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# ZONING ORDINANCE

## Village of Benzonia, Benzie County, Michigan

AN ORDINANCE TO establish zoning districts and regulations governing the development and use of land within the Village of Benzonia, County of Benzie, State of Michigan in accordance with the provisions of Act 207, Public Acts of 1921, as amended; to provide for regulations governing non-conforming uses and structures; to provide for a Board of Appeals and for its powers and duties; to provide for permits; to establish and provide for the collection of fees; to provide for the administration of this Ordinance and for the official whose duty it shall be to enforce the provisions thereof; to provide penalties for the violation of this Ordinance; and to provide for the conflicts with other ordinances or regulations.

THE VILLAGE OF BENZONIA, COUNTY OF BENZIE, STATE OF MICHIGAN ORDAINS:

### ARTICLE I

#### PREAMBLE

Sec. 1.1 Title

This Ordinance shall be known as the Village of Benzonia Zoning Ordinance.

Sec. 1.2 Purpose

The purpose of this Ordinance is to promote the health, safety and general welfare of the inhabitants of the Village of Benzonia by preventing overcrowding of improvements on its lands, avoiding undue congestion of population, facilitating transportation systems, public utilities and ensuring fire safety, and thereby promoting the orderly development of the residential, commercial and recreational interests of said inhabitants.

Sec. 1.3 Validity and Severability

If any clause, sentence, sub-sentence, paragraph, section or part of this Ordinance be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, sub-sentence, paragraph, section or part directly involved in the controversy in which said judgment shall have been rendered.

Sec. 1.4 Conflicting Ordinance or Regulation

Where this Ordinance or portions there, impose greater restrictions upon the use of structures or land or upon height or bulk of structure, or requires larger open spaces or yards than imposed by any other Ordinances or regulations relating to the Village of Benzonia, the more restrictive provisions shall govern.

Sec. 1.5 Repeal of Prior Ordinance

The Benzonia Village Zoning Ordinance effective April 6, 1973, and amendments thereto, is hereby repealed with the provision that a situation under the previous Zoning Ordinances does not achieve lawful, non-conforming status under this Ordinance and a lot which was not a lot of record under the previous Zoning Ordinances does not achieve the status of a new lot of record herein.

Sec. 1.6 Computation of Time

Unless otherwise specifically provided, the time within which an act is to be done shall be computed by excluding the first and including the last day. If the last day is a Saturday, Sunday, or legal holiday, that day shall not be counted.

Sec. 1.7 Interpretations

A. Words in any gender shall be deemed to include the masculine, feminine and neuter.

B. Words used in the present tense shall include future; and words used in the singular number shall include the plural and the plural the singular, unless the context clearly indicates the contrary.

C. The word “shall” is always mandatory and not discretionary. The word “may” is permissive.

D. The word “building” or “structure includes any part thereof.

E. The word “person” includes a firm, partnership, association, trust, company or corporation, as well as an individual.

F. The word “used” or “occupied” as applied to any land or building shall be construed to include the words “intended, arranged, or designed to be used or occupied.”

G. Any word or term not defined herein shall be used with a meaning of common or standard utilization.

Sec. 1.8 Provisions Not Affected by Heading

Article and section headings contained herein shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of any section hereof.

Sec 1.9 Amended Michigan Statutes



Whenever any provision of this Ordinance refers to or cites a section of the Michigan Statutes and that Michigan Statute is later amended or superseded, the Ordinance shall be deemed amended to refer to the amended Michigan Statute section or the section thereof that most nearly corresponds to the superseded section.

ARTICLE II

DEFINITIONS

Sec. 2.1 For the purpose of this Ordinance, certain terms or words used herein shall be interpreted or defined as follows:

Accessory Structure: A subordinate building or structure on the same lot with a principal or main building, or the part of the main building occupied by or devoted exclusively to an accessory use. Except as otherwise provided, an accessory building may only be built after the foundation for a principal building is in place.

Accessory Use: A use customarily incidental and subordinate to the principal use or building located on the same lot as the principal use or building.

Access: See Easement

Actual Construction: The commencement of new construction and the purchase of building materials of a substantial character toward erecting the subject project. The making of preparatory plans, landscaping, removal of an existing structure, approvals of a site plan or a building permit is not actual construction.

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

As-Built Plans: Revised plans which are based on actual measurements of a completed building or development.

Bed and Breakfast Establishment: Transient lodging accommodations located within a single-family dwelling unit and having limited food service available for guests only.

Basement: A story having more than five (5) feet of its height below finished grade at any point.

Board of Appeals: Benzonia Village Council or a five (5) person board appointed by Council to hear appeals for variances from the Zoning Ordinance requirements.

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

tents, awnings and vehicles situated on private property and used for purposes of a building, whether or not mounted on wheels.

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

Building, Height Of: the vertical distance measured from the mean point of the finished grade at the foundation to the highest point of the roof for flat roofs; to the deck line of mansard roofs; and to the mean height level between eaves and ridge for gable, hip and gambrel roofs.

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

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

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

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

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

Condominium Project: A plan or project consisting of two or more condominium units established in compliance with the Condominium Act, Public At 59 of the Public Acts of Michigan of 1978, as amended.

Confined Feedlot: The place of confined keeping of livestock or other animals in which abnormal amounts of manure or other related animal wastes may originate.

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

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

Density: The number of dwelling units residing upon, or to be developed upon a measurement of land.

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

Drive-In/Drive-Through: Eating places primarily serving customers in vehicles

Dwelling, Dwelling Unit: Any building or structure or part thereof occupied as the home, residence or sleeping place of one or more cooking facilities exist.

Dwelling, Multiple: A building, other than a single or a two (2) family dwelling, including apartment houses, co-operatives and condominiums.

Dwelling, Single Family: A detached building designed for or occupied exclusively by one (1) family.

Dwelling, Two Family: A building designed for or occupied exclusively by two (2) families living independently of each other.

Easement: A vehicular access or right-of-way to an abutting lot or lots or parcel (s) of land constructed and maintained to a standard which will provide access for safety services operating within the Village. For purposes of this Ordinance, an access easement to a single lot shall be a minimum of twenty (20) feet in width.

Effective Date of this Ordinance: Whenever this Ordinance refers to the effective date of this Ordinance, the reference shall be deemed to also include the effective date of any amendments to this Ordinance.

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

Essential Services: The erection, construction, alteration or maintenance by public or private utilities or municipal departments or commissions, of underground or overhead gas, electrical, telephone transmission or distribution system including poles, wires, main drains, sewers, pipes, conduits, cables, towers, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories in connection therewith, but not including buildings reasonably necessary for the furnishing of adequate service by such public utilities, departments, or commissions.

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

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

Family: A. An individual or group of two (2) or more persons related by blood, marriage or adoption, together with foster children and servants of the principal occupants, with not more

than one additional unrelated person, who are domiciled together as a single, domestic, housekeeping unit in a dwelling unit, or

B. A collective number of individuals domiciled together in one (1) dwelling unit whose relationship is of a continuing non-transient domestic character and who are cooking and living as a single non-profit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization or group of students whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or other similar determinable period.

Footprint: The ground area a structure covers.

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

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

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

Greenbelts or Buffer Parks: A strip or parcel of land, or easement privately restricted or publicly dedicated as open space located between incompatible uses for the purpose of protecting and enhancing the residential environment.

Health Department: Benzie County Health Department

Highway: Any public thoroughfare in the Village of Benzonia including Federal, State, and County highways. (See Road)

Highway Service Facility: Any business designed to provide necessary service to travelers, not specifically prohibited.

