the required queuing lane(s) length.
- f. **Funeral Homes and Mortuaries:** One (1) space for every fifty (50) sq. ft. of floor area of chapels and assembly rooms.
- g. **Kennels:** One (1) space for each five (5) animals of the facility's capacity.
- h. **Laundromat:** One (1) space for every three (3) washing or drying machines.
- i. **Offices and Professional:** One (1) space for every two hundred (200) sq. ft. of gross floor area.
- j. **Personal Service Establishments (not otherwise specified above):** One (1) space per four hundred (400) feet of gross floor area.

**D. Industrial Uses:** In addition to the parking spaces required below, an additional one (1) parking space shall be provided for each employee of the largest work shift.

1. **Industrial or Manufacturing Establishments:** One (1) space for every two-thousand (2,000) sq. ft. of floor area.
2. **Warehouses, Wholesale Stores:** One (1) space for every one-thousand (1,000) sq. ft. of floor area.

**E. Other Uses:** In addition to the parking spaces required below, an additional one (1) parking space shall be provided for each employee of the largest work shift.

1. **Religious Institutions:** One (1) space for each three (3) seats or six (6) linear feet of pew or bench seating in the main unit of worship.
2. **Non-School Auditorium, Theater, Assembly Hall:** One (1) space for each four (4) seats or five (5) linear feet of bench seating, or one (1) space for each three (3) persons based on the occupancy load as established by the State Fire Marshall, whichever is greater.
3. **Private Civic Club or Lodge:** One (1) space for each three (3) members, based upon the load capacity as determined by the State Fire Marshall.
4. **Elementary and Middle Schools:** See requirements for non-school auditoriums.
5. **High Schools:** One (1) space for each ten (10) students (based on the capacity of the facility as determined by the Fire Marshall), plus one (1) space for every four (4) seats where the school contains an auditorium and/or stadium or gym.
6. **Libraries and Museums:** One (1) space for every four hundred (400) sq. ft. of floor area.
7. **Outdoor Theaters and Other Outdoor Entertainment Facilities:** One (1) space for every four fixed seats or five (5) linear feet of bench seating, and one (1) additional space for one hundred (100) sq. ft. available to accommodate additional attendees not otherwise restricted to a fixed seating area.

**Section 11.5 Loading and Unloading Space Requirements**

**A. Additional Space:** Loading space required under this Section shall be provided as area additional to off-street parking space required under Section 11.4.

**B. Space Requirements:** There shall be provided an adequate space for standing, loading, and unloading services. Each space shall be a minimum of twelve (12) feet in width and twenty-five (25) feet in length, and fourteen (14) feet in height, open or enclosed, and be of such pavement design to accommodate the anticipated truck traffic. The site plan approval body may require a greater space length where necessitated by the anticipated type of truck traffic. The number of spaces shall be provided as follows:

<u>Gross Floor Area</u>	<u>Spaces Required</u>
Up to 5,000 sq. ft. of gross floor area:	1 space, if determined necessary during site plan review.
5,001 to 50,000 sq. ft. of gross floor area:	1 space.
50,001 or more sq. ft. of gross floor area:	2 spaces, plus 1 space per each 100,000 sq. ft. of gross floor area, or fraction thereof, in excess of the first 100,000 sq. ft..

**C. Access:** Access to a truck standing, loading and unloading space shall be provided directly from a public road or alley and such space shall be so arranged to provide sufficient off-street maneuvering as well as adequate ingress and egress to and from the road or alley.

**D. Screening:** All loading and unloading areas that are adjacent to a different District or residentially-used property, or face or are visible from a public road, shall be screened.

**E. Location:**

1. Designated Loading-unloading spaces shall not be located in any front yard.
2. Loading-unloading spaces shall not be located in a required side or rear yard setback except where such yard adjoins a Commercial or Industrial District, but in no case shall such loading-unloading area be located within ten (10) feet of the lot line.
3. In no case shall loading-unloading spaces be located closer than fifty (50) feet to a lot used principally for residential purposes.

**End of Article 11**

**Article 12**  
**(RESERVED for FUTURE USE)**

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**End of Article 12**

## Article 13 SITE PLAN REVIEW

### **Section 13.1 Purpose**

It is the purpose of this Article to specify the process that shall be followed in the preparation, review and approval of site plans as required by this Ordinance, including the standards by which such plans shall be evaluated, to ensure that uses subject to site plan review are in conformance with this Ordinance.

### **Section 13.2 Site Plan Approval Required**

**A. Uses Requiring Site Plan Approval:** Except as provided by subsection (1) below or elsewhere in this Ordinance, site plan approval by the Joint Planning Commission (JPC) is required prior to the Zoning Administrator's issuance of a zoning permit for all authorized uses including, but not limited to, multiple family developments, commercial and industrial uses, institutions, site condominiums and platted subdivisions.

1. **Exceptions:**

- a. Single family or two-family dwellings, and alterations and accessory structures and buildings thereto, shall be subject to plot plan approval by the Zoning Administrator according to Section 3.4(B).

### **Section 13.3 Review Procedures**

**A. Optional Preliminary Plan:** Prior to preparing a detailed final site plan and seeking approval of such site plan, an applicant may seek approval of a preliminary plan for the purpose of receiving approval of the general design and layout of the project. A preliminary plan shall be reviewed and acted upon in the same manner as the final site plan, as delineated in subsections (B) – (E) below. An applicant that exercises his/her right to not submit a preliminary plan and proceed to site plan approval directly bears the risk of the time and costs incurred in the preparation of a final site plan without the benefit of official action on a preliminary plan first.

1. **Level of Detail:** The preliminary site plan shall be prepared according to the manner and information required for a final site plan pursuant to Section 13.3(B), except that detailed grading, storm water management and other construction drawings to address specific site improvements are not necessary. However, the detail of the preliminary information shall adequately portray the arrangement and feasibility of critical components of the project such as, but not limited to, preliminary storm water management including flow direction and preliminary location of detention/retention basins; preliminary grading including approximate limits of clearing and proposed contours at minimum five (5) foot intervals; vehicular circulation including approximate road alignments, parking spaces and parking circulation; lot areas and lot lines; signage; and landscaping.
2. **Approval Standards:** A preliminary plan shall be evaluated according to the level of information required at the preliminary plan level. A preliminary plan shall be approved if it contains the information required by, and is in compliance with the approval standards of Sec. 13.4, other planning documents, other applicable ordinances and state and federal statutes.
3. **Approval Period:** Approval of a preliminary plan is valid for a period of one (1) year. If a complete final site plan has not been submitted during this period, the approval of the preliminary plan shall be null and void unless the JPC finds that no changes have occurred to ordinance regulations, abutting properties, or other conditions that suggest revisions to the previously approved preliminary plan.

**B. Final Site Plan Application Submittal, Distribution and Data:** A minimum of fifteen (15) copies of a final site plan shall be submitted to the Zoning Administrator along with any supporting documents and application fee. Upon receipt of the application, the Zoning Administrator shall record the date of their receipt and transmit copies to the JPC, and other agencies or individuals selected to review such plans such as, but not limited to, the Benzie County Road Commission, Health Department and Drain Commissioner, and Weldon Township emergency departments. The Zoning Administrator shall request all reviewing entities to respond within twenty (20) days of receipt of the materials. The JPC need not delay taking action on the application if such response has not been received within such period.

1. **Format of Final Site Plan:** The final site plan shall be of a scale not less than 1" = 100' and with a north arrow on each sheet, except that the scale shall not be less than 1" = 50' where the parcel is less than three (3) acres in area. All information depicted shall be designed by a professional engineer, land surveyor, or landscape architect licensed in Michigan and shall bear the seal and signature of the licensed individual. The site plan shall present all necessary information in a clear and comprehensible fashion.

- a. The JPC may waive the requirement that the site plan shall be prepared by a professional engineer, land surveyor, or landscape architect, where it determines that the character of the proposed alterations to the lot are of a minimal and non-complex nature such as, by example, where no building, grading and/or paving is proposed.
2. Site Plan Information: A site plan shall include the following minimum information except where the JPC determines that the waiving of specific submittal items, due to the particular character of proposed development or site or surrounding conditions, shall not undermine the ability to effectively evaluate the extent to which the site plan complies with the standards of this Ordinance and protects the public health, safety and welfare. The JPC may subsequently void this waiver should deliberations reveal the need for additional information.
  - a. The applicant's full name, address and phone number, the name, address and phone number of the person and firm who prepared the plan, and the date each drawing was prepared or last revised.
  - b. A vicinity map showing the location of the property subject to the application in relation to the surrounding road system for a minimum distance of one-thousand (1,000) feet in all directions; the types and locations of all structures and buildings within one-hundred (100) feet of the property including driveways; and the zoning classification of surrounding parcels.
  - c. A property line survey, correlated with a legal description, showing property line dimensions and bearings, lot area in acres and square feet, and a graphic scale.
  - d. Existing uses, buildings, structures, roads, easements and all other existing site improvements, on and within one-hundred (100) feet of the site. In the case of those on the site, dimensions of such features shall be provided and a designation as to which are to be retained, removed, or otherwise altered.
  - e. Existing natural features on and within one-hundred (100) feet of the site including wooded areas; wetlands; drainage courses, water bodies and 100-year flood plain areas including elevations of such features; topography at no greater than two-foot contour intervals; and soils by type and drainage features according to the County Soil Survey or well/boring logs.
  - f. Required front, side and rear yard setbacks for principal buildings.
  - g. Proposed lots including area, dimensions and lot line bearings, and the total number of dwelling units.
  - h. Proposed principal and accessory buildings and structures including height, dimensions, intended use, the total and usable floor area of each non-residential building, elevation drawings and floor plans of all buildings to be occupied.
  - i. Proposed outdoor features including trash storage areas, open spaces and type of recreation facilities to be provided, and the location, dimensions and materials of proposed signs, lighting, carports and similar features.
  - j. Proposed public right-of-ways and private easements, including their widths and purposes, and deed restrictions.
  - k. Proposed roads, drives and alleys including widths, cross-sections and profiles; acceleration, deceleration and turn lanes; driveways, parking spaces and parking aisles, with an indication of the total number of spaces and computations associated with the number of parking spaces required and provided, typical space and aisle/driveway dimensions, direction of travel and inside radii of all curves including driveway curb returns; and sidewalks and other non-motorized travel ways and the widths and construction details thereof. Proposed traffic control measures (including signs) shall also be indicated.
  - l. Proposed source and location of all public and private utilities including potable water, sewage disposal and electrical and communication lines, and the necessary easements that exist or are to be established for installation, repair and maintenance of such utilities.
  - m. Proposed signs and light fixtures including the heights and construction specifications.
  - n. Proposed location and extent to which natural features shall be disturbed or otherwise cleared including those under subsection (e) above, and measures to be employed to ensure continued protection of those features to be retained.
  - o. Proposed landscaping/screening plan in compliance with the requirements of Sec. 18.18 of this Ordinance, including the identification of proposed fences and walls and the heights and construction details thereof.
  - p. Proposed grading, storm drainage and storm water management plan, including soil erosion and sedimentation control measures and spot elevations to adequately portray drainage patterns and final elevations and grades. Such plan shall include the location of drainage easements, exterior drains, dry wells, catch basins, retention and/or detention areas, sumps and other facilities designed to collect, store or transport storm water. The point of discharge for all drains and pipes shall be



specified on the site plan as well as invert and related elevations, and pipe lengths and slope, to construct the same. Such plans shall document the extent of clearing of vegetation and the extent of other clearing, cuts, fills or other grading, and the finished floor elevations of all buildings.

- q. Proposed location and specifications for any existing or proposed above or below ground storage facilities for any toxic or hazardous substances, as well as any containment structures or clear zones required by government authorities; a complete inventory of toxic or hazardous substances to be stored or used on the site, including the quantity of substances, substance names and characteristics; the proximity of such materials to ground water aquifers, wetlands, surface waters, existing and proposed wells, storm sewers, storm drains and sanitary sewers; and a proposed storage and disposal plan for such materials including their transfer and/or transport.
- r. Proposed project completion schedule.
- s. A statement identifying all federal, state and local permits required, if any.
- t. Other information as is necessary to enable designated reviewing bodies to determine whether the proposed site plan shall conform to the provisions of this Ordinance including, but not limited to, a tree survey, traffic impact analysis and ground water impact study.

**C. JPC Review and Action:** The JPC shall review the zoning permit application and plans and determine their conformity with the provisions of this Ordinance, including the site plan submittal requirements of Section 13.3(B) and the site plan approval standards of Section 13.4. After conducting a review, the JPC shall deny, approve, or conditionally approve the site plan, as it pertains to requirements and standards contained in this Ordinance. Any conditions required by the JPC shall be stated in writing, together with the reasons, and delivered to the applicant. A site plan shall be approved if it contains the information required by, and is in compliance with this Ordinance, the conditions imposed pursuant to the Ordinance, officially adopted JPC planning documents, other applicable ordinances and state and federal statutes.

1. Revised Final Site Plan: The JPC may require the submittal of a fully revised final site plan upon its determination that the conditions necessary for the approval of such plan are of an extent or character that a fully revised set of documents is necessary to clearly portray the plan as anticipated to be approved.
2. Issuance of Zoning Permit: Upon approval or conditional approval of the site plan and application by the JPC, the Zoning Administrator shall issue a zoning permit authorizing the use and construction subject to the approved application.
3. Building Permit Required: Upon issuance of a zoning permit, no construction shall be initiated prior to the acquisition of all necessary building permits from the Building Inspector.

**D. Approved Site Plans:** Two (2) copies of an approved site plan, with any conditions contained within, shall be maintained as part of the JPC's records for future review and enforcement. The Zoning Administrator shall return a third copy to the applicant. For identification of the approved plans, each of the three (3) copies shall be signed and dated with the date of approval by the JPC Chairperson and Secretary. If any variances from this Ordinance have been obtained from the Joint Zoning Board of Appeals (JZBA), the approved minutes concerning the variances shall also be filed with the JPC records as a part of the site plan and delivered to the applicant.

**E. As-Built Drawings:** The applicant shall submit three (3) copies of as-built drawings upon completion of construction activities, but no later than sixty (60) days from the issuance of a permit of occupancy by the Building Inspector. Such drawings shall identify all improvements made upon the site including the location of all utility infrastructure including in association with communications, electricity, sewage disposal, potable water and storm water management.

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### **Section 13.4 Site Plan Approval Standards**

**A. Specific Site Development Standards:** Each site plan shall conform with the specific site development standards of this Ordinance such as requirements pertaining to lot area, lot width, setbacks, heights, permitted uses, nonconformities, signs, road access, potable water, sewage disposal and screening.

**B. General Site Plan Approval Standards:** In addition to compliance with the standards of subsection (A) above, all site plans shall comply with the following general site plan approval standards:

1. All elements of the site plan shall be harmoniously and efficiently organized in relation to the size and character of the lot, the manner in which buildings and support facilities on the lot relate to one another, and the character of the proposal as viewed from nearby properties and roads.
2. The site plan shall be of a character that supports the purpose of the District in which the site is located.
3. The site plan shall not impede the normal and orderly development, improvement, or enjoyment of surrounding property for uses permitted in the District, including matters pertaining to visual impacts from lighting, signage, outdoor storage and off-street parking.
4. The site plan shall preserve the environmental character of the site insofar as practical by minimizing the removal or disturbances to on-site natural features such as trees, woodlands, soils, topography, drainage patterns, water courses and wetlands.
5. The site plan shall provide for the removal of storm water so as to minimize on-site flood conditions and assure the well being of the users of the property and those of adjacent properties, and the integrity of public and natural drainage systems, due to flooding, erosion, sedimentation, increased rates or quantities of runoff or other negative impacts. Storm water management plans shall rely on existing drainage patterns to the greatest extent practical and minimize topographic alterations, and incorporate the necessary measures to discourage soil erosion and sedimentation and the discharge of impurities into the groundwater and nearby water courses.
6. The site plan shall provide vehicular and non-motorized circulation and parking in a manner that ensures for all users visually clear, safe, convenient and efficient travel in the site and at ingress and egress points, including minimizing congestion and conflicting turning patterns, minimizing negative impacts upon abutting properties and roads, coordinating access with the existing and planned public circulation system and improvements thereto, avoiding unnecessary curb cuts and encouraging the use of shared drives where practical and ensuring that all buildings shall be so arranged as to permit emergency access by some practical means to all sides.
7. The site plan shall provide for the appropriate location of all necessary and proposed utilities. Underground facilities shall be provided to the greatest extent practical.
8. Where a project is proposed for construction in phases, the project shall be so designed that each phase, when completed, shall be capable of standing on its own in terms of the presence of services, facilities and open space, and shall contain the necessary components to ensure protection of natural resources and public health, safety and welfare. In developments that are intended to be of a mixed-use character, the JPC may require a phasing plan to ensure that the intended dominant character of the development is preserved, such as the specification of a number or percentage of the proposed residential units in a predominantly residential development be constructed prior to or concurrently with nonresidential components.
9. Site plans shall conform to the Greater Thompsonville Area Master Plan, other applicable ordinances and state and federal statutes.

### **Section 13.5 Conformity to Approved Site Plans**

Property which is the subject of site plan approval shall be developed in compliance with the approved site plan and any approved changes thereto. If construction or use of the property does not conform to such approved plans, the approved zoning permit shall be subject to revocation pursuant to Section 3.4(C).

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**Section 13.6 Changes to Approved Site Plans**

**A. Procedures:** No changes shall be made to an approved site plan prior to, during, or after construction except according to (B) and (C) below.

**B. Major Changes:** Major changes to an approved site plan shall be reviewed and acted upon according to Section 13.3. A “major change” shall include a change in excess of five (5) feet in the location of vehicular circulation ways, parking areas, or exterior building walls; a change in the number of accesses to a street or alley or any other change impacting the basic circulation pattern and/or traffic flow; a reduction or increase of more than four (4) parking spaces or one-hundred (100) square feet of floor area; an increase in the number of dwelling units or the realignment of lot lines where such realignment exceeds two (2) feet at any single point; or an increase of more than three (3) feet in building height.

**C. Minor Changes:** Minor changes shall be subject to Zoning Administrator approval. Approved changes shall be clearly specified in writing and signed by the Zoning Administrator. The Zoning Administrator shall keep accurate records of approved changes. The Zoning Administrator may defer action on a minor change to the JPC. Minor changes to an approved site plan shall include changes not otherwise identified as a major change in (B) above including changes to required landscaping and screening where the change will not alter the overall appearance and effectiveness of the required landscaping and screening, and changes to the location, elevation or grade of storm sewer, sanitary sewer or other utilities.

**Section 13.7 Expiration of Site Plan Approval**

An approved site plan shall expire upon the expiration of the zoning permit for which the site plan pertains. In the case of a multi-phased project, site plan approval for each phase shall expire when a zoning permit for such phase has not been issued within one (1) year of the intended initiation of such phase, according to the construction/phase schedule of the approved site plan. The JPC may extend the site plan approval time for such phase, for multiple periods with each period not to exceed one (1) year, provided such body finds that surrounding conditions and land uses, and the most current standards of this Ordinance, continue to support the adequacy of the site plan. See Section 3.4(C) regarding expiration of zoning permits.

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**End of Article 13**

## Article 14 SPECIAL LAND USES

### Section 14.1 Purpose

It is the purpose of this Article to specify the process that shall be followed in the review and approval of "special land uses" as authorized by Tables 4-2 and 4-3 of Article 4 and elsewhere in this Ordinance, including the standards by which such applications shall be evaluated, to ensure such uses are in conformance with this Ordinance and encourage public health, safety and welfare.

### Section 14.2 Review Procedure

- A. Application:** An application for a zoning permit for a special land use shall consist of the following:
1. **Form:** An application form available from the Zoning Administrator, signed by the property owner(s) and applicant(s).
  2. **Site Plan:** A preliminary or final site plan prepared according to Sec. 13.3.
  3. **Description:** A detailed description of the proposed project, in narrative form.
- B. JPC Action / Public Hearing:**
1. **Procedures:** Application for a zoning permit for a special land use shall follow the same procedures as delineated for site plan review according to Sec. 13.3 except that upon finding that the application materials are complete and prior to deliberations on the application, the JPC shall hold a public hearing on such application. Notice of the hearing shall comply with Sec. 3.11.
  2. **Use and Site Plan Inseparable:** An application for a zoning permit for a special land use shall be an application to determine the appropriateness of both the proposed use on the subject property and the manner in which the proposed use is to be arranged and function as delineated in the required site plan. The use and site plan shall be viewed as inseparable and shall be acted upon through a single motion.
  3. **Action / Standards:** The JPC shall deny, approve, or approve with conditions the application for special land use/site plan. The JPC shall refer to the approval standards set forth in Sec. 14.5 in addition to those specified for site plan approval (Sec. 13.4) prior to taking action. Action on the application by the JPC shall be incorporated in a statement of findings and conclusions relative to the application which specifies the basis for the decision and any conditions made part of an approval.
    - a. In the case where the applicant has submitted a preliminary site plan as part of the initial special land use application pursuant to Sec. 13.3(A), an approval action by the JPC shall specify that such approval is preliminary only, contingent on the submittal and approval of a final site plan according to Sec. 13.3. No construction shall be initiated and no zoning permit shall be issued prior to the approval of a final site plan by the JPC.

### Section 14.3 Appeals

A person aggrieved in association with a special land use decision may appeal the special land use application decision to the circuit court only.

### Section 14.4 Reapplication

No special land use application that has been denied wholly or in part by the JPC shall be resubmitted until the expiration of one (1) year from the date of such denial, except on the grounds of newly-discovered evidence or proof of changed conditions having bearing on the basis for the previous denial, as determined by the JPC. A reapplication shall require a new fee and the process shall follow the provisions of Section 14.2.

### Section 14.5 Changes

**A. Site Plan:** Changes to an approved site plan that are classified as "minor" according to Sec. 13.6 shall be acted upon as provided in Sec. 13.6. In the case where such change constitutes a "major" change, such change shall be subject to the same review and approval provisions as specified in Sec. 14.2.

**B. Use or Activity:** A change in the character of the use or activity from what the originally approved zoning permit authorized shall not occur until such change is applied for and approved according to the application and review procedures of Sec. 14.2. Examples requiring a new application and review procedure include the establishment of another special land use, an expansion or increase in intensity of use including but not necessarily limited to the erection of additional buildings, the extension of authorized hours of operation, or the addition of two-hundred (200) square feet or more of floor area.

**Section 14.6 Approval Standards**

**A. General Standards:** No special land use application shall be approved except where the application complies with the following standards:

1. Shall be consistent with the goals, objectives and policies of the Greater Thompsonville Area Master Plan.
2. Shall be consistent with the purpose of the zoning district in which it is located.
3. Shall be designed, constructed, operated and maintained so as to be compatible with the existing and planned character of the general vicinity, taking into consideration such features as the bulk, placement and materials of proposed structures, open space areas, lighting and landscaping and screening.
4. Shall be served adequately by essential public facilities and services such as roads, police, fire protection, drainage structures, refuse disposal, water and sewage facilities and schools; and minimize the impact of traffic generated by the proposed development on adjacent properties.
5. Shall not be hazardous, disturbing, or detrimental to the use, peaceful enjoyment, economic value or development of neighboring property, or the vicinity in general, taking into consideration such features as the location of driveways and traffic flow patterns including turning patterns, vehicular and pedestrian safety, the intensity and character of traffic and parking conditions, hours of operation and the production of noise, glare, vibration, odors or other external impacts.
6. Shall not involve uses, activities, processes, materials and equipment or conditions of operation that will be detrimental to the natural environment including air, soil, surface water and ground water resources.
7. Shall not create excessive additional requirements at public cost for public facilities and services.
8. Shall be in compliance with the site plan approval standards of Section 13.4.

**B. Specific Standards:** In addition to compliance with the above standards in subsection (A), special land uses shall comply with the standards and regulations applicable to each specific land use as may be identified in this Ordinance including Article 8.

**End of Article 14**

## Article 15 JOINT ZONING BOARD of APPEALS (JZBA)

### Section 15.1 Purpose

The purpose of this Article is to establish a Joint Zoning Board of Appeals (JZBA) pursuant to Public Act 110 of 2006, including its responsibilities, procedures and standards of review, to ensure that the objectives of this Ordinance are fully and equitably achieved.

### Section 15.2 Creation and Membership

**A. Establishment and Appointment of Members:** A JZBA is hereby established and shall consist of seven (7) members. Two (2) members from within each of the municipal boundaries of Colfax Township, Weldon Township and the Village of Thompsonville shall be appointed by the legislative body of such municipality, by a majority vote of the municipality's legislative body. The seventh (7<sup>th</sup>) member shall be selected by the Joint Planning Commission (JPC) from the regular membership of the JPC. One (1) regular or alternate member of the JZBA may be a member of one (1) of the legislative bodies but shall not serve as the chairperson. The remaining regular members, and any alternate members, shall be selected from the electors of Colfax Township, Weldon Township and the Village of Thompsonville. The members selected shall be representative of the population distribution and of the various interests present among such municipalities. An employee or contractor of any of the legislative bodies may not serve as a member of the JZBA.

**B. Alternate Members:** Each legislative body may appoint not more than one (1) alternate member to the JZBA, each to be appointed for a term of three (3) years. Each legislative body that appoints an alternate member shall select such alternate member from within the municipal boundaries of the legislative body except in the absence of interested qualified persons. The alternate members shall be called on a rotating basis to sit as regular members of the JZBA in the absence of a regular member if the regular member will be unable to attend one (1) or more meetings of the JZBA. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. An alternate member shall serve on a case until a final decision is made. The alternate member shall have the same voting rights as a regular member of the JZBA.

**C. Terms of Appointment:** Members shall be appointed for three (3) year terms except in the case of a JPC and/or legislative body member serving on the JZBA, whose terms on the JZBA shall be limited to the time they are members of the JPC or legislative body. A successor shall be appointed not more than one (1) month after the term of the preceding member has expired. When the initial members of the JZBA are first appointed, the appointments may be for less than three (3) years to provide for staggered terms. Vacancies for unexpired terms shall be filled for the remainder of the term in the same manner as the original appointment. Members may be reappointed.

**D. Removal from Office / Conflict of Interest:** A member of the JZBA may be removed by the legislative body that appointed the member for misfeasance, malfeasance, or nonfeasance in office, upon written charges and after a public hearing. A member shall disqualify himself or herself from deliberations and a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from deliberations and a vote in which the member has a conflict of interest constitutes malfeasance in office.

### Section 15.3 Organization

**A. Rules of Procedure and Officers:** The JZBA shall adopt rules of procedure for the conduct of its meetings and the implementation of its duties. The JZBA shall annually elect from its members a chairperson, vice-chairperson and secretary.

**B. Meetings and Quorum:** Meetings of the JZBA shall be held at the call of the chairperson and at such other times as the JZBA in its rules of procedure may specify. A majority of the regular membership of the JZBA, being four (4), shall comprise a quorum, which may include an alternate member(s) sitting in for a regular member(s). The JZBA shall not conduct official business unless a quorum is present. All meetings shall be open to the public and conducted pursuant to the requirements of the Open Meetings Act (P.A. 267 of 1976, as amended).

**C. Oaths and Witnesses:** The chairperson may administer oaths and compel the attendance of witnesses.

**D. Records/Minutes:** The JZBA shall maintain a record of its proceedings and shall be a public record according to the Freedom of Information Act. All minutes shall state the grounds for each determination, including findings of fact and conclusions, and shall be available to the public according to the Open Meetings Act.

#### **Section 15.4 Jurisdiction**

The JZBA shall act upon questions as they arise in the administration of this Ordinance and take other actions as specified in this Ordinance. The JZBA shall perform its duties and exercise its powers as provided in Public Act 110 of 2006, as amended. The JZBA shall not have the power to alter or change the zoning district classification of any property, nor make any change in the terms or intent of this Ordinance, but shall have the power to act on those matters so specified in this Ordinance including Ordinance interpretations, variances and the review of an order, requirement, decision or determination made by an administrative official or body charged with the administration or enforcement of this Ordinance.

#### **Section 15.5 Appeals for Administrative Reviews**

**A. Authority:** The JZBA shall hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, or decision by the Zoning Administrator, JPC or by any other body or official in administering or enforcing the provisions of this Ordinance. Within this capacity, the JZBA may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination of such body or official. The JZBA shall have all the powers of the body or official that made the decision subject to the appeal.

**B. Standards:** The JZBA shall reverse or otherwise modify the decision subject to the appeal only if it finds that the action or decision appealed:

1. was arbitrary or capricious, or
2. was based upon an erroneous finding of a material fact, or
3. constituted an abuse of discretion, or
4. was based upon the erroneous interpretation of the Zoning Ordinance or zoning law, or
5. did not follow required procedures.

**C. Procedures:**

1. Application Requirements: A written application for an appeal for administrative review shall be completed and filed with the Zoning Administrator on forms established for that purpose, within twenty-one (21) days after the date of the decision being appealed. Application for an administrative review shall specify, at a minimum, the name, address and phone number of the applicant; the decision being appealed; and the basis for the appeal. A minimum of ten (10) copies of the application shall be submitted along with any required application fees.
2. Stay: An appeal for an administrative review filed under this Article stays all proceedings in furtherance of the action appealed unless the officer or body that made the decision being appealed certifies to the JZBA, after the notice of appeal is filed, that by reason of facts stated in the certification, a stay would in the opinion of the officer or body cause imminent peril to life or property. If such a certification is filed, the proceedings shall only be stayed by a restraining order granted by the circuit court.
3. Record of Facts / Transmission of Record: Upon receipt of an application for an administrative review, the officer or body that made the decision being appealed shall transmit to the JZBA all papers constituting the record upon which such decision was made. In hearing and deciding appeals under this Section, the JZBA's review shall be based upon the record of the administrative decision being appealed. The JZBA shall not consider new information which had not been presented to the administrative official or body that made the decision being appealed except where the JZBA first remands the matter, along with the new information, back to the officer or body that made the original administrative decision, for reconsideration.
4. Hearing: Upon receipt of an application, the chairperson of the JZBA shall fix a reasonable time and date for a hearing, taking into account adequate time for members of the JZBA to review the application prior to such hearing. Notice of the hearing shall comply with Section 3.11. See Sec. 3.7 regarding timely action. Upon the hearing, any party may appear in person or by agent or attorney. See subsection (5) regarding participation at the hearing by a member of the JZBA who is also a member of the JPC.
5. Decision: The JZBA shall render a decision in the form of a motion containing a full record of the findings and determination of the JZBA, and basis for such determination. The concurring vote of a majority of the members (four) of the JZBA shall be necessary to reverse or otherwise modify the action subject to the appeal. A member of the JZBA who is also a member of the JPC shall not participate in a



public hearing, deliberation, or vote, on the same matter that the member voted on as a member of the JPC. However, the member may consider and vote on other unrelated matters involving the same property.

### **Section 15.6 Interpretations**

**A. Authority:** The JZBA shall hear and decide upon requests to interpret the provisions of this Ordinance when it is alleged that certain provisions are not clear or that they could have more than one meaning, including the determination of the precise location of the boundary lines between zoning districts, application of off-street parking and loading requirements for a specific use and whether a particular use is authorized in a particular district.

**B. Procedures:**

1. **Application Requirements:** A written application for an interpretation shall be completed and filed with the Zoning Administrator on forms established for that purpose. Application for an interpretation shall specify, at a minimum, the name, address and phone number of the applicant; the standard, regulation or provision requiring an interpretation; and a plot plan, site plan, or similar drawing illustrating the application or relevance of such interpretation. A minimum of ten (10) copies of the completed application shall be submitted along with any application fees.
2. **Hearing:** Upon receipt of an application, the chairperson of the JZBA shall fix a reasonable time and date for a hearing, taking into account adequate time for members of the JZBA to review the application prior to such hearing. Notice of the hearing shall comply with Section 3.11. See Sec. 3.7 regarding timely action. Upon the hearing, any party may appear in person or by agent.
3. **Decision:** The JZBA shall render a decision in the form of a motion containing a full record of the findings and determination of the JZBA, and basis for such determination. The concurring vote a majority of the members (four) of the JZBA shall be necessary to make an interpretation. In deciding on an interpretation, the JZBA shall ensure that its interpretation is consistent with the intent and purpose of the Ordinance, the Article in which the language in question is contained and all other relevant provisions in the Ordinance.
  - a. Prior to deciding a request for an interpretation, the JZBA may confer with municipal staff and consultants to gain insight into the provision subject to interpretation and any consequences which may result from differing decisions.
  - b. A decision providing an interpretation may be accompanied by a recommendation to the JPC for consideration of an amendment of the Ordinance to address what the JZBA may find is a problematic aspect of the Ordinance.