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

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

Junk Yard: Any land or building where waste, used or secondhand materials are bought and sold, exchanged, stored, baled, parked, disassembled or handled; including, but not limited to,

scrap iron and other metals, paper, rags, rubber tires and bottles. A “junk yard” includes automobile wrecking yards and includes any area of more than fifty (50) square feet for storage, keeping or abandonment of junk but does not include uses established entirely within enclosed buildings.

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

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

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

Lot or Building Site: A parcel of land, under common ownership or control, occupied or intended to be occupied, by a principal building together with any accessory structures, and providing open space, parking and loading spaces required by this Ordinance. Said parcel of land may consist of one or more lots of record or recorded metes and bounds parcels; shall not include any part of a public road or right-of-way, and shall have frontage on, or approved access to, a public road or street. A condominium building site shall be considered the equivalent of a “lot” for purposes of determining compliance with the applicable requirements of this Ordinance.

Lot, Corner: A lot which has at least two (2) contiguous sides abutting upon a street for their full length.

Lot, Depth Of: the mean distance from the street line of the lot to its opposite rear line measured in the general direction of the side lines of the lot.

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

Lot, Interior: A lot other than a corner lot.

Lot Line: A line which marks the boundary of a lot.

Lot Line, Front: That lot line which borders the major street.

Lot Line, Rear: The lot line opposite and most distant from the front lot line.

Lot Line, Side: Any lot line which is not a front lot line or a rear lot line; a lot line separating a lot from a side street is an exterior side lot line and a lot line separating a lot from another lot, or lots is an interior side lot line.

Lot of Record: A lot which was recorded in the Office of the Register of Deeds in Benzie County on the effective date of this Ordinance or a lot described by metes and bounds, the deed

or land contract, or land contract memoranda which had been recorded in the Office of the Register of Deeds in Benzie County on the effective date of this Ordinance.

Lot, Width Of: The width measured along the front lot line or street line.

Major Thoroughfare: Arterial or collector-distributor road.

Marina: A facility engaged in the sale, service and storage of all types of watercraft and small engine recreational vehicles and other related equipment and supplies.

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

Mechanical Amusement Device: Any machine which, upon the insertion of a coin, slug, token, plate or disk or upon payment of a price, may be operated by the public generally for use as a game, entertainment or amusement, including but not limited to games registering a score, electronic video games, mechanical and/or electronic devices.

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.

Mobile Home Park: A parcel or tract of land under the control of a person upon which three (3) or more mobile homes are located on a continual, non-recreational basis, as defined in Michigan Public Act 96 of the Public Acts of 1987, as amended.

Non-conforming Dimension: A non-conforming situation that occurs when the height, size, or minimum floor space of a structure or the relationship between an existing building or buildings and other applicable to the district in which the property is located.

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

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

Non-conforming Situation: A situation that occurs when, on the effective date of this Ordinance, a lawfully created existing lot or structure or use of a lawfully-created existing lot or structure does not conform to one or more of the regulations applicable to the district in which the lot or structure is located.

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

Open Space: Any unoccupied space open to the sky on the same lot with a building.

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

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

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

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

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

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

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

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

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

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

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

Sign Regulation Definitions:

- A. Banner A sign made of natural, synthetic or plastic material used to call attention to a land use or product, service or activity; however not including pennants or flags.
- B. Billboard Highway Advertising Sign: An off-premises sign owned by a person, corporation or the entity that engages in the business of selling the advertising space on that sign.
- C. Business Center Sign: A sign which gives direction, name, and identification to a business center and which does not contain any additional information regarding individual stores, businesses, institutions, organizations, located within the planned complex or contiguous stores.
- D. Directional Sign: An on or off premises sign which sets forth no advertising display, but is used to direct visitors or customers to a particular land use.
- E. Entrance Way Sign: A sign that designates the street entrance way to a residential or industrial subdivision, apartment complex, condominium development, or permitted institution, from a public right-of-way.
- F. Flag: A sign made of natural, synthetic or plastic material having a distinctive size, color and design used as a symbol or emblem.
- G. Flashing Sign: Any illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color at all times which such sign is in use.
- H. Ground or Pole Sign: A free standing sign supported by one (1) or more uprights, poles, braces or some other structure, placed in the ground surface and not attached to any building.
- I. Highway Advertising Sign: See Billboard.
- J. Home Occupation Sign: A non-illuminated sign announcing a home occupation or professional service.



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

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

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

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

Traveled Surface of Roadway: For the purpose of establishing setbacks, it is that portion of the roadway surface whose principal function is to provide for the passage of motor vehicles as they traverse the roadway, excluding therefrom the shoulder of the road which is principally used for the emergency stopping or parking of motor vehicles or for the passage of pedestrians and bicycles.

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

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

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

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

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

Sec. 2.2 Words Not Defined

Any words requiring special interpretation and not listed above shall be used as defined in a standard dictionary. Zoning classification interpretations shall be consistent with the Standard Industrial Classification manual (SIC).

ARTICLE III

GENERAL PROVISIONS

Sec. 3.1 Scope

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

Sec. 3.2 Lot and Yard Area Requirement Exceptions

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

Front and Rear Yards – On any lot of record where the front and rear yard setback reduce the buildable area to less than twenty-five (25) feet, the Zoning Administrator is authorized to reduce both the front yard and the rear yard setback requirements by up to ten (10) percent of the depth of the lot to accommodate a requested buildable area.

Existing Structures – Where a structure already exists on a parcel and it is nearer a front or a rear lot line than the setback required for that district, the Zoning Administrator is authorized to issue a Land Use Permit to expand said structure or erect an accessory building, provided such addition or new construction is not located nearer a front or rear lot line than the existing structure and will not cause a significant health or safety hazard.

Side Yards – On any lot of record where the side yard setback requirements reduce the buildable width to less than twenty-five (25) feet, the Zoning Administrator is authorized to reduce the side yard setback requirements by up to ten (10) percent of the lot width, however, no interior side yard shall be reduced by more than three (3) feet, and no exterior side yard shall be reduced by more than six (6) feet.

Sec. 3.3 Dwelling Lots or Premises

Every dwelling, cottage, cabin or mobile home erected outside of a mobile home park shall be located on a lot or premise, and no more than one (1) such building or structure shall be erected on such lot or premise. However, a loft or a garage apartment detached from a residence may be occupied on a non-commercial basis.

If a parcel has twice the minimum width and twice the minimum required area, a second residence may be located on the parcel.

- Sec. 3.4 Accessory Use Without a Principal Use  
No construction of an accessory use structure shall be permitted without the foundation for a principal use structure first being in place. However, an accessory structure may be constructed on a separate lot (s) provided the separate lot (s) is immediately adjacent to the lot on which the principal use structure is located and both lots are, and will remain under common ownership.
- Sec. 3.5 Accessory Building As Dwelling  
No building or structure on the same lot with a principal building shall be used for dwelling purposes, except as specifically permitted in this Ordinance. (See Sec. 3.3).
- Sec. 3.6 Accessory Structure Setbacks  
Accessory structures shall meet the same setback requirements as a principal structure.
- Sec. 3.7 Maximum Size Accessory Structures  
The total ground level gross square footage of all accessory structures shall not exceed nine hundred sixty (960) square feet in the area nor ten (10) feet in height for sidewalls, exclusive of attached accessory structures.
- Sec. 3.8 Minimum Dimensions For Dwelling  
A single-family dwelling, including a mobile home, shall have a minimum width of twenty (20) feet over fifty (50) per cent of the entire structure length except in the R-2 Zoning District.
- Sec. 3.9 Minimum Dwelling Floor Area  
The minimum gross living area of a dwelling, and the minimum size for the footprint of the living portion of a structure shall be seven hundred twenty (720) square feet.
- Sec. 3.10 Use of Open Space  
A. No open yard surrounding a dwelling, or structure used for dwelling purposes, may be used for the location, parking, disposition, storage, deposit, or dismantling in whole or in part of junked vehicles, machinery, second hand building materials or other discarded, disused or rubbish-like materials or structures.

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

C. No outdoor storage or parking of vehicles or trucks, over one (1) ton rated capacity, or similar heavy equipment or construction equipment, shall be permitted in a yard or on a lot located in R-1 or R-2 Districts, other than for the temporary parking of trucks or equipment engaged in construction on the site or being used for temporary pickup or delivery purposes.

Sec. 3.11 Damaged Buildings

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

Sec. 3.12 Greenbelt Buffer

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

Sec. 3.13 Visibility At Intersection

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

Sec. 3.14 Vacated Streets

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

Sec. 3.15 Fences, Walls, and Screens

Within the limits of a minimum front yard, no fence, wall, other than necessary retaining wall or other screening structure shall be higher than three (3) feet. No such fence or wall located within a side or rear yard shall exceed six (6) feet in height.

- Sec. 3.16 Yard Sales  
Yard sales or garage sales may be permitted; provided such sales are not conducted on the same lot for more than three (3) days (whether consecutive or not) during any ninety-day (90) period or a total of six (6) sale days per year. And, provided further, that such sales are conducted only on a lot upon which a principal use is located.
- Sec. 3.17 Non-Commercial Storage Buildings  
Non-Commercial storage buildings or other accessory structures shall not be allowed without the presence of the foundation for a principal use structure in the R-1 or R-2 Districts.
- Sec. 3.18 Prohibited Uses – Structures  
No building or structure or part thereof shall be erected, altered or used on land used, in whole or in part, for any use, process or activity resulting in the emission of odor, fumes, dust, smoke, waste, noise or vibration, light encroachment, accumulation of trash or other unsightly conditions which shall make it obnoxious to the public interest, health or welfare, or is not specifically permitted by the terms of this Ordinance.
- Sec. 3.19 Hazardous Liquid Containment  
  
Secondary containment structures shall be required to protect the environment from accidental spills of all hazardous liquids. Hazardous liquids shall include all “hazardous wastes” as defined by Act 64 of 1979, that are in liquid form.  
  
Secondary containment structures shall include structures such as but not limited to dikes and berms surrounding transfer and storage areas, enclosed structures, and interior storage rooms with sills and no floor drains. All secondary containment structures shall be at least large enough to hold the capacity of the largest drum or tank in the transfer or storage area.  
  
No floor drains shall be permitted in any areas involving the transfer or disposal of hazardous liquids.
- Sec. 3.20 Prohibited Uses  
Due to the small size of the Village of Benzonia established land use patterns, soil conditions and the character of the community, it is hereby determined that there is no place within the Village where such uses as junk yards, used auto parts establishments, confined feedlots, sanitary landfill and industrial operations, campgrounds or trailer parks can be located without creating serious problems of incompatibility with surrounding land uses and these uses are, therefore, prohibited in all zoning districts.
- Sec. 3.21 Condominium Projects

Condominium projects shall be permitted in any residential zoning district as a special land use, subject to the site plan review process as set forth in Article IX of this Ordinance, and the Condominium Act, PA 59 of 1978, as amended.

ARTICLE IV

ZONING DISTRICTS AND ZONING MAP

Sec. 4.1 Districts Established  
For the purpose of this Ordinance, the Village of Benzonia is hereby divided into the following Zoning Districts:

- R-1            Single Family Residential
- R-2            Mixed Residential
- C-1            Compact Commercial
- C-2            General Commercial

Sec. 4.2 Zoning Districts Map  
The boundaries of the districts are hereby defined and established as shown on a map entitled “Zoning District Map of Benzonia, Michigan” which accompanies this Ordinance and which map, with all explanatory matter thereon is hereby made a part of this Ordinance.

Sec. 4.3 Interpretation of District Boundaries  
Where uncertainty exists with respect to the boundaries of any of the districts indicated on the zoning map, boundaries indicated as approximately following streets, highways, lot lines, section lines, or shorelines of streams shall be construed to be following said lines or boundaries.

ARTICLE V

SINGLE FAMILY RESIDENTIAL DISTRICT (R-1)

It is the intent of the R-1 District to establish and preserve a quiet single family home neighborhood with residences occupied by only one family or household group; each located on individual lots or premises, adequate in size to provide for safe sewage disposal facilities; reasonably spaced to diminish spread of fire; set back from the public thoroughfare to facilitate safe ingress and egress; and which are free from other uses except those which are compatible with and convenient to the residents of such district.

Sec. 5.1 Permitted Principal  
A.     Single Family Dwelling  
B.     Green House  
C.     Lawn Shed

- D. Patios, Decks and Gazebos
- E. Non-Commercial Recreational Facility
- F. Personal Gardens

- Sec. 5.3 Permitted Conditional Uses
- A. Home Occupation (Sec. 10.2)
  - B. Swimming Pool (Sec. 10.3)
  - C. Model Home (Sec. 10.4)
  - D. Non-Commercial Storage (Sec. 10.6)
  - E. Antennas & Satellite Dishes (Sec. 10.7)

- Sec. 5.4 Permitted Special Land Uses
- A. Institutional Structures (Sec. 11.8)
    - 1. Religious Institutions
    - 2. Educational and Social Institutions
    - 3. Public Buildings
  - B. Other
    - 1. Bed and Breakfast (Sec. 11.2)

- Sec. 5.5 Lot and Building Requirements
- All buildings and structures in this District shall be located on a lot having a minimum width of not less than one hundred (100) feet and contain not less than fifteen thousand (15,000) square feet in area, however this shall not prevent the use of a lot of lesser size, providing it was a lot of record prior to the adoption of this Ordinance, and that all other requirements of this Ordinance can be met. (See Sec. 3.2)

Any structure or part thereof shall have a minimum front yard setback of forty (40) feet from the front property line; a minimum side yard setback of (10) feet; a minimum rear yard setback of ten (10) feet; a maximum structure height of thirty (30) feet; a maximum ground coverage of fifty (50) percent; and a minimum landscaped open space of thirty (30) percent.

## ARTICLE VI

### MIXED RESIDENTIAL DISTRICT (R-2)

It is the intent of the R-2 District to establish and preserve a quiet neighborhood with a mixture of residences, including single family residences on individual lots, two family or multi-family residents, mobile homes, and mobile home parks, adequate in size to provide for dwellings and parking; reasonably spaced to diminish spread of fire; and serviced by a roadway with safe ingress and egress from the premises.