### **Section 15.7 Variances**

**A. Authority:** The JZBA shall have the power to authorize specific variances from specific site development standards contained in this Ordinance, such as lot area and width requirements, building height and setback requirements, yard width and depth requirements, lot depth to width ratio requirements, off-street parking and loading space requirements and sign requirements. The JZBA shall not have the power to authorize variances from requirements of this Ordinance pertaining to permitted uses in a District.

**B. Standards:** The JZBA shall have the power to authorize variances from specific site development requirements provided that all of the standards below are met and the record of proceedings of the JZBA contains evidence supporting each conclusion.

1. That there are practical difficulties that prevent carrying out the strict letter of this Ordinance due to unique circumstances specific to the property such as its narrowness, shallowness, shape, or topography, that do not generally apply to other property or uses in the same district, and shall not be recurrent in nature. These difficulties shall not be deemed economic, but shall be evaluated in terms of the use of a particular parcel of land.
2. That the practical difficulty or special condition or circumstance is not a result of the actions of the applicant.
3. That the variance will relate only to property described in the variance application.
4. That the variance will be in harmony with the purpose of this Ordinance and the intent of the District, including the protection of public health, safety and welfare in general and vehicular and pedestrian circulation specifically.
5. That the variance will not cause a substantial adverse effect upon surrounding property including property values and the development, use and enjoyment of property in the neighborhood or District.

6. That strict compliance with the site development requirement in question would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome.
7. That the variance requested is the minimum amount necessary to overcome the inequality inherent in the particular property or mitigate the practical difficulty.

**C. Procedures**

1. **Application Requirements:** Application for a variance shall specify, at a minimum, the name, address and phone number of the applicant; the legal description for the lot subject to the variance; a specification of the Ordinance's standards for which a variance is sought and the specific variance being requested; and a plot plan, site plan, or similar drawing that adequately illustrates the proposed improvements to the lot for which the variance is requested. In all variance proceedings, it shall be the responsibility of the applicant to provide information, plans, testimony and/or evidence from which the JZBA may make the required findings, including any information the applicant may choose to submit to demonstrate conformance with the standards of subsection (B) above. A minimum of ten (10) copies of the completed application shall be submitted along with any application fees.
2. **Hearing:** Upon receipt of an application, the chairperson of the JZBA shall fix a reasonable time and date for a hearing, taking into account adequate time for members of the JZBA to review the application prior to such hearing. Notice of the hearing shall comply with Section 3.11. See Sec. 3.7 regarding timely action. Upon the hearing, any party may appear in person or by agent or attorney.
3. **Decision:** The JZBA shall render a decision in the form of a motion containing a full record of the findings and determination of the JZBA, and basis for such determination. The concurring vote of a majority of the members (four) of the JZBA shall be necessary to grant a variance.
  - a. In granting a variance, the JZBA may prescribe appropriate conditions and safeguards in conformity with this Ordinance. In the case where the JZBA prescribes such conditions, the JZBA may require that a performance guarantee be furnished to ensure compliance with such conditions, according to Section 3.6. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance. See Article 18 (Supplemental Provisions) regarding conditional approvals.
  - b. A variance shall become null and void unless the construction authorized by such variance has been commenced within one (1) year after the granting of the variance, and there is a continuous good faith intention to continue construction to completion. The JZBA may extend this time limit upon its finding that no substantial changes have occurred to ordinance regulations, abutting properties, or other conditions that undermine the basis for the original issuance of the variance.
  - c. No application for a variance which has been acted upon shall be resubmitted for a period of one (1) year from the date of the last denial, except on the grounds of newly-discovered evidence or proof of changed conditions having bearing on the basis for the original denial, in the discretion of the JZBA.

**Section 15.8 Review by Circuit Court**

**A. Circuit Court Review:** The decision of the JZBA shall be final. However, any party aggrieved by an order, determination or decision of the JZBA may obtain a review thereof in the Circuit Court provided that application is made to the Court within thirty (30) days after the JZBA issues its decision in writing signed by the chairperson, or within twenty-one (21) days after the JZBA approves the minutes of its decision. The Circuit Court shall review the record and decision of the JZBA to insure that the decision:

1. Complies with the constitution and laws of the State.
2. Is based upon proper procedure.
3. Is supported by competent, material and substantial evidence on the record.
4. Represents the reasonable exercise of discretion granted by law to the JZBA.

**End of Article 15**

## Article 16 ZONING MAP and TEXT AMENDMENTS

### **Section 16.1 Purpose**

This Article establishes procedures for the review and action on amendment petitions. Amendments to this Ordinance shall be processed according to Public Act 110 of 2006, as amended, and in doing so, the procedures of this Article shall be followed. It is not intended that this Ordinance be amended except to correct an error; to address changed or changing conditions including in a particular geographic area; to institute new or modified measures or standards to ensure the public health, safety and welfare; to conform with the Greater Thompsonville Area Master Plan and/or other ordinances; and to meet a public need for new or additional land uses in appropriate locations.

### **Section 16.2 Initiation of Amendments**

Petitions for amendments may be initiated by a legislative body or the Joint Planning Commission (JPC), by its own motion, or by petition of one (1) or more owners of property to be affected by the proposed amendment.

### **Section 16.3 Procedures**

**A. Application, Distribution and Data:** A petitioner shall submit thirty (30) copies of a completed application to the Zoning Administrator on a form established for that purpose, which shall include a detailed description of the proposed amendment including the name, address and phone number of the applicant and the desired change(s) and reason(s) for such change(s), along with any application fees. The Zoning Administrator shall record the date of their receipt and transmit copies to the JPC, each legislative body and other agencies or individuals selected to review such petitions including but not necessarily limited to municipal departments and staff, consultants and the Benzie County Road Commission.

1. When the petition involves a change in the Zoning Map, an application shall be submitted for each parcel of land which is not contiguous to any adjacent parcel of land being proposed for the same amendment, and the applicant shall also submit the following information:
  - a. A legal description of the property, and a scaled map of the property correlated with the legal description and clearly showing the property's location.
  - b. The applicant's name, address and phone number and interest in the property, and if the applicant is not the owner, the name, address and phone number of the owner.
  - c. The desired change and reasons for such change.
  - d. Signature(s) of petitioner(s) and owner(s) certifying the accuracy of the required information.

#### **B. JPC Action**

1. **Public Hearing:** The JPC shall review the application materials. Upon finding that the application materials are satisfactorily complete and the JPC has a clear understanding of the requested amendment, the JPC shall establish a date for a public hearing on the application and hold such hearing. Notice of the public hearing shall comply with Section 3.11. Any application not properly filed or complete may be returned to the applicant with a written notice of deficiencies.
2. **JPC Review / Recommendation:** In reviewing any amendment petition, the JPC shall identify and evaluate all factors relevant to the application.
  - a. If the petition involves an amendment to the official zoning map, matters to be considered by the JPC shall include, but need not be limited to, the following:
    - 1) What, if any, identifiable conditions related to the petition have changed which justify the proposed zoning district change?
    - 2) What is the impact of the zoning district change on the ability of the municipality and other governmental agencies to provide adequate public services and facilities, and/or programs that might reasonably be required in the future if the proposed zoning district change is adopted?
    - 3) Will the petitioned district change adversely affect the value of the surrounding property?
    - 4) Is the site's environmental features compatible with the host of uses permitted in the proposed district, and will development under the proposed district be likely to adversely affect environmental conditions?
    - 5) Can the subject parcel comply with all requirements of the proposed zoning classification?
    - 6) Is the subject property able to be put to reasonable economic use in the zoning district in which it is presently located?
    - 7) Is the petitioned district change consistent with the zoning classification of surrounding land?

- 8) Does the petitioned district change generally comply with the Greater Thompsonville Area Master Plan?
- 9) What are the precedents and the possible effects of such precedent which might result from the approval or denial of the petition?
- b. If the petition involves an amendment to the text of the Ordinance, matters to be considered by the JPC shall include, but need not be limited to, the following:
  - 1) Is the amendment petition supported by documentation, such as from the Joint Zoning Board of Appeals (JZBA), that the proposed amendment would minimize problems or conflicts with specific sections of the Ordinance?
  - 2) Is the amendment petition supported by reference materials, planning and zoning publications, information gained at seminars or experiences of other communities to more effectively address certain zoning issues?
  - 3) Is the amendment petition supported by significant case law?
3. **JPC Recommendation:** Following the hearing, the JPC shall transmit a summary of comments received at the public hearing to each legislative body, along with its recommended action on the amendment petition. The JPC shall also forward its recommended action on the amendment petition to the Benzie County Planning Commission for advisory comments.

### **C. Action by Legislative Bodies**

1. **Additional Hearings:** A legislative body may hold additional public hearings if the legislative body considers it necessary. A legislative body shall grant a hearing on a proposed amendment to any interested property owner who has filed a written request to be heard. Such written request shall take the form of a certified mail letter from the property owner to the clerk of the municipality being requested to hold the additional hearing. Such hearing is not subject to the notice requirements of Section 3.11, except that notice of the hearing shall be given to the interested property owner according to Section 3.11(A) and (C). The legislative body of such municipality may require the property owner to substantiate the basis for which the additional hearing is being requested.
2. **Amendment Ordinance Adoption:** After receiving the findings and recommendations of the JPC, each legislative body at any regular meeting or at any special meeting called for that purpose, shall consider said findings and recommendations. A legislative body may refer any proposed amendment back to the JPC for further consideration and comment within a time specified by the legislative body. The legislative bodies may adopt the amendment, with or without changes. Such action shall be by Ordinance, requiring a majority vote of each legislative body.
  - a. If a legislative body has not received County Planning Commission comments within thirty (30) days of the submittal of the JPC's recommendation, the legislative body need not delay taking action on the amendments.
  - b. No amendment ordinance shall become effective except where all legislative bodies have adopted an ordinance providing for the same amendment. The effective date of an amendment ordinance shall be the expiration of eight (8) days after publication of the notice of adoption as provided in (D) below except where all legislative bodies expressly provide a similar greater number of days.

**D. Publication of Notice of Ordinance Amendments:** Following adoption of amendments by ordinance by each of the legislative bodies, the amendment ordinances shall be filed with the clerk of each municipality and one (1) notice of adoption shall be published in a newspaper of general circulation in each municipality within fifteen (15) days after adoption. Promptly following adoption of an amendment ordinance by all legislative bodies, a copy of the notice of adoption shall also be mailed to the airport manager of each airport that registers its name and mailing address with a municipal clerk for the purpose of receiving such notices. The adoption notice shall provide either a summary of the regulatory effect of the amendments including the geographic area affected, or the text of the amendment, and the effective date of the amendment ordinance and the place and time where a copy of the amendment ordinance may be purchased or inspected.

### **Section 16.4 Resubmittal**

No petition for an amendment which has been denied by one (1) or more legislative bodies shall be resubmitted for a period of one (1) year from the date of the last denial, except on the grounds of newly-discovered evidence or proof of changed conditions having bearing on the basis for the previous denial, as determined by the JPC.

**End of Article 16**

**Article 17**  
**(RESERVED FOR FUTURE USE)**

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**End of Article 17**

## Article 18 SUPPLEMENTAL PROVISIONS

### **Section 18.1 Purpose**

The purpose of this Article is to recognize that there are certain conditions concerning land uses that warrant specific exceptions, regulations, or standards in addition to the regulations contained elsewhere in this Ordinance, and to establish such exceptions, regulations and standards. The following supplemental provisions apply to all uses and all zoning districts unless otherwise indicated.

### **Section 18.2 Conditional Approvals**

**A. Conditions on Discretionary Decisions:** A designated approving body, such as the Planning Commission and Zoning Board of Appeals, may attach conditions to the approval of a site plan, special land use, variance or other discretionary approval. Such conditions shall be based upon standards in this Ordinance and may be imposed to:

1. Insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity.
2. Protect the natural environment and conserve natural resources and energy.
3. Insure compatibility with adjacent uses of land.
4. Promote the use of land in a socially and economically desirable manner.

**B. Requirements for Valid Conditions:** Conditions imposed shall meet all of the following requirements:

1. Be designed to protect natural resources, the health, safety and welfare and the social and economic well being of those who will use the land 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 Ordinance, be related to the standards established in the Ordinance for the land use or activity under consideration and be necessary to insure compliance with those standards.

**C. Record of Conditions and Changes:** Any conditions imposed shall be recorded in the record of the approval action. These conditions shall not be changed except upon the mutual consent of the approving authority and the property owner.

**D. Performance Guarantees:** Performance guarantees may be required to ensure compliance with conditions on discretionary decisions pursuant to the requirements of Section 3.6.

### **Section 18.3 Moving Buildings**

No existing building or structure within or outside Colfax Township, Weldon Township or the Village of Thompsonville shall be relocated on any lot in such municipality unless the building or structure meets all provisions of this Ordinance and the Michigan Construction Code and a zoning permit has been issued for such relocation.

### **Section 18.4 Essential Services**

Essential services as defined in this Ordinance shall be permitted as authorized and regulated by law and other ordinances, it being the intention hereof to exempt such essential services from the application of this Ordinance. This exception shall not apply to administrative buildings, communication towers, public utility storage yards, substations and similar above-ground structures and uses associated with such services.

### **Section 18.5 One Dwelling Unit / Principal Use Per Lot**

**A. Dwellings:** No more than one (1) dwelling unit shall be established on a lot except as otherwise authorized by this Ordinance, such as in the case where Table 4-2 of Article 4 authorizes two-family or multiple family dwellings, or where a temporary dwelling may be authorized (Section 18.7, Temporary Dwellings).

**B. Principal Uses:** No more than one (1) principal use shall be established on a lot except as may be authorized in a Commercial, Industrial or PUD District and according to an approved site plan.

## **Section 18.6 Single-family Dwelling Standards**

**A.** All single family dwellings and modifications thereto shall comply with the requirements of this Ordinance including the following standards, provided that the foregoing standards shall not apply to temporary dwellings, or mobile homes located in a licensed manufactured housing community, except to the extent required by State and Federal law.

1. The dwelling and all modifications thereto shall comply in all respects with the Michigan Construction Code and building codes of the respective municipality including minimum heights for habitable rooms. Where a dwelling is required by law to comply with federal or state standards or regulations for construction and where such standards or regulations for construction are different than those imposed by such codes, then and in that event such federal or state standard or regulation shall apply.
2. All dwellings shall have a minimum floor area of 720 sq. ft..
3. The dwelling shall have a minimum width of twenty (20) feet across a minimum of fifty percent (50%) of its front, side and rear elevation.
4. The dwelling shall be firmly attached to a permanent foundation constructed on the site in accordance with the building code and shall have a wall of the same perimeter dimensions of the dwelling, except in the case of cantilever architecture, and constructed of such materials and type as required by the building code for such dwelling. In the case of a mobile home as defined herein, such dwelling shall be installed pursuant to the manufacturer's setup instructions and shall be secured to the premises by an anchoring system or device, and shall be set on a concrete footing with a masonry wall extending from the perimeter wall of the dwelling to ground, or on a concrete footing with fireproof supports and shall have a continuous skirt extending from perimeter to ground, made of commercial quality or equivalent, and comply with the rules and regulations of the Michigan Mobile Home Commission, the Public Health Department and HUD Regulations 24 CFR 3280, being the "Mobile Home Construction and Safety Standards". No dwelling shall have exposed wheels, towing mechanism, undercarriage, or chassis.
5. The dwelling shall have exterior doors on a minimum of two (2) sides of the dwelling, and shall have steps connected to exterior door areas, or to porches connected to exterior door areas, where the difference in elevation exceeds twelve (12) inches.
6. Any additions or modifications to a dwelling shall be constructed of similar or better quality workmanship as the original structure, including permanent attachment to the principal structure and foundation.
7. The dwelling shall contain storage area equal to 10% of the square footage of the dwelling or 100 square feet, whichever shall be less, and shall be located in a basement under the building, in an attic area, in closet areas, or in a separate structure constructed of similar or better quality workmanship as the principal dwelling.
8. The dwelling shall be connected to a public sewer and water supply or to such private facilities approved by the Benzie County Health Department.
9. All dwellings shall be aesthetically compatible in design and appearance with other residences in the vicinity. The compatibility of design and appearance shall be determined by the Zoning Administrator upon review of the plans submitted for a particular dwelling. A determination of compatibility shall be based upon the standards set forth in this Section as well as the character, design and appearance of one or more dwellings located within two thousand (2,000) feet of the subject dwelling where such area is developed with dwellings or, where said area is not so developed, by the general character, design and appearance of dwellings located in the Greater Thompsonville Area similarly meeting the standards of this Section. 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.