- Sec. 6.1 Permitted Principal Uses
- A. Single Family Dwelling

- B. Two Family Dwelling (30,000 SF minimum lot size)
- C. Multi-Family Dwelling (40,000 SF + 5,000 SF per unit over three (3) units minimum lot size)

Sec. 6.2 Permitted Accessory Uses

- A. Private Garage
- B. Green House
- C. Lawn Shed
- D. Patios, Decks and Gazebos
- E. Non-Commercial Recreational Facility
- F. Personal Gardens

Sec. 6.3 Permitted Conditional Uses

- A. Home Occupations (Sec. 10.2)
- B. Swimming Pools (Sec. 10.3)
- C. Model Homes (Sec. 10.4)
- D. Mobile Homes (Sec 10.5)
- E. Non-Commercial Storage (Sec. 10.6)
- F. Antennas & Satellite Dishes (Sec. 10.7)

Sec. 6.4 Permitted Special Land Uses

- A. Institutional Structures (Sec. 11.8)
  - 1. Religious Institutions
  - 2. Educational and Social Institutions
  - 3. Public Buildings
- B. Other
  - 1. Bed & Breakfast (Sec. 11.2)
  - 2. Boarding Houses (Sec. 11.3)
  - 3. Mobile Home Parks (See PA 96 of 1987)

Sec. 6.5 Lot and Building Requirements

All single family dwellings in this District shall be located on a lot having a minimum width of not less than one hundred (100) feet and contain not less than fifteen thousand (15,000) square feet, however this shall not prevent the use of a lot of lesser size providing it was a lot of record prior to the adoption of this Ordinance, and that all the other requirements of this Ordinance can be met. (See Sec. 3.2)

Two family dwelling structures require a minimum lot size of thirty thousand (30,000) square feet. Multi-family dwelling structures require a minimum lot size of forty thousand (40,000) square feet of area for the first three (3) units plus five thousand (5,000) square feet for each additional unit.



Any structure, or part thereof, shall have a minimum front yard setback of forty (40) feet from the front property line; a minimum side yard setback of ten (10) feet; a minimum rear yard setback of ten (10) feet; a maximum structure height of thirty (30) feet; maximum ground coverage of fifty (50) percent; and a minimum landscaped open space of thirty (30) percent.

## ARTICLE VII

### COMPACT COMMERCIAL DISTRICT C-1)

It is the intent of the C-1 District to establish and preserve an historic compact business district suited to the needs of travelers, tourists, and vacationers, as well as local residents, usually arrive by car, and parking once to visit one or more businesses; not necessarily with adequate off street parking; with rather intense development of shopping and service facilities; with a focus on safe and convenient pedestrian travel essential to the economic interests of the business community, and safety and welfare of the public.

- Sec. 7.1            Permitted Principal Uses
- A. Professional/Business Offices
  - B. Eating/Drinking Places (except Drive-ins)
  - C. Public Buildings
  - D. Personal Services Facilities
  - E. Retail Sales Facilities
  - F. Financial Institutions
  - G. Fabrication Shops (Maximum of six (6) employees)
  - H. Residential Uses permitted in R-2 District permitted above ground floor.
- Sec. 7.2            Permitted Accessory Uses
- A. Accessory buildings, structures or uses customarily incidental to the permitted use.
- Sec. 7.3            Permitted Special Land Uses
- A. Institutional Structures (Sec. 11.8)
    - 1. Educational and Social Institutions
    - 2. Religious Institutions
    - 3. Human Care Institutions
    - 4. Animal Care Institutions
  - B. Amusement Arcade (Sec. 11.10)
  - C. New/Used Auto, Boat Dealers (Sec 11.11)
- Sec. 7.4            Lot and Building Requirements
- All buildings and structures in this District shall not exceed thirty (30) feet in height.

ARTICLE VIII

GENERAL COMMERCIAL DISTRICT (C-2)

It is the intent of the C-2 District to establish and preserve general commercial areas consisting of shopping centers and commercial strips where customers reach individual or groups of business establishments primarily by automobile, and, generally, with off street parking.

- Sec. 8.1            Permitted Principal Uses  
A.     All Uses Permitted in District C-1 and under the same conditions.  
B.     Highway Service Facilities
- Sec. 8.2            Permitted Accessory Uses  
A.     Accessory buildings, structures or uses customarily incidental to the permitted use.
- Sec. 8.3            Permitted Special Land Uses  
A.     Building Materials Dealers (Sec. 11.4)  
B.     Automotive Service Installation (Sec. 11.5)  
C.     Gasoline Service Station (Sec. 11.6)  
D.     Hotels, Motels, Resorts (Sec. 11.7)  
E.     Marina and Canoe Livery (Sec. 11.9)  
F.     Light Manufacturing, Warehousing, Storage (Sec. 11.13)  
G.     Shopping Centers (Sec. 11.12)  
H.     Sexually Oriented Businesses (See Article XVIII)  
I.     Drive-Ins
- Sec. 8.4            Lot and Building Requirements  
All buildings and structures in this District shall be located on a lot having a minimum width of not less than one hundred (100) feet and contain not less than thirty (30,000) thousand square feet in area, however this shall not prevent the use of a lot of lesser size, providing it was a lot of record prior to the adoption of this Ordinance, and that all other requirements of this Ordinance can be met. (See Sec. 3.2)

Any structure, or part thereof shall have a minimum front yard setback of forty (40) feet from the front property line; a maximum structure height of thirty (30) feet; maximum ground coverage of fifty (50) percent; and a minimum landscaped open space of twenty (20) percent.

ARTICLE IX

PERMITS, SITE PLANS, PLATS & VIOLATIONS

PART I: GENERAL REGULATIONS

- Sec. 9.1            General Regulations  
A.     The use made of property may not be changed; incidental to construction may be commenced; or no structures may be constructed, erected, moved or altered except in accordance with and pursuant to one of the following permits or approvals:
1.     A Land Use Permit, with or without conditions issued by the Zoning Administrator;
  2.     A Special Land Use Permit, Condominium Project, Special Land Use and Planned Unit Development Permit issued by the Village Council, or Planning Commission if one exists.
- B.     Applications for Land Use, Condominium Project, Special Land Use and Planned Unit Development, shall contain a Site Plan for review and approval and all development shall be in accordance with the approved plan and all special conditions imposed by the Issuing Authority.
- Sec. 9.2            Who May Submit Applications  
A.     Applications for any permits or plat approval, will be accepted only from persons having the legal authority to take action in accordance with the permit.
- B.     The Zoning Administrator may require an applicant to submit evidence of his authority to submit the application in accordance with Subsection (A) whenever there appears to be a reasonable basis for questioning this authority.
- Sec. 9.3            Applications to be Complete  
All applications for Land Use, Special Land Use, Planned Unit Development or Condominium Project Permits or plat approval must be complete before the permit issuing authority is required to consider the application.
- Sec. 9.4            No Occupancy Until Requirements Fulfilled  
Issuance of a Land Use, Special Land Use, Planned Unit Development or Condominium Project Permits authorizes the recipient to commence the activity resulting in a change in use of the land or (subject to obtaining a building permit) to commence work designed to construct, erect, move or alter buildings or other structures. However, the intended use may not be commenced, and no building may be occupied until all of the requirements of this Ordinance and all additional requirements imposed pursuant to the issuance of said Permit have been complied with.
- Sec. 9.5            Fees

Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice and similar matters shall be charged to applicants for Land Use, Special Land Use, Planned Unit Development and Condominium Project Permits, zoning amendments, variances and other administrative relief. The amount of the fees charged shall be as set forth in the Village's fee schedule as established by resolution of the Village Council filed in the office of the Village Clerk. No part of any fee shall be refundable.

Sec. 9.6

Expiration of Permits

A. Land Use, Special Land Use, Planned Unit Development or Condominium Project Permits shall expire automatically, if, within one (1) year after the issuance of such permits, actual construction has not commenced or use has not commenced where no actual construction is required.

B. The permit-issuing authority may extend for a period of up to one (1) year the date when a permit would otherwise expire if it concludes that:

1. The permit recipient has proceeded with due diligence and in good faith, and
2. Conditions have not changed so substantially as to warrant a new application. Successive extensions may be granted for periods of up to six (6) months upon the same findings. All such extensions may be granted without resort to the formal processes. Fees required for an extension shall be according to the Village fee schedule.

Sec. 9.7

Effect of Permit on Successors and Assigns

Land Use, Special Land Use, Planned Unit Development and Condominium Project Permits, authorize the permittee to make use of land and structures in a particular way. Such permits are transferable to successors or assigns of the person who obtained the permit.

Sec. 9.8

Modifications of Permits

A. The Zoning Administrator may authorize insignificant deviations from permits (including plans approved by the Village Council) for Land Use, Special Land Use, Planned Unit Development and Condominium Project Permits. A deviation is insignificant if it has no discernible impact on neighboring properties, the general public, or those intended to occupy or use the proposed development.

B. Minor design modifications or changes in permits (including approved plans) are permissible with the approval of the permit-issuing authority. Such permission may be obtained without a formal application,

public hearing, or payment of any additional fee. For purposes of this section, minor amendments are those which will have no foreseeable effect beyond the property boundary such as minor changes in the location of buildings, the alignment of utilities, and the alignment of interior roadways and parking areas. Minor changes for good cause may be authorized provided no such changes shall increase the size or height of structures, reduce the efficiency or number of public facilities serving the development, reduce usable open space, or encroach on natural features.

C. Major amendments. Any amendment not qualifying as a minor amendment is considered to be a major amendment and must be approved by the permit issuing authority following the same procedure required for the original permit.

Sec. 9.9

Maintenance of Common Areas

The recipient of any permit, or their successor, shall be responsible for maintaining all common areas, improvements, or facilities required by this Ordinance or any permit issued in accordance with its provisions. As illustrations, and without limiting the generality of the foregoing, this means that the private roads and parking areas, water and sewer lines, and recreational facilities must be properly maintained so that they can be used in the manner intended, and required vegetation and trees used for screening, landscaping or shading must be replaced if they die or are destroyed.

Sec. 9.10

Staff Consultation Before Application

To minimize development planning costs, avoid misunderstanding or misinterpretation and ensure compliance with the requirement of this Ordinance, preapplication consultation between the developer and the Village staff is encouraged or required as provided in this Ordinance.

PART II: APPLICATIONS AND APPROVALS

(A.) LAND USE PERMITS (LUP)

Sec. 9.11

Application

Application for a Land Use Permit shall be made in writing upon a blank form furnished by the Zoning Administrator and shall state the name and address of the owner of the building and the owner of the land upon which it is to be erected, enlarged, altered, or moved. There shall be submitted with all applications for Land Use Permits, a site layout showing:

- A. The location, shape, area and dimensions for the parcel(s) or lot(s).
- B. The location of the proposed construction upon the parcel(s) or lot (s) affected.

- C. The dimensions, height and bulk of structures.
- D. The nature of the proposed construction, alteration, or repair and the intended use.
- E. The proposed number of sleeping rooms, dwelling units, occupants, employees, customers, and other uses.
- F. The present use of any structure affected by the construction or alteration.
- G. The yard open area, driveway or access by easement, and parking space dimension, if applicable.
- H. The proposed plan and specifications of off-street parking and unloading spaces, if applicable.
- I. Any wetland or floodplain which may be on the property.
- J. Any other information deemed necessary by the Zoning Administrator to determine and provide for the enforcement of this Ordinance.

Sec. 9.12

Permit Procedure

- A. A completed application form for a Land Use Permit shall be submitted to the Zoning Administrator.
- B. The Zoning Administrator shall issue the Land Use Permit unless they find, after reviewing the application;
  - 1. The requested permit is not within their jurisdiction,
  - 2. The application is incomplete,
  - 3. If completed as proposed in the application, the development will not comply with one (1) or more requirements of this Ordinance,
- C. The Zoning Administrator may waive Land Use Permit requirements for yard sheds on skids no greater than one hundred (100) square feet in area.

Sec. 9.13

Temporary Uses

- A. The Zoning Administrator is authorized to issue a Land Use Permit for the following temporary uses upon a finding that a temporary use meets the criteria of Section (B) below:

1. Carnival, circus, or fair for a period not to exceed fourteen (14) days.
  2. Open lot sale of Christmas trees, for a period not to exceed thirty (30) days.
  3. Real estate sales offices in Model Homes for a maximum period of one (1) year.
  4. Contractor's office and contractor's equipment sheds, in any district, for a period of one (1) year, provided that such structures be placed on the property to which it is appurtenant.
  5. Temporary dwelling units, for a maximum period of two (2) years, only for the purpose of constructing a building which conforms to the requirement of this Ordinance provided that the foundation and complete framing of the conforming building is completed within one (1) year and the entire conforming building is completed within (2) years.
- B. Insurance Criteria. A permit for the proposed temporary use shall be issued by the Zoning Administrator only if each of the following criteria is met by the proposed use.
1. The proposed use is clearly of a temporary nature.
  2. The temporary use shall not endanger the public health, safety or welfare of the Village or adjacent residents.
  3. Structures of temporary uses shall be provided, if required, with safe, sanitary and effective systems for water supply and disposal of wastes, approved by the Health Department.
  4. The proposed use will cause not traffic congestion.
  5. The proposed temporary use shall meet all lot, yard setback and other requirements of this Ordinance.
- C. Renewal, revocation and appeal.
1. Land Use Permits for the temporary uses listed in the above Sections A 1-4, may be renewed in the same manner as issuance of the original permit.

2. Upon expiration or revocation of a Land Use Permit for a temporary use, the temporary use shall cease, and all temporary structures, dwellings or buildings shall be forthwith removed from the parcel of land.
3. The Zoning Administrator may impose conditions with the issuance of the permit which are designed to insure compliance with the requirements of this Section and may revoke a permit at any time for non-conformance with the requirements of this Section.

(B.) SPECIAL LAND USE (SLU), PLANNED UNIT DEVELOPMENT (PUD), AND CONDOMINIUM PROJECT PERMITS

Sec. 9.14 General Requirements

Intent and Purpose: Rather than permitting all of the many and varied land use activities within individual and limited zoning districts, it is the intent of this Ordinance to provide a set of procedures and standards for specific uses of land or structures that will allow, on the one hand practical latitude for the investor or developer, but that will at the same time, maintain sound provisions for the protection of the health, safety, convenience, and general welfare, of Village inhabitants. In order to provide controllable and reasonable flexibility, the following sections permit detailed review of certain specified types of land use activities which, because of their particular and unique characteristics, require special consideration in relation to the welfare of adjacent properties and to the community as a whole. Land and structure uses possessing these characteristics may be authorized within certain zoning districts by the issuance of a Special Land Use (SLU), Planned Unit Development (PUC) or Condominium Project Permit.

Sec. 9.15 Permit Procedure

An application for a SLU, PUD or Condominium Project Permit for any land or structure use permitted under this Article shall be submitted to the Zoning Administrator and shall be accompanied by the payment of a non-refundable fee as established by the Village Council to cover the cost of processing the application.

- A. Data Required: Every application shall be accompanied by the following information and data:
  1. The application form filled out in full by the applicant, including a statement of supporting evidence showing compliance with the requirements of Section 9.19.
  2. Site plan in accord with Section 9.17.