## **Section 18.7 Temporary Dwellings**

**A. Authorization/Application:** Temporary dwellings are prohibited except as approved by the Zoning Administrator according to this Section. Application for and authorization of such a temporary dwelling shall require the submittal of a zoning permit application available from the Zoning Administrator including a plot plan prepared according to Section 3.4(B). A temporary dwelling may be authorized for the following purpose only:

1. **Emergency Housing:** To allow a recreational vehicle or mobile home to be placed on a lot while the permanent dwelling on the same lot is under repair for which a zoning permit and building permit has been issued, where such repair is due to destruction by fire, collapse, explosion, Acts of God, or acts of a public enemy, to the extent that it is no longer safe for human occupancy.



**B. Standards**

1. A temporary dwelling may be placed in any yard.
2. A temporary dwelling shall comply with the setback standards of the District for the permanent dwelling unless the Zoning Administrator determines that the location of the permanent dwelling, or other features of the lot, prohibit compliance with such setbacks, in which case the Zoning Administrator may approve a reduction of up to fifty percent (50%) of the normally required setback.
3. A temporary dwelling shall comply with county health department rules and regulations for potable water and sewage disposal. The temporary dwelling shall be connected to a county-approved on-site septic system, or sewer system, where such temporary dwelling is to be occupied for more than sixty (60) days unless the Zoning Administrator determines that the permanent dwelling continues to provide necessary potable water and sewage disposal.

**C. Permit Duration and Removal:** No permit issued under this Section shall be issued for a duration exceeding one hundred eighty (180) days. A temporary dwelling shall be removed from the lot no later than the termination date of the permit or within thirty (30) days of the issuance of a certificate of occupancy for the permanent dwelling, whichever comes first. The Zoning Administrator may renew a temporary dwelling permit once and for a period not to exceed one hundred eighty (180) days upon the applicant adequately demonstrating that construction delays have been beyond the control of the applicant and that construction completion is continuing in an earnest manner.

**Section 18.8 Accessory Uses, Buildings and Structures**

**A. Scope:**

1. Applicability: Accessory buildings, structures and uses shall be subject to the regulations of this Section except where expressly regulated otherwise by this Ordinance.
2. Customarily Incidental and Secondary: No provisions of this Section shall be interpreted as authorizing accessory uses, buildings or structures that do not conform to the definitions of Article 19 pertaining to "accessory building or structure" and "accessory use," including that they be customarily incidental and secondary to the principal use of the lot.
3. Accessory Building: For the purposes of this Section, a building shall be considered an accessory building where such building is not structurally attached to the principal building by shared wall construction.

**B. Permit Required:** No accessory building or structure, including fences, shall be erected prior to the issuance of a zoning permit for such structure or building, provided however that a permit is not required in the case of a building or structure that is no more than one-hundred (100) square feet in area. Such building or structure shall comply with all requirements of this Ordinance including height and setback standards. Applications for accessory buildings and structures shall be administered and reviewed as part of the original or proposed revised plot plan (Section 3.4(B)) or site plan (Article 13).

**C. Placement/Setbacks:** Accessory buildings and structures shall comply with the minimum yard setback standards applicable to the principal structure on the lot according to Table 4-4 or as provided elsewhere in this Ordinance, but in no case shall an accessory building be erected in the front yard of any of the following:

1. A lot in a Residential District except that accessory buildings and structures are permitted in the front yard of a lot in a NR, RC-1, RC-2 RR-1, or RR-2 District provided such buildings and structures comply with the required front yard setback for the principal building according to Table 4-4.
2. Any lot in a platted or condominium subdivision, irrespective of the District.

**D. Height:** Accessory buildings and structures shall comply with the maximum height standards applicable to the principal structure on the lot except as provided below:

District	Maximum Height in Feet	Maximum Height in Stories
RR-1 and RR-2	30	1
R-1 and R-2	20	1
R-3	15	1

**E. Area/Lot Coverage:**

1. Compliance with Table 4-4: In no case shall any accessory building or structure be erected that results in noncompliance with the lot coverage/open space standards of Table 4-4 of Article 4, except during the period when a temporary dwelling may be present according to Section 18.7
2. Yard Limitations: In addition to subsection (1) above, no more than twenty-five percent (25%) of each yard shall be occupied by accessory buildings and structures in the case of lot located in a Residential District or in a platted or condominium subdivision in any District.

**F. Habitation of Accessory Buildings or Structures:** No accessory building or structure shall be used or occupied as a dwelling except as may be authorized pursuant to Section 18.7, Temporary Dwellings.

**G. Prior to a Principal Structure:** Buildings and structures that customarily function as accessory to a principal structure or use such as, by example only, garages and storage buildings, are prohibited in Residential Districts prior to the pouring of the principal structure's foundation and erection of framing, except as may be authorized pursuant to Section 18.7, Temporary Dwellings.

**Section 18.9 Home Occupations**

**A. Definitions:** For the purpose of this Section and Ordinance, the following phrases and definitions shall apply:

1. Home Occupation: An occupation or profession conducted on the same lot as a dwelling, accessory to and incidental to the principal residential use of the premises, and complies with the standards of this Section.
  - a. Class 1 Home Occupation: A home occupation that is conducted entirely within a dwelling, including an attached garage, and complies with the provisions of this Section.
  - b. Class 2 Home Occupation: A home occupation that is conducted wholly or in part outdoors or in an accessory building and complies with the provisions of this Section. Examples of a Class 2 home occupation may include, but are not limited to, the use of a building accessory to a residence as an office of a contractor, as a storage facility for construction vehicles used in association with such business, or used to provide educational services such as crafts and music.

**B. Authorization, Standards and Permits:**

1. Authorization and Standards: The authorization of Class 1 and 2 home occupations, and standards application to each, shall be as provided in Table 18.9-1.
2. Special Permit and Application Requirements for Class 2 Home Occupation:
  - a. A permit issued for a Class 2 home occupation shall clearly delineate any conditions upon which such approval is granted.
  - b. In addition to the information required by Article 14, an application for a Class 2 home occupation shall also include a detailed description of the character of the home occupation such as service or product offered; the number of full-time and part-time employees of the business and the frequency at which such employees will be present at the site; the type and frequency of vehicular traffic to be generated by the home occupation; the location of all parking, delivery and storage areas; and proposed landscaping/screening in association with any outdoor area, including parking and storage areas, to minimize negative impacts on nearby properties.

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**Home Occupations  
Table 18.9-1**

<b>Class 1 Home Occupation Authorization</b>	<b>Class 2 Home Occupation Authorization</b>
A Class 1 Home Occupation is permitted as an accessory use to the principal residential use of a lot, subject to the standards below. No zoning permit is required.	A Class 2 Home Occupation is classified as a special land use and permitted in the RC-1, RC-2 and RR-1 Districts only, and is subject to the provisions of Article 14 and the standards below.
<b>Class 1 Home Occupation Standards Only</b>	<b>Class 2 Home Occupation Standards Only</b>
1. The home occupation shall not involve the use or storage of explosive, flammable, or otherwise hazardous materials and waste not otherwise of a customary household nature.	1. The home occupation shall not involve the use or storage of explosive, flammable, or otherwise hazardous materials and waste not otherwise of a customary household nature, unless expressly authorized otherwise.
2. The home occupation shall not occupy an area greater than twenty-five percent (25%) of the gross floor area of the dwelling's first story.	2. The home occupation shall not occupy an area of an accessory building greater than one and one-half (1.5) times the gross floor area of the dwelling's first story.
3. No employees shall be present on the premises during the ordinary course of business excluding employees residing in the dwelling and one (1) additional employee.	3. No more than two (2) employees shall be present on the premises during the ordinary course of business excluding employees residing in the dwelling. This provision shall not prohibit the arrival of up to three (3) additional employees to the premises for the purpose of receiving daily instructions for work to be performed elsewhere, provided there is compliance with subsection (4) below.
4. All traffic to and from the home occupation shall not result in more than ten (10) pedestrian or vehicular arrivals during the daily course of business, including those by customers, sales persons, delivery persons, or other business visitors.	4. Permissible traffic to and from the home occupation shall be based on the surrounding land use pattern, proximity of dwellings, road infrastructure and other conditions determined relevant by the Planning Commission.
5. No portion of the home occupation shall be located outdoors including the storage of equipment and materials.	5. No portion of the home occupation shall be located outdoors except as may be expressly authorized as part of an approved site plan, where the JPC determines adequate screening measures are to be in place to minimize its visual and audible impacts on roads and lots.
6. Class 1 home occupations shall also comply with "Standards Applicable to Both Class 1 and Class 2 Home Occupations" presented below.	6. Class 2 home occupations shall also comply with "Standards Applicable to Both Class 1 and Class 2 Home Occupations" presented below.
<b>Additional Standards Applicable to Both Class 1 and Class 2 Home Occupations</b>	
1. The occupation shall be clearly secondary and incidental to the use of the dwelling as a place of residence, and shall not result in a change to the essential residential character of the premises including both the dwelling and yard areas. The dwelling shall have no exterior evidence of the home occupation except for a sign as permitted by Article 10.	
2. The occupation shall not produce any noise, odors, vibration, fumes or smoke detectable to normal sensory perception beyond the lot lines. No equipment or process shall be used which creates electrical interference in any radio, television, or communication receivers off the premises, or cause fluctuations in line voltage off the premises.	
3. A resident of the dwelling on the lot shall be actively and personally engaged in and be responsible for all occupation operations.	
4. Refuse generated by the occupation shall be safely and properly disposed of.	
5. All employee parking shall occur on a driveway outside of a road right-of-way.	
6. Retail sales on the premises are permitted but only as an incidental and secondary aspect of the occupation.	

**Section 18.10 Prohibited Vehicles**

Under no conditions shall a tow-truck, semi-tractor or trailer, sand and gravel hauling truck, bulldozer, grader and similar vehicles, in addition to other vehicles in excess of thirty (30) feet in length, including attached trailers of ten (10) feet or more in height, be stored overnight in a Residential District unless upon a lot or parcel currently under construction and such construction requires the use of such vehicles, or such vehicles are otherwise part of an approved home occupation. This Section shall not prohibit the parking or storing of agricultural vehicles and machinery on a lot or parcel devoted to agriculture for which the vehicles and/or machinery is used, nor shall this Section prohibit the storing of buses for school or church use on lots upon which the school or church is located.

### **Section 18.11 Setbacks for Residential Outdoor Living Areas (Patios, Decks, Porches, Etc.)**

**A. Definition:** For the purpose of this Section, “residential outdoor living area” shall be defined as an area designed or used for outdoor gathering, lounging, dining and/or similar use, in association with a dwelling and constructed of wood, concrete, brick, stone or similar surface. An outdoor living area may be commonly referred to as a terrace, patio, deck, or porch.

**B. Standards:** Outdoor living areas shall comply with the setback requirements of the District in which the dwelling is located except that an outdoor living area may be set back a minimum distance of three (3) feet from a side or rear lot line when there is compliance with all of the following conditions:

1. The outdoor living area is unroofed and unenclosed.
2. The outdoor living area includes no wall or other similar vertical feature designed to or to have the effect of screening views to or from such outdoor living area.
3. The outdoor living area has a walking surface no greater than twelve (12) inches above the ground elevation of the portions of the side and rear lot line most proximate to the outdoor living area.
4. No fixed feature of an outdoor living area, including railings, shall exceed thirty-six inches (36”) in height above the surface of such outdoor living area.

### **Section 18.12 Outdoor Storage of Recreational Vehicles and Equipment**

**A. Restrictions:** The outdoor storage of recreational vehicles and equipment including travel trailers, campers, snowmobiles, boats and similar items, is permitted on a lot used for residential purposes provided all of the following conditions are met:

1. Such items have current licenses and registrations as may be required by law and are fully operational.
2. Such items are owned by one or more persons residing in a dwelling on the lot.
3. Such items comply with all setback standards for accessory structures according to Section 18.8 and are restricted to the side and rear yards only.
4. Such items shall be considered as contributing to the maximum permitted lot coverage as provided by Table 4-4 of Article 4, and shall not result in noncompliance with such standards.

**B. Exceptions:** Nothing in subsection (A) above shall prohibit the following:

1. The storage of one (1) recreational vehicle on a residential driveway where such vehicle shall not exceed twenty-five (25) feet in length.
2. The storage of a maximum of three (3) recreational vehicles of any size on a residential driveway provided the vehicles are set back a minimum distance of one-hundred (100) feet from a road right-of-way and sixty (60) feet from all other lot lines.

### **Section 18.13 Keeping of Animals as Accessory Residential Use**

**A. Keeping of Vicious Animals:** No vicious animal shall be kept permanently or temporarily in any District. “Vicious animal” shall be defined as any animal that attacks, bites, or injures human beings or domesticated animals without adequate provocation, or which because of temperament, conditioning, or training, has a known propensity to attack, bite, or injure human beings or domesticated animals.

**B. Keeping of Exotic and Wild Animals:** No exotic or wild animal shall be kept permanently or temporarily in any District except as regulated and approved by the Michigan Department of Natural Resources. “Exotic and wild animals” shall be defined as any member of a species of animal, reptile, or bird, warm or cold-blooded, that is native to a foreign country or of foreign origin or character, and/or any animal not customarily confined or cultivated by man for domestic or commercial purposes. This phrase specifically includes animals such as, but not limited to, bear, deer and moose. “Wild and exotic animals” shall not include birds, small rodents and nonpoisonous reptiles under five (5) feet in length, commonly maintained as household pets except as may be otherwise state or federally regulated.

**C. Keeping of Household Pets:** The keeping of household pets as an accessory use in association with any residentially-used lot is permitted provided such activities do not constitute a kennel as defined in this Ordinance, unless approval for such kennel has been granted pursuant to this Ordinance. “Household pets” shall be defined to include dogs, cats, fish, birds, hamsters and other types of animals commonly maintained in a residence.

**D. Keeping of Livestock:** The keeping of livestock as an accessory use to the principal residential use of a lot shall be permitted in all Conservation and Residential Districts except the R-3, MF and MHC Districts. In the case of the R-1 and R-2 Districts, the following regulations shall apply:

1. **Small Livestock:** The keeping of livestock shall be limited to rabbits, chickens but excluding roosters, and other small livestock that can be reasonably expected to grow to a weight of less than thirty (30) pounds upon reaching maturity.
2. **Density:** The density of small livestock shall not exceed one (1) animal over two (2) months of age per 10,000 square feet comprising the lot, except that where such livestock can be reasonably expected to grow to a weight not exceeding ten (10) pounds upon reaching maturity, the permitted maximum density shall be (1) animal over two (2) months of age per 2,000 square feet comprising the lot.
3. **Containment/Setbacks:** All livestock shall be completely enclosed by a fence of adequate height, design and construction to contain the livestock, and the containment area shall comply with all setbacks applicable to accessory structures in the District.
4. **Waste:** The retention or storage of animal waste shall be managed so as not to create a nuisance and in no case shall the storage of animal waste occur within fifty (50) feet of a lot line.

### **Section 18.14 Keeping of Junk, Garbage and Inoperative and Dismantled Vehicles**

The storage or keeping of junk, garbage and inoperative and dismantled vehicles is subject to all local ordinances that have been or may be adopted.

### **Section 18.15 Fences and Walls**

**A. Residential:** Fences and walls used for residential purposes shall comply with the following standards:

1. No fence or wall exceeding six feet (6') in height shall be erected in any side or rear yard.
2. No fence or wall exceeding four feet (4') in height shall be erected in any front yard except that within twenty (20) feet of a road right-of-way or easement, a fence may be erected only and shall not exceed three (3) feet in height, and shall be of open construction so as not to restrict air flow by more than twenty-five percent (25%).
3. The finished side of a fence or wall shall face the abutting lot.
4. Fences and walls shall not be subject to setback requirements.
5. No fence or wall shall be erected along or near a road in such a manner as to obstruct safe, free and clear vision of oncoming traffic or vehicles attempting to access such road or negotiate movement through an intersection. See also Section 18.19 regarding clear vision zones.
6. Fences and walls shall be constructed of materials designed and intended for such purposes. In no case shall a fence or wall be constructed of tires, vehicle parts, rotting lumber, pallets, glare-producing materials, trash or any materials capable of providing habitat for pests or vermin.

**B. Commercial, Industrial, Public and Institutional:** The location, height and character of all fences and walls proposed as part of the commercial, industrial, public and/or institutional use of a lot, or any other use of a lot requiring site plan approval pursuant to Article 1, shall be reviewed according to the site plan review provisions of Article 13.

### **Section 18.16 Outdoor Residential Swimming Pools**

**A. Swimming Pool Defined:** For the purposes of this Section, a swimming pool shall be defined as a constructed basin or structure for swimming and aquatic recreation, and has a designed water capacity of four hundred (400) gallons or more.