3. A written impact assessment. (See Section 9.18).
  4. Preliminary plans and outline specifications of the proposed development.
- B. 1. Upon receipt of an application, the Zoning Administrator shall publish in a newspaper having a general circulation in the Village, one (1) notice that a request for a SLU, PUD or Condominium Project's approval has been received.
- a. The content of the notice shall:
    1. Describe the nature of the request.
    2. Indicate the property which is the subject of the request.
    3. State when and where the request will be considered at a public hearing.
    4. Indicate when and where written comments will be received concerning the request.
  - b. The notice shall be given not less than five (5) nor more than fifteen (15) days before the date the application will be considered.

Sec. 9.16

Site Plan Review

The Issuing Authority, may deny, approve, or approve with conditions a request for a SLU, PUD or Condominium Project. The decision under consideration shall be incorporated in a statement containing the conclusions which specify the basis for the decision, and any conditions imposed.

Reasonable conditions may be required with the approval of a SLU, PUD or Condominium Project permitted by discretionary decision. They may include conditions necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and, to promote the use of land in a socially and economically desirable manner.

A site plan shall be approved if it contains the information required by the Zoning Ordinance and is in compliance with the Ordinance.

Sec. 9.17

Site Plan Requirements

Every site plan shall be submitted to the Zoning Administrator on one or more sheets of paper measuring not more than twenty-four (24) by thirty-six (36) inches, drawn to a scale not more than fifty (50) feet to the inch. Multiple copies may be required. Variations in scale may be allowed upon request.

For all uses other than single or two family residential or agricultural uses, the site plan shall be prepared by a licensed professional engineer, licensed professional surveyor, or licensed architect.

All site plans shall show the following:

- A. Legal description, plat name, lot numbers, property lines including angles, dimensions, and reference to a point on a recorded plat.
- B. Property owner and applicant names, addresses and phone numbers.
- C. Preparer's name and address.
- D. Scale, north arrow date and location map.
- E. Name, location and width of streets, alleys, sidewalks, drives easements and utilities.
- F. Show all existing natural features, including trees, on site and within (50) feet, with an indication as to which will be retained and which removed or altered by earth changes.
- G. Zoning classification of site and surrounding properties.
- H. Required setback lines, R.O.W. lines and any variance to be requested.
- I. Proposed building use, shape, dimensions, locations, lot area, floor coverage, lot coverage percentage, building height, and building elevations.
- J. Existing buildings and improvements on and adjacent to the subject parcel within fifty (50) feet.
- K. Existing and proposed grades and drainage systems and structures with topographic contours at intervals not exceeding two (2) feet vertical. Show bench mark location and location of site retained water with calculations.

- L. Required number, proposed number and location of parking spaces, maneuvering lanes, driveways, loading areas, and their dimensions and proposed points of access to the site from public streets and alleys. Minimum parking space as required in Article XIV.
- M. Proposed location of walkways, landscaped areas recreational areas, open space, screen walls and greenbelts.
- N. Written documentation prepared by a registered civil engineer indicating that the peak rate of Stormwater runoff after development will not exceed the peak rate of Stormwater runoff occurring before development (for a storm with a twenty-five (25) year frequency and twenty-four (24) hour duration.)
- O. Any other information necessary to establish compliance with the Ordinance.

Sec. 9.18

Impact Assessments

With each Special Land Use Permit, Planned Unit Development or Condominium Project Permit Application, a written impact assessment shall be submitted including the following information:

- A. A written description of the environmental characteristics of the site prior to development, i.e., topograph, soils, vegetative cover, drainage, and other natural features.
- B. Types of uses and other man-made facilities.
- C. The number of people to be housed or employed, visitors or patrons and vehicular and pedestrian traffic.
- D. Phasing of the project including ultimate development proposals.
- E. Natural features which will be retained, removed and/or modified including vegetation, drainage, hillsides, wetlands, woodlands, wildlife and water. The description of the areas to be changed shall include their effect on the site and adjacent properties. An aerial photo may be used to delineate the areas of change.
- F. The method to be used to serve the development with water and sanitary sewer facilities.
- G. The method to be used to control drainage on the site and from the site.

- H. If public sewers are not available to the site the applicant shall submit a current approval from the Health Department or other responsible public agency indicating approval of plans for sewage treatment.
- I. The method to be used to control any increase in effluent discharge to the air or any increase in noise level emanating from the site.
- J. An indication of how the proposed use conforms with existing and potential development patterns or any adverse effects.
- K. Description of measures to control soil erosion and sedimentation during grading and construction operations and until a permanent ground cover is established.
- L. Type, direction, shielding and intensity of outside lighting.
- M. General description of deed restrictions, if any.
- N. Name(s) and address(es) of person(s) responsible for preparation of statement.
- O. The “environmental provisions” of Article XVI shall be met with applicable.

Sec. 9.19

Special Land Use Permit: Requirements

The requirements and standards for Special Land Use approval are specified below. In addition, the specific standards for the various land uses and activities eligible for approval consideration are specified in Article XI of this Ordinance.

Before approving a Special Land Use Permit application, the Issuing Authority shall apply the following standards, and shall find adequate evidence that each use on the proposed location will:

- A. Be compatible with adjacent land use, the natural environment and the capacities of public services and facilities affected by the land use.
- B. 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, and residents and landowners immediately adjacent to the proposed land use or activity.

- C. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
- D. Meet the intent and purpose of this Zoning Ordinance.
- E. Be requested by an applicant who may legally apply for the site plan review and has submitted all required information.
- F. Be a development, exclusive of Planned Unit Developments, which conforms to all regulations of the zoning district in which it is located.
- G. Meet the requirements for a fire protection, water supply and sewage disposal or treatment.
- H. Meet the standards of other governmental agencies, where applicable, and that the approval of these agencies has been obtained or is assured.
- I. Designed such that natural resources will be preserved to a maximum feasible extent and that areas to be left undisturbed during construction shall be so indicated on the site plan and at the site per se.
- J. Not too hazardous or disturbing to existing or future uses in the same general vicinity and will be a substantial improvement to the property.
- K. Be constructed where soil conditions are suitable for excavation and site preparation.
- L. Not cause soil erosion, sedimentation or ground water pollution problems.
- M. Be designed to handle anticipated storm water runoff, and will not cause runoff onto neighboring property or overloading of water courses in the area.
- N. Not destroy the character of the property or the surrounding area, and will not adversely affect the adjacent or neighboring properties.
- O. Not disrupt air drainage systems necessary for agricultural uses.
- P. Be designed such that phases of development are in a logical sequence, so that any one phase will not depend upon a subsequent

phase for adequate access, public utility services, drainage or erosion control.

- Q. Be designed such that the plan provides for the proper expansion of existing infrastructure and will not create excessive additional requirements at public cost for public facilities and services.
- R. Provide for landscaping, fences or walls, if required in pursuance of the objectives of this Ordinance.
- S. Provide that parking layout will not adversely affect the flow of traffic within the site, or to and from the adjacent streets.
- T. Provide that vehicular and pedestrian traffic within the site, and in relation to streets and sidewalks serving the site, shall be safe and convenient.
- U. Provide that outdoor storage of garbage and refuse is contained, screened from view and located so as not to be a nuisance to the subject property or neighboring properties.
- V. Not involve uses, activities, processes, materials, and equipment or conditions of operation that will be detrimental to any persons, property, or the general welfare by fumes, glare, odors, noise, dust smoke, vibration, light encroachment, or waste.
- W. Provide that the proposed development is in accord with the spirit and purpose of this Ordinance and not inconsistent with, or contrary to, the objectives sought to be accomplished by this Ordinance and the principles of sound planning.

Sec. 9.20

Written Decision

Any decision made by the Issuing Authority regarding an appeal or variance or issuance or revocation of a Special Land Use, Planned Unit Development Permit, or Condominium Project permit shall be reduced to writing and served upon the applicant or appellant within fourteen (14) days of the date of decision.

PART III: HEARING PROCEDURES: APPEALS AND APPLICATIONS

Sec. 9.21

Appeals and Application

- A. Before making a decision on an appeal, an application for a variance, Special Land Use Permit, Planned Unit Development or Condominium Project Permit, the Issuing Authority shall hold a hearing on the appeal or application.

- B. Subject to Subsection (C), the hearing shall be open to the public and all persons interested in the outcome of the appeal or application shall be given an opportunity to present evidence and arguments.
- C. The Issuing Authority may place reasonable and equitable limitations on the presentation of evidence and arguments.
- D. The Issuing Authority may continue the hearing until a subsequent meeting and may keep the public presentation portion of the hearing open to take additional information up to the point a final decision is made. No further notice of a continued hearing need be published when the subsequent hearing date is set during the open session of the hearing and there is continued compliance with the Open Meetings Act (Public Act 267 of 1976, as amended).

PART IV: COMPLAINTS AND VIOLATIONS

Sec. 9.22

Complaints Regarding Violations

Whenever the Zoning Administrator becomes aware of or receives a complaint alleging a violation of this Ordinance, the Zoning Administrator shall investigate the complaint, take whatever action is warranted and inform the complainant what actions have been or will be taken.

Sec. 9.23

Persons Liable

The owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent or other person who participates in assists, directs, creates, or maintains any situation that is contrary to the requirements of this Ordinance may be held responsible for the violation and suffer the penalties and be subject to the remedies herein provided.

Sec. 9.24

Procedure Violations

If the Zoning Administrator becomes aware of or receives a complaint of an alleged violation, the process shall be as follows:

- A. Complaints shall be made in writing and signed and the complaint form shall be assigned a number.
- B. A preliminary visit shall be made at the site to identify the alleged violation.
- C. If a violation is identified, the landowner and/or contractor shall be informed, in writing, of the nature of the violation, informed of the action necessary to correct the violation and the date when the

compliance is to be completed. The owner or contractor shall also be informed of their right to appeal the decision of the Zoning Administrator. This action may be taken in person or by certified mail.

- D. Where the violation is one of unlawful construction, reconstruction, or removal, a “Stop Work” notice form shall be attached to the site or delivered to the contractor or owner. The owner or owner’s agent shall also be informed of their right to appeal the decision of the Zoning Administrator.
- E. The site of the alleged violation shall be re-inspected on the date when the owner or contractor was informed compliance was to be completed.
- F. If compliance has not been completed, and an appeal of the decision of the Zoning Administrator has not been filed, the Village Council shall be informed, to determine further action.

Sec. 9.25

Penalties and Remedies

- A. Any person, persons, firm or corporation or anyone acting on behalf of said person, persons, firm or corporation violating any of the provisions of this Ordinance shall, upon conviction thereof, be subject to a fine of not more than five hundred dollars (\$500) or to imprisonment in the county jail for a period of not more than ninety (90) days, or both, at the discretion of the court. Each day that a violation of this Ordinance is continued or permitted to exist without compliance shall constitute a separate offense punishable upon conviction in the manner prescribed in this Section.

Sec. 9.26

Permit Revocation

- A. A land use, Special Land Use, Planned Unit Development or Condominium Project Permit may be revoked by the Issuing Authority if the permit recipient fails to develop or maintain the property in accordance with the plans submitted, the requirements of this chapter or any additional requirement lawfully imposed by the Issuing Authority.
- B. Before a Land Use Permit may be revoked, the owner, contractor or alleged violator shall be notified of the reason for such revocation and their right to appeal the decision of the Zoning Administrator to the Village Council or Zoning Board of Appeals, if such exists.



- C. Before a Special Land Use Permit, Planned Unit Development or Condominium Project Permit may be revoked, the permit recipient shall be given a ten (10) day advance notice of intent to revoke along with the alleged reasons for the revocation and the right to obtain an informal hearing on the allegations. If the permit is revoked, the Zoning Administrator shall provide the permittee a written statement of the decision and the reasons therefore.
- D. No person may continue to make use of land or buildings in the manner authorized by any Land Use, Special Land Use, Planned Unit Development or Condominium Project Permit after such permit has been revoked in accordance with this Section. (Also see Sec. 9.24)

Sec. 9.27

Time Period for Judicial Review

A person having an interest affected by a decision of the Village Council or Zoning Board of Appeals, may appeal to the Circuit Court for the County of Benzie. All such appeals shall be file with the Benzie County Clerk, within twenty-one (21) calendar days after the date the written decision is signed by the Chairperson and Secretary of the Village Council.

ARTICLE X

CONDITIONAL USES

Sec. 10.1

Intent and Purpose

Some uses require certain specific exceptions or conditions.

Sec. 10.2

Home Occupations

Home Occupations: May be carried on in residential districts under the following conditions:

Customary home occupations such as but not necessarily limited to, hairdressing, millinery, dressmaking, bookkeeping and accounting, real estate and insurance sales when carried on by the occupant provided that no more than six hundred (600) square feet of area is used for said purpose, no outdoor activities are carried on in connection with such use, and traffic is no greater than that of a normal residence while having company.

Professional office for occupancy by not more than one (1) physician, dentist, attorney, architect, engineer or similar recognized professional practitioner with not more than one (1) full-time equivalent employee.

Such occupations or uses are intended to provide reasonable flexibility, but a permit shall not be granted if the essential character of a lot or structure within a Residential District in terms of use or appearance, will be changed significantly, however a non-illuminated sign, not more than eight (8) square feet in area, and in keeping with the neighborhood is permitted.

Sec. 10.3

Swimming Pools

Private Swimming Pools shall be permitted as an accessory use, subject to the following restrictions:

- A. Private pools shall meet required yard setbacks.
- B. There shall be a distance of not less than six (6) feet between the outside pool wall and any building located on the same lot.
- C. For the protection of the general public, swimming pools shall be completely enclosed by a fence not less than four (4) feet in height capable of excluding children and small animals and containing gates of a self-enclosing or latching type. Gates shall be capable of being securely locked when the pool is not in use.

Sec. 10.4

Model Homes

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

Sec. 10.5

Mobile Homes

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

A mobile home must also comply with the minimum dimensional requirements established in Section 3.8 and 3.9 of this Ordinance.

1. Mobile homes shall be permitted subject to the provisions and requirements hereafter set forth.
2. Qualifying Conditions:
  - a. Each mobile home shall bear a label required by Section 3232.362(c)(2) of the Federal Mobile Home Procedural and Enforcement Regulations.
  - b. Each mobile home shall be installed pursuant to the manufacturer's setup instruction and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission.
  - c. Within ten (10) days following installation, all towing mechanisms shall be removed from each mobile home or concealed or disguised from view. No mobile home shall have any exposed undercarriage or chassis.
  - d. Each mobile home shall have footings and a perimeter wall of conventional building materials which shall prevent the entrance of rodents, control heat loss and contribute to aesthetic compatibility with surrounding structures.
  - e. All construction and all plumbing, electrical apparatus and insulation, within and connected to each mobile home, shall be of a type and quality conforming to the Mobile Home Construction and Safety Standards: as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, as from time to time amended. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.
  - f. Exterior Finish; Light Reflection: Any materials that are generally acceptable for housing built on the site may be used for exterior finish if applied in such a manner as to be similar in appearance; provided, however, that reflection from such exterior shall not be greater than from siding coated with clean, white, gloss, exterior enamel.
  - g. Each mobile home shall be aesthetically compatible in design and appearance with other residences, particularly with regard to foundation treatment, siding and roofing

materials and perimeter walls. Compatible materials such as siding, screen walls, etc., may be added.