**B. Permit/Application:** No outdoor swimming pool on a residentially-used lot shall be erected prior to the issuance of a zoning permit from the Zoning Administrator, and the necessary building permits from the Building Inspector. Application for a zoning permit shall be made to the Zoning Administrator on a form for such purpose, and shall be accompanied by a plot plan (Section 3.4(B)) that identifies the location of the pool, pool decks, adjacent buildings, fencing and gates.

**C. Standards**

1. No swimming pool or pool fencing shall be located in a front yard.
2. Swimming pools shall be set back from side and rear lot lines a minimum distance of five (5) feet. Pool deck areas shall comply with Section 18.11.
3. No swimming pool shall be located under electrical wires and similar utility devices.
4. Swimming pools shall be designed, constructed and maintained in compliance with building codes and the rules and regulations of county and state health departments including fencing and other safety measures.

## **Section 18.17 Site Condominiums**

**A. Intent:** The intent of this Section is to provide regulatory standards for site condominium projects similar to those required for projects developed under other forms of ownership. This section is not intended to prohibit or treat condominium projects different than similar projects developed under another form of ownership.

**B. Applicability of District Regulations:** A site condominium project, including single-family detached units, shall comply with all standards of the district within which it is located including use, setback, height, lot coverage, lot area and lot width requirements, and all other provisions of this Ordinance. A condominium unit in a site condominium is that portion of the project intended to function generally similar to a platted subdivision lot and shall comply with the use, setback, height, lot coverage, lot area and lot width requirements of the District within which it is located and all other provisions of this Ordinance unless otherwise modified as part of a PUD approval according to Article 5.

### **C. Review and Approval Procedures:**

1. **Zoning Permit Required:** No grading or any other form of construction shall be initiated for a site condominium prior to the approval of a final site plan and issuance of a zoning permit. The future erection of any dwelling or other structure or building in the site condominium, not expressly approved as part of the final site plan, shall require an additional zoning permit prior to erection.
2. **Site Plan Approval Required:** The issuance of a zoning permit shall require the submittal and approval of a preliminary and final site plan pursuant to Article 13, Site Plan Review, and master deed and bylaw documents.
  - a. In addition to the preliminary and final site plan information required by Article 13, the applicant shall also submit information constituting a condominium subdivision plan, including the size, location, area, width and boundaries of each condominium unit; building locations; the nature, location and approximate size of common elements; and other information required by Section 66 of Michigan Public Act 59 of 1978, as amended.
3. **Master Deed/Bylaws Approval Required:** The applicant shall include as part of the zoning permit application a copy of the proposed master deed and bylaws. These shall be reviewed for compliance with municipal ordinances and to ensure that an assessment mechanism has been included to guarantee adequate funding for maintenance of all common elements. The common area funding responsibility of the association shall include any necessary drainage-ways and the cost to periodically clean out such drainage ways to keep them functioning as intended in the approved plans. The master deed shall clearly state the responsibility of the owner and co-owners and shall state that all amendments to the master deed must conform to municipal and state laws and regulations. The Master Deed shall also include any variances granted by the Joint Zoning Board of Appeals (JZBA) or State authorities and include a hold harmless clause from these variances. All provisions of the condominium subdivision plan that are approved by the JPC shall be incorporated, as approved, in the master deed for the condominium subdivision. Master deed and bylaw documents shall be subject to review by the Joint Planning Commission's legal counsel.
4. **Issuance of Zoning Permit:** Upon approval of the final site plan, by-laws and master deed, the applicant shall furnish the Zoning Administrator a copy of the final bylaws and master deed, and a copy of the approved site plan. Upon the satisfactory submittal of these documents, the Zoning Administrator shall issue a zoning permit.
5. **Changes:** Any changes to an approved site condominium including changes in the by-laws, master deed, or site plan, including changes in lot line or road configuration and the addition or relocation of buildings, shall require approval by the JPC prior to such change.

**D. Building Permit:** No building shall be erected prior to the issuance of a zoning permit by the Zoning Administrator, and a building permit by the Building Inspector.

**E. Utilities:** The site condominium shall provide for dedication of easements to the appropriate public agencies for the purposes of construction, operation, maintenance, inspection, repair, alteration, replacement and/or removal of pipelines, conduits, mains and other installations of a similar character for the purpose of providing public utility services, including conveyance of sewage, potable water and storm water runoff across, through and under the property subject to said easement, and excavation and refilling of ditches and trenches necessary for the location of such installations.

**F. Roads:** All roads within a site condominium shall be designed and constructed in conformance with the standards of the Benzie County Road Commission unless otherwise approved for private road construction pursuant to this Ordinance.

**G. As-Built Plan and Occupancy:** Submission of as-built plans of a condominium subdivision is required. The legislative body may allow occupancy of the project before all required improvements are installed provided that

a financial performance guarantee is posted pursuant to Section 3.6.

**H. Monuments:** All condominium units that are building sites shall be marked with monuments as if such units were lots within a platted subdivision, and such monuments shall comply with the requirements of P.A. 288 of 1967, the Land Division Act, as amended.

### **Section 18.18 Landscaping and Screening**

**A. Applicability:** Uses subject to site plan approval according to Article 13 shall provide landscaping and screening according to this Section.

**B. Side and Rear Yard Buffer Areas:** A buffer area shall be established along all side and rear lot lines. The buffer area shall not be used for storage or used in any other manner except for the purposes of a buffer.

1. The buffer area shall extend from the respective lot line for a minimum width of ten (10) feet.
2. The buffer area shall include a berm or solid wall or fence or a combination thereof, and be of at least five (5) feet in height. Heights of walls shall be measured on the side of the proposed wall/fence having the higher grade.
  - a. A side and rear yard buffer area need not include a berm, wall or fence where the abutting parcel is in the same District as the buffer yard, except where such a measure is determined necessary during site plan review proceedings to adequately mitigate negative impacts. However, all plant material required by (3) below shall be provided.
3. The buffer area shall be planted and maintained with evergreens such as spruce, pines, or firs and deciduous trees. While such plantings need not be evenly spaced, the trees shall be provided at a rate of at least one (1) evergreen tree per thirty (30) linear feet and one (1) deciduous tree per fifty (50) linear feet. At the time of their planting, evergreen trees shall be a minimum of six (6) feet in height and deciduous trees shall have a caliper of at least two and a half (2 1/2) inches, measured five (5) feet above the ground surface, and be a minimum of twelve (12) feet in height.

**C. Front Yard Buffer Areas:** The required front yard buffer area shall be a minimum of twenty (20) feet in width and extend along and be parallel to the front lot line. The buffer area shall be landscaped with a minimum of one (1) tree meeting the minimum size requirements specified in (B) above for each fifty (50) lineal feet, or portion thereof, of frontage adjoining the road right-of-way. The remainder of the front yard buffer area shall be landscaped in grass, shrubs, trees and/or other ground cover. Access ways from public rights-of-way through required buffer areas shall be permitted, but such access ways shall not be subtracted from the lineal dimension used to determine the minimum number of required trees.

**D. Plant Material:** Plant material and grasses shall be of generally acceptable varieties and species, be comprised predominantly of species indigenous to the Benzie County area, be free of insects and diseases, and not be prone to disease, low wood strength and/or high wood-splitting tendencies, such as box elder, mulberry and willows, unless specifically authorized otherwise by the site plan approving body. A mixture of plant species shall be required as a protective measure against insect and disease infestation. Required plant material shall be maintained in a healthy condition and shall be replaced within one (1) year of death.

**E. Waivers and Modifications:** Any of the requirements of this Article may be modified through site plan review proceedings, provided the approving body makes a finding that identifies characteristics of the site or site vicinity that would make required buffer areas, fencing, or screening unnecessary, inappropriate, or ineffective, or where it would impair vision at a driveway or street intersection.

### **Section 18.19 Access, Driveways and Clear Vision**

**A. Access:** All lots hereinafter created shall have frontage on a public road, or private road constructed and approved according to this Ordinance, and take their access from such frontage so as to provide safe, convenient access for fire protection, other emergency vehicles and any required off-street parking. This Section shall not apply to buildings and activities part of a farm operation.

**B. Approval Required:** All plans for structures to be erected, altered, moved or reconstructed, and use of premises, shall contain a plan for the proposed driveway access to the premises which shall be part of the required plot plan or site plan.

**C. Standards:** Driveways shall meet the following minimum standards:

1. Driveways shall be within ten (10) degrees of perpendicular to the road at their point of intersection.
2. No driveway shall serve more than one (1) single-family dwelling unless specifically approved otherwise.
3. Residential driveways shall be a minimum of ten (10) feet in clear unobstructed width, be clear and unobstructed to a minimum height of fifteen (15) feet and have a sand, gravel, stone or paved surface to facilitate emergency access.

4. Non-residential driveway ingress and egress points shall not be closer than one-hundred (100) feet to the intersection of any two (2) roads or closer than one hundred (100) feet to an adjacent driveway, except upon a finding by the site plan approving body that lesser separation distances shall not undermine the public health, safety and welfare based on vehicle speeds, projected turning patterns and vehicle trips.

**D. Clear Vision:** No fence, wall, hedge, screen, sign, structure, vegetation or other obstruction shall be located so as to impede vision between the height of two and one-half (2 1/2) and ten (10) feet above road grade on any corner lot, within twenty-five (25) feet of the intersecting road right-of-way lines.

### **Section 18.20 Private Roads**

**A. Private Roads Permitted:** Private roads are permitted provided such roads comply with the regulations and standards of this Ordinance.

**B. Zoning Permit Required:** No private road, including a new private road or a private road existing on the effective date of this Ordinance, shall be constructed, extended, improved, or relocated unless a zoning permit has been issued for such construction by the Zoning Administrator, after approval of the JPC.

**C. Application for Zoning Permit for Private Road Construction:** Application for a private road shall require site plan approval by the JPC following the receipt of a recommendation from the Planning Commission, according to Article 13. Approval of such application shall result in the issuance of a zoning permit authorizing construction of such road. In addition to the data required by Article 13 for site plan approval, the following additional information shall be provided:

1. **Development Plan:** A general property development plan identifying the following:
  - a. Project description, in both narrative and map form, including the location of the proposed private road easement and location of proposed lots to gain access from said private road.
  - b. The legal description of the proposed private road easement.
  - c. Construction plans and drawings illustrating the proposed design and construction features of the proposed road and easement, including existing and proposed elevation contours within all areas to be disturbed or altered by construction. Proposed traffic control measures (including signs) and proposed road names shall also be indicated.
2. **Easement Agreement:** Road easement agreement signed by the applicant/owner(s) to be recorded with the township or village clerk and Benzie County Register of Deeds providing for:
  - a. Easements to the public for purposes of emergency and other public vehicles, and easements for utilities.
  - 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 and egress and use shall include use by family, guests, invitees, vendors, tradesman, delivery persons and others bound to or returning from any of the properties having a need to use the road.
  - c. A provision that substantially conforms 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. Neither Benzie County nor (municipality's name) has any responsibility for maintenance or upkeep of any improvement across this easement, except as may be provided by an established special assessment district. Maintenance is the responsibility of the owners of record. The United States mail service and the local school district are not required to traverse this private improvement and may provide service only to the closest public access."
3. **Maintenance Agreement:** Road maintenance agreement signed by applicant/owner(s) to be recorded with the Benzie County Register of Deeds providing for:
  - a. A method of initiating and financing 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 owners.
  - c. A notice specifying that the proposed development may be subject to the establishment of a special assessment district by the legislative body, as provided by law, to ensure continued and adequate maintenance of the road in the event the necessary maintenance is not undertaken by the property owners that are served by such road, and that no public funds of the municipality shall be used to build, repair or maintain the private road except through such an assessment district.



**D. Use of Private Road:** Upon completion of the construction of a private road as authorized by an approved site plan and zoning permit, no construction shall be initiated nor shall any zoning permit be granted for any structure or use of a lot that relies on such road for access until the JPC grants final approval for use of the road as stated in the application. The JPC shall grant final approval when the following conditions have been met:

1. The applicant's civil engineer shall certify to the JPC, in writing, that the required improvements were made in accordance with this Article and Ordinance and all approved plans. The applicant's engineer shall be registered in the State of Michigan.
2. The JPC's engineer has determined that the required improvements were made in accordance with this Article and Ordinance and all approved plans, where requested by the JPC to perform such an assessment.
3. The JPC has received copies of the approved road easement agreement and road maintenance agreement recorded with the Benzie County Register of Deeds.
4. The JPC has received an agreement from the applicant that indemnifies and holds harmless the municipality and its representatives from any and all claims of personal injury and property damage arising from the use of the private road.

**E. Design Standards:** Private roads shall be located and constructed according to the standards of the Benzie County Road Commission applicable to a public road that would function in the same general manner as the proposed private road, including drainage, grades and alignments, except as provided below and Section (F).

1. Maximum Length: No private road segment shall extend from an intersection with a public road for a distance of more than 1,320' unless such segment is provided with a second intersection with a public road.
2. Surface Material/Depth: Private roads serving no more than ten (10) lots shall have a minimum surface material equal to the aggregate base course required by the Road Commission for a public road that would function in the same general manner as the proposed private road.
3. Road Names and Signs: All private roads shall be posted with clearly visible road names. These signs shall be blue in color, shall comply with County Road Commission regulations and shall clearly indicate the road is private. All signs within the private road easement shall be identified on the site plan and be in accordance with the Michigan Manual of Uniform Traffic Control Devices. Street signs shall be provided at all intersections.

**F. Waiver of Design Standards :** Private roads shall be constructed according to the standards of subsection (E) above except that the JPC may consider alternative design standards that an applicant may propose and, upon finding such alternatives provide equal or greater structural stability and longevity and do not undermine the public health, safety and welfare, may approve such alternatives. Sufficient engineering data shall be submitted to substantiate the proposed alternative and their merits.

**G. Existing Nonconforming Private Roads**

1. Maintenance and Existing Lots: Private roads which were lawful prior to the adoption of this Ordinance or amendment thereto, but that are inconsistent with the standards herein, may continue and undergo routine maintenance for safety purposes. The erection of new dwellings or other principal buildings on existing lots which front along such private road is permitted if the road is found by the JPC to be reasonably capable of providing sufficient access for the uses intended to be served by such road including adequate year round access for emergency vehicles.
2. Extensions: No private road that was lawful prior to the adoption of this Ordinance or amendment thereto, but that is inconsistent with the standards herein, shall be extended in length, or be subject to an increase in the number of building sites through the partitioning of land along such road or road extension, except upon a finding that the road will be capable of providing sufficient access including year round access for emergency vehicles. The JPC may require improvements of such road as a condition of the establishment of new building sites.

**Section 18.21 Environmental Protection**

All land uses and construction activities shall conform to the provisions of this Ordinance and all local, county, state and federal rules and regulations such as, but not limited to, those associated with the Natural Rivers Act as applied to the Betsie River and Dair Creek; those of the Michigan Department of Environmental Quality including air and water quality protection, wetlands, stream crossings, fills in or near water bodies or in flood plains, and waste disposal; the Benzie County Drain Commissioner including those pertaining to grading and storm water management; the Benzie County Health Department including those pertaining to sewage disposal and potable water; and agencies regulating the loading/unloading, transport, storage, use and/or disposal of hazardous substances including fuels and other flammable liquids.

## **Section 18.22 Medical Marihuana**

- A. Definitions:** For the purpose of this Section, the following terms and phrases shall have the following meanings:
1. **Marihuana:** As defined in section 7106 of the public health code, 1978 PA 368, MCL 333.7106.
  2. **Primary caregiver:** A person who is at least 21 years old and who has agreed to assist with a patient's medical use of marihuana, who has been issued and possesses a registry identification card to do so according to the Medical Marihuana Act, MCL 333.26421 et seq, and who otherwise meets the definition of a primary caregiver under the Act.
  3. **Qualifying patient:** A person who has been diagnosed by a physician as having a debilitating medical condition, as defined by the Medical Marihuana Act, MCL 333.26421 et seq, and who has been issued and possesses a registry identification card according to the Act.
- B. Authorization:** The growing, distribution and use of marihuana is prohibited except as provided in this Section. The growing, possession and medical use of marihuana in accordance with the Michigan Medical Marihuana Act, MCL 333.26421 et seq, is permitted only as a Class 1 home occupation though the growing and possession of the medical marihuana may occur in an accessory structure on the premises. Such home occupation may operate within a closet, room, or other enclosed area equipped with locks or other security devices that permit access only by a registered primary caregiver or registered qualifying patient, and which may be located within the dwelling or within an accessory structure on the same lot as the dwelling.
1. Nothing in this Section shall be construed as authorizing any retail store, store front, office building, or other structure or any type of mobile unit or entity that dispenses, facilitates, stores, sells, or provides, in any manner, marihuana or cannabis or any product containing marihuana or cannabis, or any facility used to cultivate marihuana, except as a Class 1 home occupation according to the requirements of this Section.
  2. Nothing in this Section shall be construed as authorizing any use of a lot for a club or other entity whose purpose includes the gathering of qualified patients to smoke or otherwise ingest marihuana.
- C. Standards and Conditions:** The following standards and conditions shall apply in addition to the standards of Section 18.9 for Class 1 home occupations, except where expressly provided otherwise. Where the following standards and conditions are more stringent than those of Section 18.9, the more stringent standards and conditions shall apply.
1. No medical marihuana home occupation shall be operated except in a single family dwelling or accessory structure thereto.
  2. No medical marihuana home occupation shall be operated by anyone other than a primary caregiver. Such primary caregiver shall reside in the dwelling on the lot where the home occupation is occurring.
  3. No more than one (1) primary caregiver residing in a dwelling shall operate a medical marihuana home occupation.
  4. The growing of marihuana shall be contained in a closet, room, or other enclosed area equipped with locks or other security devices that permit access only by a registered primary caregiver according to the Medical Marihuana Act, MCL 333.26421 et seq., and such containment area shall not exceed 600 square feet in floor area.
  5. No more than seventy-two (72) marihuana plants shall be grown on the lot at any one time.
  6. There shall be no sign erected pertaining to the home occupation.
  7. All aspects of a medical marihuana home occupation shall comply at all times with the provisions of the Michigan Department of Community Health and the Michigan Medical Marihuana Act, MCL 333.26421 et seq.

## **Section 18.23 Solar Energy Systems**

### **A. Definitions**

1. Class 1 Solar Energy System (Class 1 SES): An SES that serves one (1) dwelling or business and relies on roof mounted and/or ground mounted collection systems that rely on no more than 1,000 sq. ft. of solar panel surface area.
2. Class 2 Solar Energy System (Class 2 SES): An SES that is characterized by one (1) or more of the following:
  - a. serves more than one (1) dwelling or business including multiple family developments.
  - b. serves users not located on the lot where the SES is located including utility-scale systems.
  - c. relies on roof mounted and/or ground mounted collection systems that rely on more than 1,000 sq. ft. of solar panel surface area.
3. Solar Collection Panels: Panels and tiles comprised of semiconductor devices and typically referred to as photovoltaic cells, which collect and convert solar energy directly into electricity.
4. Solar Energy System (SES): A system consisting of a device or combination of devices, structures or parts thereof, that collect, transfer or transform solar radiant energy into thermal, chemical or electrical energy. An SES may be mounted on a roof (roof-mounted SES) or be supported by posts or other support structures extending into the ground (ground-mounted SES).

### **B. Authorization, Review and Approval Procedures:**

1. Class 1 SES: A Class 1 SES is an authorized accessory use in all districts. A Class 1 SES shall be subject to Zoning Administrator approval upon the receipt of a complete application and the Zoning Administrator finds that the application complies with the standards of this Section. An application for a Class 1 SES shall include a plot plan prepared according to Section 3.4(B) and such plot plan shall also delineate the proposed location of the SES on the ground and/or roof.
2. Class 2 SES:
  - a. Except as provided in subsection (b) below, a Class 2 SES is an authorized permitted use in all districts. A Class 2 SES shall be subject to JPC approval, upon the receipt of a complete application including a site plan prepared according to Article 13, and the JPC finds that the application complies with the standards of Section 13.4 and this Section.
  - b. A Class 2 SES that is comprised of system facilities that rely on more than 3,000 sq. ft. of solar panel surface area is classified as a special land use and permitted in the C-2, I-1 and AP Districts only. Such a Class 2 SES shall be subject to the review and approval procedures of Article 14 of this Ordinance including the site plan submittal and review requirements of Article 13.

### **C. Standards**

1. General:
  - a. Any mechanical equipment in excess of three (3) feet in height, excluding solar collection panels, that is part of a ground-mounted SES, shall be screened from view from public streets and any existing residence or other building within one-hundred (100) feet of such equipment. Screening shall be provided by a masonry wall, evergreen vegetation or other screening measure of a similar effectiveness and structural integrity.
  - b. Solar collection panels shall be placed such that concentrated solar radiation or solar glare shall not be directed onto nearby properties and public roads. The applicant shall submit documentation to verify compliance with this section. When deemed necessary, the approving body may require a report from a registered civil engineer or other professional deemed qualified by the approving body, attesting to the glare and radiation impact on nearby properties and public roads.
  - c. Solar energy system equipment, including solar collection panels, shall not cause the district's maximum lot coverage standards to be exceeded for the lot on which the equipment is located. Where solar collection panels are to result in an increase of 5,000 square feet or more of impervious ground surface, the application shall include a drainage plan prepared by a registered civil engineer showing how storm water runoff will be managed so as not to encourage erosion or additional drainage upon adjacent properties, and the flooding of drainage courses serving the property including roadside ditches.
    - 1) In the case where solar collection panels are to exceed 5,000 square feet in panel surface area, and if detergents are to be used to clean the panels, details on the type of detergent, frequency and quantity of use, and storm water quality protection measures shall be provided.
  - d. Solar energy systems that do not exceed four (4) square feet in total solar collector panel area,

designed to provide energy to operate the device to which they are attached, such as in the case of a panel connected to an exterior light or an attic fan, are permitted in all districts and may be erected without the issuance of a zoning permit. Such a system shall not increase the height of the device or structure to which they are intended to serve by more than four (4) feet, as measured from the ground below.

2. Roof-Mounted SES

- a. A solar energy system on the roof of a principal building or accessory structure, whether an integral part of the roof structure or mounted on the finished roof structure, and whether the system is flush with the roof or projects from or at an angle to the roof, may exceed the maximum height standard for the structure to which it is attached according to the district in which it is to be located, but no portion of the system shall extend more than five (5) feet above the roof surface to which it is attached.
- b. Roof-mounted solar collection panels located on a flat roof shall be set back from the edge of the roof a minimum distance of five (5) feet.

3. Ground-Mounted SES

- a. Solar energy system equipment, including solar collection panels, is prohibited in a front yard. Minimum side and rear yard setbacks for system equipment shall be equal to the height of such equipment as measured from the ground surface below, but not less than ten (10) feet.
- b. Solar energy system equipment, including solar collection panels, shall not exceed twenty (20) feet in height.
- c. In the case of ground mounted solar panels located on a lot that is adjacent to a lot in a Conservation or Residential District, such panels shall be located or otherwise screened so as to minimize their view from the adjacent lot. The screen shall be comprised of a minimum one (1) evergreen tree and two (2) evergreen shrubs per thirty (30) linear feet of panels within view from the adjacent lot. Trees shall be a minimum height equal to one-half (1/2) of the height of the panel(s) at the time of their planting. Shrubs shall be a minimum height of three (3) feet at the time of their planting. All plant material shall be indigenous to the Thompsonville area and shall be maintained in a healthy condition to provide the necessary screening.
  1. Screening shall not be required where the panels are to be located 200 feet or more from all lot lines and the panels are not to exceed twenty (20) feet in height. The approving body may permit a fifty percent (50%) reduction in shrub and tree sizes where the adjacent vacant property is not likely to be developed within the next five (5) years based on nearby development trends during the preceding five (5) years.
- d. If a ground-mounted SES ceases to operate or is abandoned for six (6) months, or is deemed by the Building Inspector to be unsafe or not consistent with the building code, the applicant shall repair and restore the system to good working order within a reasonable time set by the Zoning Administrator or otherwise remove the system in its entirety including posts, equipment, panels, foundations and other features and restore the ground to its preconstruction state.

## **Section 18.24 Lighting**

**A. Traffic Hazards:** No lighting shall in any way impair the safe movement of traffic on any road.

**B. Non-Residential Uses:** Lighting associated with a commercial, industrial, or other non-residential use, irrespective of the District in which such use may be located and including the lighting of yards, parking areas, buildings and signs, shall comply with the following:

1. A wall, fence, or berm, at least five (5) feet in height, shall be erected to prevent headlight glare from shining onto adjacent residential property. No wall or fence shall in any way impair safe vertical or horizontal sight distance for any moving vehicles.
2. Lighting shall be designed and constructed to ensure that direct and reflected light is confined to the lot upon which the light source is located.
3. Exterior lighting shall be installed so that the surface of the source of light shall be hooded or louvered to the greatest extent possible so that:
  - a. light sources shall not be visible from beyond the lot lines.
  - b. light sources shall be so arranged to reflect light downward and away from adjacent properties including externally illuminated signage.
  - c. no more than one foot candle power of light shall cross a lot line five (5) feet above the ground in a Conservation or Residential District.
4. No light source shall exceed the height of the tallest structure on the lot or parcel, and in no case shall a light source exceed a height of twenty (20) feet, measured from the ground or pavement closest to the light source.

5. Outdoor lighting need not comply with (1) through (4) above when it is a part of outdoor recreation and amusement areas and similar outdoor uses of light, provided the lighting is designed with baffling and glare guards to ensure that no more than one foot candle power of light shall cross a lot line five (5) feet above the ground in a Conservation or Residential district, and such lighting is turned off during hours where there is no programmed event at the facility requiring such lighting.

**C. Residential Lighting:**

1. The outdoor lighting of residential yards, parking areas, buildings and signs shall be designed and constructed to ensure that direct and reflected light is confined to the lot upon which the light source is located.
2. Within all Residential Districts except the NR, RC-1, RC-2, RR-1 and RR-2 Districts, all lighting shall be designed or otherwise equipped with the necessary hooding to prohibit any light being emitted from the light source in an upward direction. "Upward direction" shall be construed to mean in any direction above an imaginary line extending from the top of the light source at a 90 degree angle from the post or wall supporting the light fixture. This subsection (2) shall not apply to residential lighting that is no greater than six (6) feet in height.

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**End of Article 18**

## Article 19 DEFINITIONS

### **Section 19.1 Construction of Language**

For the purpose of this Ordinance, certain rules of construction apply to the text as follows:

- A.** Words used in the present tense include the future tense; and the singular includes the plural, unless the context clearly indicates the contrary.
- B.** The word "person" includes a corporation, association, partnership, trust, firm, or similar activity as well as an individual.
- C.** The word "building" includes the word "structure" and both include any part thereof.
- D.** The word "lot" includes the word "plot," "tract," or "parcel."
- E.** The term "shall" is always mandatory and not discretionary; the word "may" is permissive.
- F.** The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended to be used or occupied," "arranged to be used or occupied," "maintained to be used or occupied," or "designed to be used or occupied."
- G.** The words "this Ordinance" means the text of this Ordinance as well as all maps, tables, graphics and schedules, as included or attached as enacted or subsequently amended.
- H.** Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or," "either...or," the conjunction shall be interpreted as follows:
  - 1. "And" indicates that all the connected items, conditions, provisions, or events shall apply.
  - 2. "Or" indicates the connected items, conditions, provisions or events may apply singly or in any combination.
  - 3. "Either/or" indicates that the connected items, conditions, provisions, or events shall apply singly, but not in combination.
- I.** "Municipality(s)" and "legislative body(s)" refers to the municipalities and legislative bodies of Colfax Township, Weldon Township and the Village of Thompsonville unless specified otherwise.
- J.** Any word or term not interpreted or defined by this Ordinance shall be used with a meaning of common or standard utilization. A dictionary may be consulted.
- K.** Where a specific agency, department, law, or rule is referred to in this Ordinance, such reference shall include any successor agency, department, law or rule.

### **Section 19.2 Definitions**

**Abutting:** The sharing of a lot line between the subject lot and another lot, easement or other feature.

**Adjacent:** To abut or be nearby.

**Accessory Building or Structure:** A building or structure customarily incidental and subordinate to the principal building, and located on the same lot as the principal building except where this Ordinance expressly permits otherwise.

**Accessory Use:** A use customarily incidental and subordinate to the principal use of the lot, and located on the same lot as the principal use except where this Ordinance expressly permits otherwise.

**Adult Foster Care Facility:** An establishment licensed under Public Act 218 of 1979, as amended, that provides to adults, for compensation, supervision, personal care and protection in addition to room and board, for 24 hours a day, five (5) or more days a week, and for two (2) or more consecutive weeks, including facilities for adults who are aged, mentally ill, developmentally disabled, or physically disabled who require supervision on an ongoing basis but who do not require continuous nursing care. A foster care facility does not include a home for the aged licensed under Article 17 of Public Act 368 of 1978, as amended, nor a nursing home licensed under Public Act 139 of 1956, as amended.

a. **Family Home:** An adult foster care facility consisting of a private residence with the approved capacity to receive six (6) or fewer adults, the licensee for which shall be a member of the household and an occupant of the residence.

b. **Group Home:** An adult foster care facility with the approved capacity to receive seven (7) but no more than twenty (20) adults.

**Agriculture:** The cultivating or use of land, including associated buildings and machinery, for the commercial

production of farm products including but not limited to, forages and sod crops, grains and feed crops, field crops, dairy and dairy products, poultry and poultry products, cervidae, livestock, including breeding and grazing, equine, fish and other aquacultural products, bees and bee products, berries, herbs, fruits, vegetables, flowers, seeds, grasses, nursery stock, trees and tree products, mushroom, and other similar products, or any other product which incorporates the use of food, feed, fiber, or fur, as determined by the Michigan commission of agriculture. "Agriculture" shall not be interpreted to include kennels, commercial stables and similar activities that do not comprise the commercial production of farm products.

**Airport:** A facility for the landing, takeoff, shelter, supply and repair of aircraft and licensed by the Michigan Department of Transportation, Bureau of Aeronautics.

**Arcade:** Any business where more than fifty percent (50%) of the floor area is devoted to the use of machines which may be operated or used as a game, contest or for amusement of any description, not including devices used solely for playing music or establishments otherwise defined as adult entertainment businesses.

**Assisted Living Facilities:** Any facility licensed by the State of Michigan that provides residential services to adults in addition to any other services essential for sustaining the activities of daily living, and not otherwise constituting an adult foster care facility as defined in this Ordinance. Such additional services may include, but need not be limited to, the provision of meals including congregate meals, transportation services, entertainment, occasional nursing care and day trips.

**Basement:** That portion of a building which is partly or wholly below grade, but so located that the vertical distance from the average outdoor abutting ground elevation along the entire perimeter of the walls surrounding the floor is greater than the vertical distance from such average elevation to the ceiling. A basement shall not be counted as a story.

**Bed and Breakfast:** A structure which was constructed for single-family residential purposes but which may be used for the purpose of renting bedrooms on a nightly basis, including the provision of bathing and lavatory facilities and a breakfast meal for overnight guests only, and occupied by the owner.

**Berm:** A mound of earth shaped in such a fashion as to be used for visual and/or audible screening purposes.

**Billboard:** See Article 10 for definitions pertaining to billboards and other signs.

**Building:** Any structure having a roof supported by columns, walls, or any other supports, which is used for housing, sheltering, storing, or enclosing persons, animals, or personal property, or carrying on business or other activities. This definition includes but is not limited to dwellings including those constructed on-site and those premanufactured, garages and greenhouses.

**Building Code:** Codes adopted by the municipality pursuant to the Michigan Construction Code and fully independent of the Zoning Ordinance, that establish minimum standards for construction such as, but not limited to, standards pertaining to foundations, footings, framing, roof loads, plumbing systems, electrical systems and fire protection.

**Building Height:** The vertical distance measured from the average finished grade along the front of the building where it abuts the front yard to the highest point of the roof surface.

**Building Inspector:** An individual or entity retained to administer the Michigan Construction Code.

**Building Permit:** Written authority by the building inspector confirming that proposed construction is in compliance with the Michigan Construction Code.

**Campground:** A facility where sites are offered for use by the public, either free of charge or for a fee, for the establishment of temporary living quarters. Temporary living quarters means a tent, recreational vehicle, or any portable temporary housing designed to be carried or towed by a vehicle and placed for temporary living quarters. "Campground" shall not be construed to include any facility or portion of a facility where such temporary housing sites are purchased by users or not owned by the facility owner, including but not necessarily limited to condominium ownership.

**Cemetery:** Property, including crematories, mausoleums and/or columbariums, used or intended to be used solely for the perpetual interment of deceased human beings or customary household pets.

**Certificate of Occupancy:** A document issued by the building inspector certifying that the described property and/or construction on such property complies with the provisions of the Building Code and may be legally occupied.

**Church:** A building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose. "Church" shall not be construed to mean an undertaker's chapel or funeral home.



**Club:** An organization of persons for special purposes or for the promulgation of sports, arts, science, literature, politics, agriculture or similar activities, but not operated for profit nor open to the general public, and does not provide merchandise, vending or services customarily offered on a commercial basis except incidentally for the membership and purpose of such club.

**Condominium:** A project consisting of two (2) or more condominium units established and approved in conformance with the Condominium Act (Public Act 59 of 1978, as amended).

**Condominium Master Deed:** The condominium document recording the condominium project to which are attached as exhibits and incorporated by reference the bylaws for the project and the condominium subdivision plan for the project.

**Condominium, Site:** A condominium project designed to function in a similar manner, or as an alternative to a platted subdivision, wherein in the condominium units function largely as lots within a platted subdivision.

**Condominium Subdivision Plan:** The drawings attached to the master deed for a condominium project which describe the size, location, area, horizontal and vertical boundaries and volume of each condominium unit contained in the condominium project, as well as the nature, location and size of common elements. A site condominium may not necessarily have vertical or volumetric limits.

**Condominium Unit:** That portion of a condominium 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. A condominium unit may consist of either vacant land as in the case of a site condominium, or space which either encloses or is enclosed by a building. A condominium unit in a site condominium shall be equivalent to the term "lot" for the purposes of determining compliance of the site condominium with the provisions of this ordinance pertaining to minimum lot size, minimum lot width, setbacks, maximum lot coverage and similar standards pertaining to lots.

**Convalescent Home:** A facility that houses persons with infirmities or who are otherwise incapacitated and receive a wide range of health and support services including the provision of meals and nursing care (also referred to as a nursing home).

**Day Care Center:** A facility, other than a private residence, receiving 1 or more children of no more than six (6) years of age, for care for periods of less than 24 hours a day, and where the parents or guardians are not immediately available to the child. Day care center includes a facility which provides care for not less than 2 consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, or drop-in center. Day care center does not include a Sunday school, a vacation bible school, or a religious instructional class that is conducted by a religious organization or a facility operated by a religious organization where children are cared for comparatively short periods of time while persons responsible for the children are attending religious services.

**Day Care, Family Home:** A private home in which the operator permanently resides as a member of the household in which one (1) but less than seven (7) minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Family day care home includes a home that gives care to an unrelated minor child for more than 4 weeks during a calendar year.

**Day Care, Group Home:** A private home in which the operator permanently resides as a member of the household in which more than six (6) but not more than twelve (12) minor children are given care and supervision for periods of less than twenty-four (24) hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group day care home includes a home that gives care to more than six unrelated minor children for more than 4 weeks during a calendar year.

**District:** See Section 4.1.

**Drive-In / Drive-Through Establishment:** A business establishment which by design, physical facilities, service, or by packaging procedures encourages or permits customers to receive services or obtain goods while remaining in their motor vehicles.

**Driveway:** A means of access for vehicles from a public road or approved private road or alley, across a lot, to a parking or loading area, garage, dwelling or other structure or area on the same lot, that is located and constructed in accordance with the requirements of this Ordinance and any requirements of the County Road Commission and Michigan Department of Transportation, and which is intended to principally serve the occupants of the lot. A driveway shall not be construed as a public or private road as defined herein.

**Dwelling:** Any building or portion thereof that is designed or used exclusively for residential purposes.

**Dwelling, Multiple Family:** A building containing three (3) or more dwelling units for three or more families living independently of each other.

**Dwelling, Single-Family:** A detached building or portion thereof designed and used exclusively by one (1) family for living, cooking and sleeping purposes.

**Dwelling, Two-Family (Duplex):** A building containing two (2) or more dwelling units for three or more families living independently of each other..

**Dwelling Unit:** One or more rooms with bathroom and principal kitchen facilities designed as a self contained unit for occupancy by one family for living, cooking, sleeping and ingress/egress purposes. In cases of mixed occupancy where a building is occupied in part as a dwelling unit, the part so occupied shall be deemed a dwelling unit and shall comply with the provisions of this Ordinance pertaining to dwellings.

**Easement:** A legally recorded grant of one or more of the property rights of a property owner to the public or another person or entity.

**Erected:** Anything built, constructed, reconstructed, moved upon, or any physical operations upon a lot required for such activities. Excavations, fill, grading, drainage and the like, shall be considered a part of "erection."

**Essential Services:** The erection, construction, alteration, or maintenance by public utilities or municipal departments of underground, surface or overhead gas, communication, telephone, electrical, steam, fuel or water transmission or distribution systems, collections, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar 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 communication or other towers, wind energy conversion structures, buildings, substations, the storage of or shelters for service equipment, maintenance depots and similar above ground facilities.

**Excavation:** Any breaking of ground, except common household gardening, farming and ground care.

**Extraction Operation:** The removal of any earthen material, including top soil, sand, gravel, stone or any other earthen material, for the purpose of sale or use or disposition on another parcel, including mining, moving, crushing, sorting, washing and other activities directly relating to the extraction operation. Extraction operations shall not be construed to apply to extraction activities that are necessitated by and part of the construction of a building, parking lot, or other construction project on the same lot and for which all necessary permits have been granted.

**Family:**

- a. An individual or group of two (2) or more persons related by blood, marriage, or adoption, including foster children and servants, together with not more than three (3) additional persons not related by blood, marriage, or adoption, living together as a single housekeeping unit in a dwelling unit; or
- b. A collective number of individuals domiciled together in one dwelling unit whose relationship is of a continuing non-transient domestic character and who are cooking and living as a single nonprofit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or terms or other similar determinable period. This definition shall not apply in instances of group care centers, or state licensed residential facilities as established under P.A. 395 of 1976, as amended.

**Fence:** An accessory structure intended to serve as an obscuring screen, physical barrier and/or decorative landscape element.

**Floor Area, Gross:** The sum of all horizontal areas of all floors of a building or buildings, measured from the interior faces of exterior walls.

**Floor Area, Dwelling:** The sum of the floor area of each story of a dwelling unit, measured from the interior faces of the exterior walls but excluding floor area associated with a basement, unfinished attic, attached garages, breezeways and enclosed and unenclosed porches.

**Floor Area, Usable:** For the purposes of computing parking requirements, usable floor area shall be considered as that area to be used for the sale of merchandise or services, or for use to serve patrons, clients, or customers. Floor area which is used or intended to be used principally for the storage or processing of merchandise, hallways, stairways and elevator shafts, or for restrooms and janitorial service rooms, shall be excluded from the computation of usable floor area. Usable floor area shall be measured from the interior faces of the exterior walls and includes the sum of the usable floor area for all floors unless expressly specified otherwise.

**Frontage:** The total continuous length of the front lot line. See definition for "lot lines."

**Fiduciary Municipality:** The municipality designated by the Joint Planning Commission Ordinance, as may be amended from time to time, for the accounting for the funds and assets of the Community Joint Planning Commission representing Colfax Township, Weldon Township and the Village of Thompsonville.

**Funeral Home:** A building used for the preparation of the deceased for burial and the display of the deceased, and ceremonies associated therewith before burial or cremation.

**Garage:** An accessory building or an accessory portion of a principal building designed or used primarily for the storage of non-commercial motor vehicles, boats, motor homes, snowmobiles and similar vehicles owned and used by the occupants of the building to which it is accessory.

**Home Occupation:** See Section 18.9.

**Hospital:** An institution that is licensed by the State of Michigan to provide in-patient and out-patient medical and surgical services for the sick and injured, and which may include such related facilities as laboratories, medical testing services, staff offices, pharmaceutical services and other support facilities and services.

**Hotel/Motel:** A building or group of buildings, whether detached or in connecting units, used as individual sleeping or dwelling units designed primarily for transient automobile travelers. The term "hotel" shall include buildings designated as motels, auto courts, tourist cabins and courts, motor courts, motor hotel and similar appellations which are designed as integrated units of individual rooms under common ownership. A hotel shall not be construed as a multiple family dwelling. A hotel may include support services, including recreation facilities and the serving of meals, where approved for such.

**JPC/Joint Planning Commission:** The Planning Commission jointly established by Colfax Township, Weldon Township and the Village of Thompsonville pursuant to the Joint Municipal Planning Act, Public Act 226 of 2003, as amended.

**JPC Engineer/Joint Planning Commission Engineer:** The licensed staff engineer of the JPC or a licensed engineer the JPC may hire from time to time as needed.

**Junkyard:** Any outdoor area or building used for: 1) the abandonment, storage, keeping, collecting, selling, exchanged or baling of scrapped, worn out, abandoned or discarded materials, which may include but need not be limited to paper, rags, glass, cans, bottles, appliances and construction materials; and/or 2) the abandonment, demolition, dismantling, storage, keeping, collecting, selling, exchanging or salvaging of machinery, automobiles or other vehicles not in normal running condition, or parts thereof. A junkyard may also be referred to as a salvage yard.

**Kennel:** A lot or premises on which four (4) or more dogs, or four (4) or more cats, or four (4) or more similar animals, six (6) months of age or older, are kept for compensation, either permanently or temporarily, for the purposes of breeding, boarding, housing, leasing, sale, or transfer.

**Landscaping Services:** A lot used for offices purposes, along with the storage of supplies and equipment, in association with the provision of landscape services to off-site locations. Services may include lawn mowing and maintenance, snow removal, landscape design and installation and the sale and delivery of landscape materials such as mulch, plants, seed, fertilizer, gravel, soil, pavers and similar landscape supplies.

**Legislative Body:** The Township Board of Colfax Township, the Township Board of Weldon Township and the Village Council of the Village of Thompsonville, unless specified otherwise.

**Livestock:** Cattle, horses, sheep, goats, swine, poultry and other similar domestic animals or fowl normally kept or raised on a farm.

**Lot:** A tract of land unbroken by a public or private road easement or right-of-way, together with such access, yards and open spaces as are required under the provisions of this Ordinance, and which is described as a platted lot or portion thereof or a tract of land described by metes and bounds or a portion of such tract described by metes and bounds. A lot may or may not be specifically designated as such on public records. Within a site condominium, a condominium unit shall be synonymous with a lot for the purposes of compliance with this Ordinance (*see Figure 19-1 at end of this Article*).

**Lot Area:** The area of the horizontal plane within the lot lines of a lot, exclusive of any public or private road right-of-way or easement abutting any side of the lot, except that such right-of-way or easement may be included within the calculation of the area of a lot in the case where such lot is not part of a platted or site condominium and the area calculation equals ten (10) acres or more.

**Lot, Corner:** Any lot having at least two (2) contiguous sides abutting upon one or more streets, provided that the interior angle at the intersection of such two sides is less than one hundred thirty-five (135) degrees. A lot abutting a curved road shall be a corner lot if the curve arc has a radius less than one hundred and fifty (150) feet. (*see Figure 19-1 at end of this Article*).

**Lot Coverage:** The amount of a lot's area, stated in terms of percentage, which is covered by all buildings and structures located thereon. Lot coverage shall not be deemed to include fences, walls, decks, patios or swimming pools. In the case of a building, coverage shall be measured from the building's exterior wall faces.

**Lot Depth:** The distance from the front lot line of the lot to its opposite rear line, measured midway between the side lot lines.

**Lot Lines:** The lines bounding a lot (see *Figure 19-2 at end of this Article*).

- a. **Lot Line, Front:** In the case of a lot not located on a corner, the line separating said lot from the road right-of-way or easement from which it gains access. In the case of a corner lot, the front lot line shall be the shorter of the two (2) lines separating said lot from the adjacent road right-of-ways or easements unless designated otherwise on a recorded plat. In the case of a through lot, the front lot line shall be as designated on the approved plot plan or site plan, subject to approval of such plan. On a flag lot, the front lot line shall be the interior lot line most parallel to and nearest the road from which access is obtained. See *Figure 19-2 at end of this Article*.
- b. **Lot Line, Rear:** The lot line opposite and most distant from the front lot line. In the case of a triangular or otherwise irregularly shaped lot or parcel, an imaginary line at least twenty (20) feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line (see *Figure 19-3 at end of Article*).
- c. **Lot Line, Side:** Any lot line other than a front or rear lot line (see *Figure 19-3 at end of Article*).

**Lot, Through:** A lot having frontage on two (2) roads other than a corner lot (see *Figure 2-1*).

**Lot Width:** The straight line horizontal distance between the side lot lines, extending from the front lot line and continuing over at least seventy percent (70%) of the lot area.

**Manufactured Housing:** A dwelling unit which is designed for long term residential use and is wholly or substantially constructed at an off-site location. Manufactured housing includes mobile homes and modular housing units.

**Manufactured Housing Community:** A parcel or tract of land under the control of a person upon which 3 or more mobile homes are located on a continual, non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home.

**Marina:** A constructed facility that extends along and/or into or over a lake or stream, the primary purpose of which is to offer services to the public or private members of the facility for the docking of recreational watercraft, and may also offer accessory services such as the loading and unloading of watercraft into and out of the water, servicing and repair of watercraft, parking for persons using marina facilities and the sale of boating supplies. The term marina shall not apply to a dock whose principal function is to serve the occupants of a dwelling on the same lot on which the dock is located.

**Master Deed:** The document recorded as part of a condominium subdivision to which are attached as exhibits and incorporated by reference the approved bylaws for the condominium subdivision and the condominium subdivision plan.

**Master Plan:** The officially adopted policies of Colfax Township, Weldon Township and the Village of Thompsonville addressing community growth, development, land use and preservation, prepared pursuant to Public Act 33 of 2008, as amended, the Planning Enabling Act, and Public Act 226 of 2003, the Joint Municipal Planning Act.

**Medical Clinic:** An establishment where human patients, not lodged overnight, are admitted for examination and treatment by two (2) or more physicians, dentists, or similar professionals. A medical clinic may incorporate customary laboratories and pharmacies incidental to or necessary for its operation or to the service of its patients, but may not include facilities for overnight patient care or major surgery.

**Mini Storage:** A building or group of buildings in a controlled access or fenced area that contains individual compartmentalized and controlled access stalls or lockers for the storage of customer's goods or wares which are generally not used on a daily basis.

**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. The term "mobile home" shall not include pick-up campers, travel trailers, motor homes, modular homes, recreational vehicles, converted buses, tent trailers, or other transportable structures designed for temporary use.

**Motor Home:** A self-propelled, licensed vehicle prefabricated on its own chassis, intended for recreational activities and temporary occupancy.

**Nonconforming Building or Structure:** A building or structure (or portion thereof) lawfully existing at the time of adoption of this Ordinance or a subsequent amendment thereto, that does not conform to the provisions of this Ordinance relative to height, bulk, area, placement, yards or similar features for the District in which it is located.

**Nonconforming Lot:** A lot lawfully existing at the effective date of this Ordinance, or affecting amendment, and which fails to meet the area and/or dimensional requirements of the District in which it is located. A nonconforming lot may be referred to as a “substandard” lot.

**Nonconforming Use:** A use of a building or structure, or of a parcel, lawfully existing at the time of adoption of this Ordinance or subsequent amendment thereto, that does not conform to the regulations of the District in which it is located.

**Open Space:** An area open to the sky that is generally free of buildings and structures and which is of a predominantly vegetated state including lawns, gardens and natural areas.

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

**Owner:** The owner of the premises or lesser estate in the premises, a mortgagee or vendee in possession, an assignee of rents, receiver, executor, trustee, leasee, or any other person, sole proprietorship, partnership, association, or corporation directly or indirectly in control of a building, structure, or real property, or his or her duly authorized agent.

**Parcel:** A lot described by metes and bounds or described in a recorded plat.

**Parking Space:** An area of definite length and width as designated in this Ordinance for parking an automobile or other vehicle, and which is fully accessible for such purposes.

**Planned Unit Development:** See Section 5.1.

**Plat:** A map of a subdivision of land recorded with the Register of Deeds pursuant to the Land Division Act of 1996, as amended, or a prior statute.

**Plot Plan:** A plan showing all salient features of a proposed development, so that it may be evaluated in order to determine whether it meets the provisions of this Ordinance. A plot plan generally contains less comprehensive and detailed information about improvements proposed on the site than does a site plan, and is required for such uses as single-family dwellings and two-family dwellings. Plot plan approval is generally delegated to the Zoning Administrator.

**Principal Building:** The main building on a lot in which the principal use exists or is served by.

**Principal Use:** The main use to which the premises are devoted and the main purpose for which the premises exist.

**Private Landing Strip:** A cleared and level area used by the owner or lessee of the premises for the operation and maintenance of personal aircraft only, and recognized by a state authorized body.

**Prohibited Use:** A use of land which is not permitted within a particular zoning district.

**Public Facility:** Land and associated structures and buildings used to carry out a governmental function(s) or provide a governmental service(s), such as a use or service owned or managed by a city, village, township, county, state, or public school board, and including commissions or other arms of such entities. Examples of such facilities include, but are not necessarily limited to, municipal parks and cemeteries, museums, police and fire protection facilities, courts of justice and government offices.

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

**Recreational Vehicle:** A vehicle primarily designed and used as temporary living quarters for recreational, camping, or travel purposes, including a vehicle having its own motor power or a vehicle mounted on or drawn by another vehicle. “Recreational vehicles” shall be construed to include those items commonly referred to as travel trailers, truck campers and camping trailers.

**Residential:** Pertaining to the use of land, a lot and/or a building occupied by one or more persons as a place to live.

**Restaurant, Class 1:** A restaurant whose principal method of operation includes one or more of the following characteristics:

- a. customers, normally provided with an individual menu, are served their food and beverage by a restaurant employee, at the same table or counter at which food and beverage are consumed, within a building.
- b. a cafeteria-type operation where food and beverage are consumed within a building.
- c. customers are served by a delivery service by the restaurant to the customer at another location.
- d. customers are served from a counter for consumption by the customer off-site, commonly referred to "take out."

**Restaurant, Class 2:** A restaurant whose principal method of operation includes one or both of the following characteristics:

- a. customers are served from a drive-through window in motor vehicles, commonly referred to as a "drive-through."
- b. customers are served by a delivery service from the restaurant building to the customer in the customer's vehicle other than by a drive-through window, for consumption in the vehicle on the restaurant property, commonly referred to as a "drive-in."

**Retreat Center:** A facility used for professional, educational, religious or other conclaves, meetings, conferences, or seminars and which may provide meals, housing and recreation for participants during the period of the retreat or program only, with kitchen facilities not within individual sleeping quarters. This term shall not apply to facilities utilized by the general public for meals or overnight accommodations including motels and hotels.

**Right-of-Way:** A public or private road, alley, or other thoroughfare or easement permanently established for passage of persons, vehicles, or the location of utilities. A right-of-way is delineated by legally established lines or boundaries.

**Right-of-Way Line:** The legal line of demarcation between a right-of-way and abutting land.

**Road:** A thoroughfare that affords the principal means of access to abutting property. The term "road" also includes the term "street."

**Road, Private:** A private way or means of approach for use and operation of vehicular traffic that is not dedicated for general public use, is owned by persons, an association or other legal entity, and the maintenance for which is the responsibility of the owners, and meets the requirements of this Ordinance to provide access to two (2) or more abutting lots.

**Road, Public:** Any public thoroughfare dedicated and maintained for the use and operation of vehicular traffic by the Benzie County Road Commission or State of Michigan.

**Roadside stand:** A structure or area of no greater than one-hundred (100) sq. ft. for the display or sale of seasonal agricultural products and complies with the Generally Accepted Agricultural Management Practices adopted by the Michigan Department of Agriculture and Rural Development.

**Sawmill:** A facility of a permanent nature where harvested trees are cut, split, shaved, stripped, chipped or otherwise processed to produce wood products including the processing of harvested trees that may be transported to the sawmill facility, but excluding a temporary sawmill and the harvesting of trees for use on the same lot by the owner or resident of that lot.

**Service Station:** A place used primarily for the retail sale and dispensing of fuel or lubricants together with the fixed equipment from which the fuel is dispensed directly into motor vehicles, and where minor automobile repairs may occur such as engine tune-ups and servicing of brakes, air conditioning and exhaust systems; oil change or lubrication; wheel alignment or balancing; or similar servicing or repairs that do not normally require any significant disassembly or storing the automobiles on the premises overnight. A service station may also include floor area devoted to the sale of convenience items such as beverages, food products, magazines and similar convenience items.

**Setback:** The minimum distance by which any specified building, structure, or use must be separated from a lot line, ordinary high water mark or other specified feature, and which is measured perpendicularly to such feature.

**Sexually Oriented Business:** Refer to Article 8 for definitions pertaining to sexually oriented businesses.

**Shooting Range:** An outdoor or indoor facility designed for and devoted to the shooting of firearms or archery equipment, at live or nonliving targets and including what are commonly referred to as a gun club, hunt club, sportsman club, rifle range, pistol range, trap/skeet range, sporting clay range and archery range.

**Sign:** See Article 10 for definitions pertaining to signs.

**Site Plan:** A plan showing all salient features of a proposed development, so that it may be evaluated in order to determine whether it meets the provisions of this Ordinance. A site plan contains more comprehensive and detailed information about improvements proposed on the site than does a plot plan because of the more complex nature of land uses required to receive site plan approval, such as business, industrial and multiple family developments.

**Solar Energy Systems:** See Section 18.23 for definitions pertaining to solar energy systems.

**Special Land Use:** Uses and structures which are generally accepted as reasonably compatible with the primary uses and structures permitted in a District, but could present potential injurious effects upon the primary uses and structures within the District or are otherwise unique in character, and therefore require special consideration in relation to the welfare of adjacent properties and to the region as a whole. All such uses are subject to a public hearing.

**Stable, Commercial:** A structure and/or land use where horses are kept and does not meet the definition requirements of a private stable, including the breeding, rearing, training, caring for and/or boarding, for remuneration. A commercial stable may provide riding lessons, horse shows, training exhibitions, or any other horse-based activity typically characterized by the gathering of spectators or observers.

**Stable, Private:** An accessory structure and/or land use where horses are kept for private use and such structure or animals are not available for hire or lease.

**Stop Work Order:** An administrative order which is either posted on the property or mailed to the property owner which directs a person not to continue, or not to allow the continuation of an activity which is in violation of this Ordinance.

**Story:** That portion of a building included between the upper surface of any floor and the upper surface of the floor or ceiling next above. A basement shall be counted as a story if its ceiling is over four (4) feet above the average grade of the adjoining ground elevation.

**Street:** See "Road."

**Structure:** Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having such location on the ground including but not limited to all buildings, independently supported decks, satellite dishes, septic systems, garages and any other item customarily intended for permanent location, excepting anything lawfully in a public right-of-way including utility poles, sewage pumping stations, utility manholes, fire hydrants, electric transformers, telephone boxes and related public facilities and utilities defined as "essential services."

**Swimming Pool:** A constructed basin or structure for swimming and aquatic recreation.

**Tavern:** An establishment, or portion thereof, serving alcoholic beverages for principal consumption on the premises.

**Thompsonville Area:** The combined geographical limits of Colfax Township, Weldon Township and the Village of Thompsonville.

**Truck Terminal:** A building or area in which freight brought by truck is assembled or stored for further routing or reshipment, or in which trailers are parked or stored during the interim between hauling runs, and may include accessory repair and maintenance services and other support facilities and services such as restroom and shower facilities.

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

**Variance:** A variance is a modification of the literal provisions of the Zoning Ordinance where such variance will not be contrary to the public interest and will mitigate an otherwise practical difficulty, and the issuance of which is based upon standards in this Ordinance (See Article 15).

**Vehicle/Car Wash:** A building, or portion thereof, designed and used for the washing of two (2) or more vehicles irrespective of whether the washing process is automated or performed manually.

**Veterinary Clinic:** An establishment which is licensed by the Michigan Department of Community Health to provide for the care, diagnosis and treatment of sick or injured animals, including those in need of medical or surgical attention. A veterinary clinic may include fully enclosed pens or cages for the overnight boarding of animals receiving medical treatment and such related facilities as laboratories and offices.

**Vehicle Repair Shop:** Buildings and premises for the purpose of engine rebuilding, rebuilding or reconditioning of motor vehicles, collision service such as body, frame and fender repair, and painting.

**Wireless Communication Towers:** All structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals; including, but not limited to, radio towers, television towers, telephone devices and exchanges, microwave relay facilities, telephone transmission equipment buildings, private and commercial mobile radio service facilities and cellular telephone towers. Not included in the definition are: citizen band radio facilities; short wave receiving facilities; radio and television broadcast reception facilities; satellite dishes; federally licensed amateur (HAM) radio facilities; towers for personal communications only; and governmental facilities which are subject to state or federal law or regulations which preempt municipal regulatory authority.

**Yard:** An open space, on the same lot with a principal building, unoccupied and unobstructed from the ground upward by a building or structure, except as otherwise permitted in this Ordinance, and as defined herein (see *Figure 19-2 at end of this Article*):

- a. **Front Yard:** An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the principal building or other feature as may be specified. See definition for "lot lines" as applied to corner lots and through lots. There shall be maintained a front yard on each street side of a corner lot.
- b. **Rear Yard:** An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the principal building or other feature as may be specified. In the case of corner lots, there shall only be one rear yard which shall be determined by the owner at the time of plot plan approval. See definition for "lot lines" as applied to corner lots and through lots.
- c. **Side Yard:** An open space between the principal building or use and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point of the side lot line to the nearest point of the principal building or other feature as may be specified.

**Zoning Administrator:** The authorized individual charged with the responsibility of administering this Ordinance and appointed by Colfax Township, Weldon Township and the Village of Thompsonville.

**Zoning District:** See Section 4.1

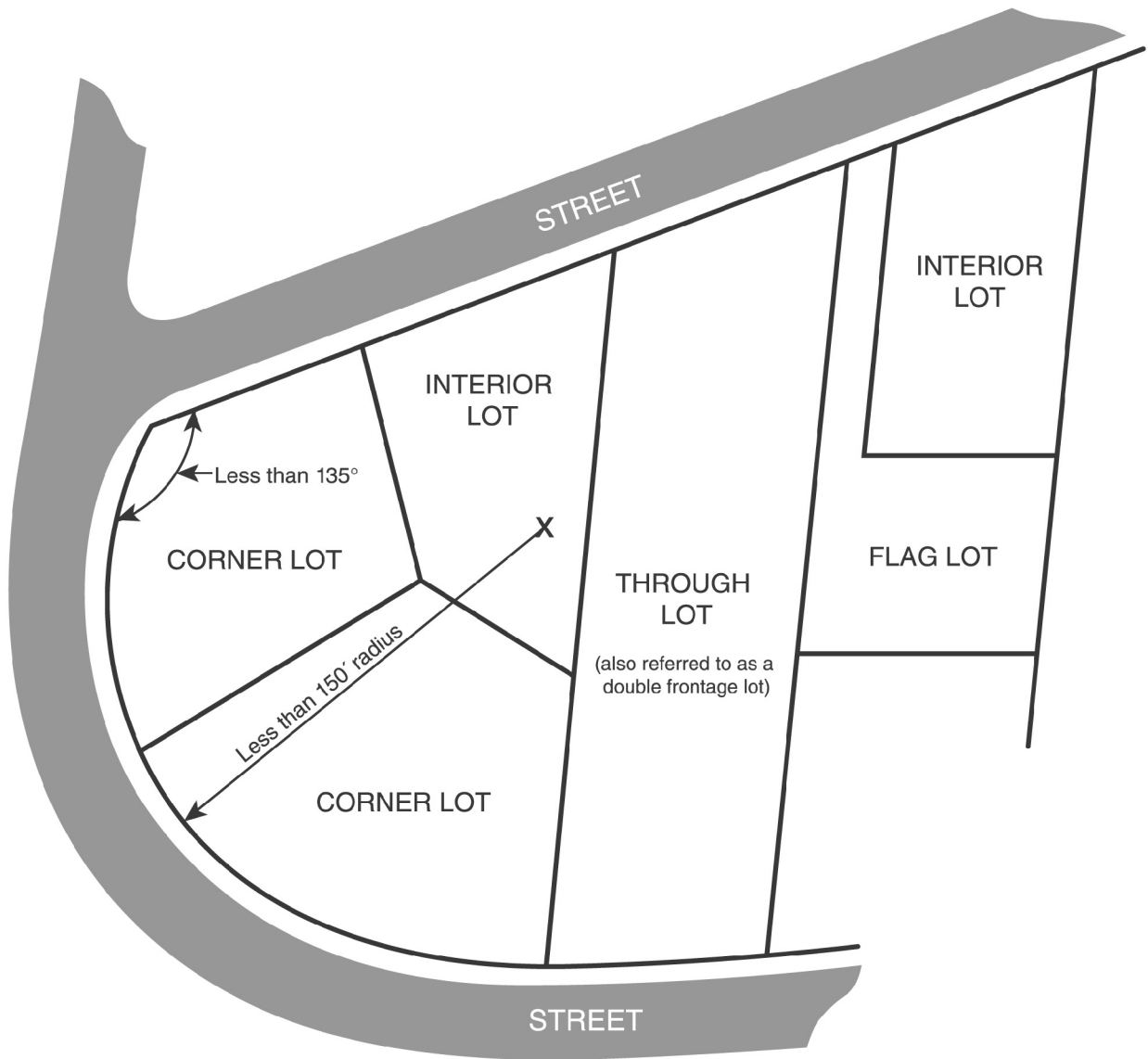
**Zoning Map:** The official map or maps of the Greater Thompsonville Area Zoning Ordinance that delineates the boundaries of the districts established by the ordinance.

**Zoning Permit:** A permit signifying compliance with the provisions of this Ordinance and issued by the Zoning Administrator upon approval of the proposed land use or development plan by the designated approving body.

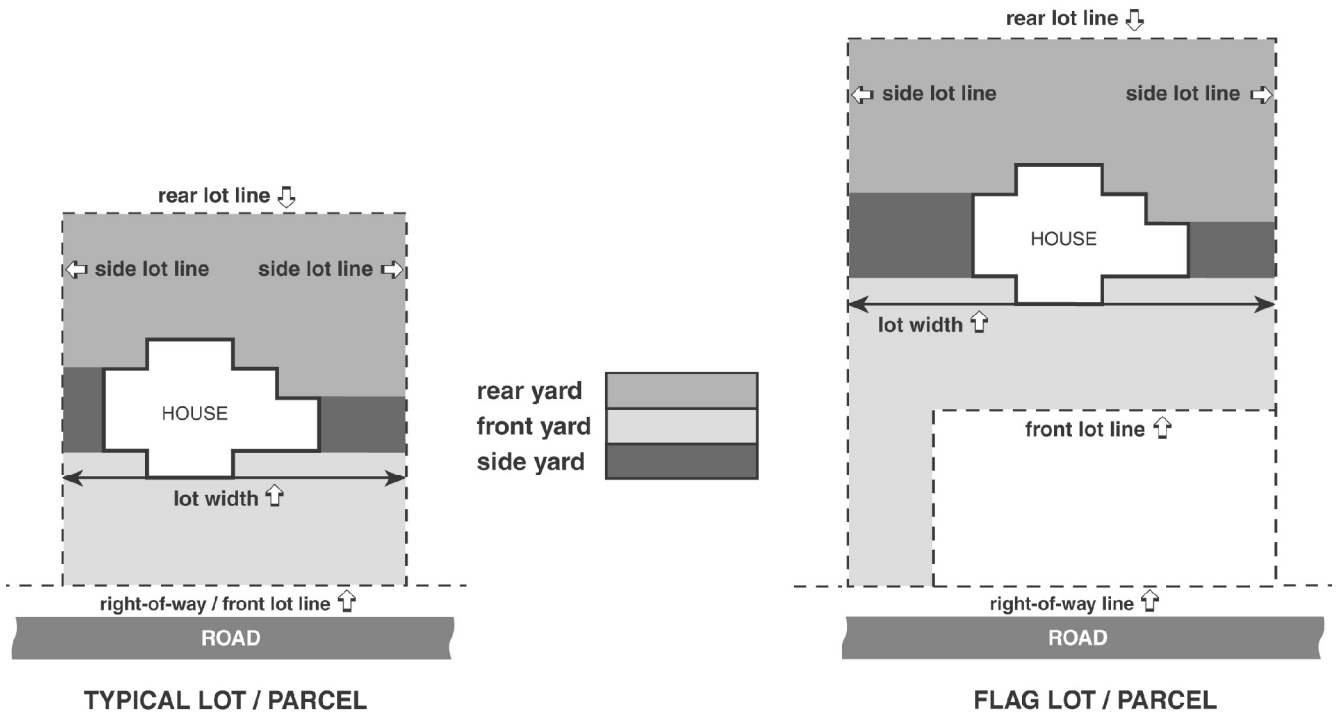
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**Figure 19-1**  
**LOT TYPES**



**Figure 19-2**  
**LOT LINES and YARDS**



**End of Article 19**