Sec. 10.6            Non-Commercial Storage  
Non-commercial storage building, shall not be allowed in the R-1 or R-2 Districts without the presence of the foundation for a principal use structure.

Sec. 10.7            Antennas and Satellite Dishes  
Satellite Dishes, wherever possible, shall be located in the rear yard or side yard, but shall conform to the setback requirements, be bonded to a grounding rod, and shall be designed to withstand a wind force of seventy-five (75) miles-per-hour.

## ARTICLE XI

### SPECIAL LAND USE PERMITS: SUPPLEMENTARY USE REGULATIONS

Sec. 11.1            Supplemental Regulations  
This Article establishes the supplemental regulations for the issuance of Special Land Use Permits. Prior to the issuance of a Special Land Use Permit, the Issuing Authority must find that in addition to the standards specified in Article IX, that these specific supplemental regulations are also met.

Sec. 11.2            Bed and Breakfast Establishments

A.     Statement of Intent: It is the intent of this subsection to establish reasonable standards for Bed and Breakfast Establishments to assure that:

1.     The property is suitable for transient lodging facilities.
2.     Both the use and character of the lot is compatible with others in the same district.
3.     Adjacent and nearby private lands shall not be subject to increased trespass.
4.     The impact of the establishment is no greater than that of a private home with house guests.

B.     The following requirements for Bed and Breakfast Establishments together with any other applicable requirements of this Ordinance shall be complied with:

1. Off-street parking shall be provided in accordance with Article XIV of this Ordinance.
2. One non-illuminated sign in accord with Section XIII.
3. The residence shall be the principal dwelling unit on the property and shall be owner-occupied at all times.
4. The residence shall have at least two (2) exits to the outdoors.
5. The rooms utilized for sleeping shall be a part of the primary residential use and not specifically constructed for rental purposes.
6. The rental sleeping rooms shall have a minimum size of one hundred (100) square feet for each two (2) occupants with an additional thirty (30) square feet for each additional occupant, to a maximum of four (4) occupants per room.
7. Proof of evaluation of the water and septic/sewer system by the health department shall be supplied by owner/occupant when applicable.
8. The Issuing Authority shall require that a floor plan drawn to an architectural scale of not less than one-eighth inch (1/8") = one (1) foot be on file with the fire department.
9. In the event that noise generation may be disturbing to neighbors, or that the location of the establishment is an area where trespass onto adjacent properties is likely to occur, then the Issuing Authority may require that fencing and/or planting buffer be constructed and maintained.
10. Rental of snowmobiles, ATV's or similar vehicles, boats and other marine equipment, in conjunction with the operation of the establishment shall be prohibited.
11. A Special Land Use Permit shall not be granted if the essential character of a lot or structure within the district, in terms of use, traffic generation or appearance will be changed substantially by the occurrence of the Bed and Breakfast use.

Sec. 11.3

Boarding Houses

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

- B. No more than three (3) individuals shall be accommodated in any single residence.
- C. Such uses shall be carried out in an inconspicuous manner so that the nature of activities related to the residence to not differ significantly from activities related to normal residential uses in the districts.

Sec. 11.4

Building Material Dealers

Outdoor display of individual pieces of equipment may be allowed in areas so designed in the site plan as approved provided the display area has been designed and constructed as part of the overall site improvements. Display areas shall be suitably landscaped. Such landscaping shall include shrubs and trees in sufficient quantity to mitigate any adverse impact of the outdoor display.

Sec. 11.5

Automotive Service Installations

Automotive service facilities are defined as places to provide maintenance and minor repairs or replacement parts to automotive equipment, such as tires, mufflers, tune-ups, electrical repairs, etc., but not including pumping of gasoline or diesel fuels nor major repairs to engines or drive trains.

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

Sec. 11.6

Gasoline Service Stations

- A. Statement of Intent: Facilities to serve motor vehicles are of considerable importance within the Village, where the basic mode of transportation is the automobile. It is the intent of this Section to exercise a measure of control over service station building and their sites, and to establish a basic set of standards which will minimize traffic congestion and safety hazards including an emergency containment plan for spillage of petroleum products.
- B. Uses Permitted: Gasoline Service Stations, as defined in Article II, provided all uses and services are conducted within a completely enclosed building.

- C. Site Development Requirements: The following requirements for site development together with any other applicable requirements of this Ordinance shall be complied with:
  - 1. Site Location: The proposed site shall have at least one (1) property line on a major thoroughfare.
  - 2. Building Setback: The service station building or buildings shall be set back fifty (50) feet from all street right-of-way lines and shall not be located closer than twenty-five (25) feet to any property line in a residential district.
  - 3. Access Drives: No more than two (2) driveway approaches shall be permitted directly from any major thoroughfare nor more than one (1) driveway approach from any other public street.
    - a. Driveway approach widths shall not exceed thirty-six (36) feet measured at the property line.
    - b. Driveways shall be located as far from the street intersections as practical, but no less than fifty (50) feet.
    - c. No driveway or curb cut for a drive-way shall be located within ten (10) feet of an adjoining property line.
    - d. Any two (2) driveways giving access to a single street shall be separated by an island with a minimum dimension of twenty (20) feet.
    - e. Lighting: Exterior lighting shall be so arranged that light is deflected away from adjacent properties.
    - f. Signs: As provided in Article XIII.
    - g. Off-Street Parking: As provided in Article XIV.

Sec. 11.7

Hotels, Motels, Tourist Courts, and Resorts

- a. It is the purpose of this section to establish reasonable requirements for transient lodging facilities, exclusive of bed and breakfast establishments. It is intended that these regulations will provide for such facilities in the Village that are appropriate in scale and location so as to not create undue traffic congestion, noise or other interference with the predominantly rural and residential character of the Village.
- b. Qualifying Conditions:

1. Minimum Floor Area: Each guest unit shall contain not less than two hundred fifty (250) square feet of floor area.
2. Maximum Lot Coverage: All buildings, including accessory buildings, shall not occupy more than fifty (50) percent of the net area within property lines.
3. Minimum Yard Dimensions: All buildings shall meet all setback requirements.
4. Maximum Building Height: The maximum building height shall be two (2) stories, but not to exceed thirty (30) feet.
5. Site Screening: The site may be enclosed by open structure wood or wire fences along any yard line, but shall not exceed six (6) feet in height. Shrubs and/or trees may be used to screen alone or in combination with structural screens. No screening shall in any way impair safe vertical or horizontal site distance for any moving vehicle. Screening at least four (4) feet high shall be erected to prevent headlight glare from shining on adjacent property.
6. Lighting: No lighting shall have a source of illumination or light lenses visible outside the property line of the parcel of lot, and shall in no way impair safe movement of traffic on any street or highway.
7. Accessory Uses: Uses such as swimming pools and other outdoor recreational uses, meeting rooms, restaurants, taverns or bars, and a caretaker or proprietor's residence shall be permitted provided that these uses are located on the same site as the principal use to which they are accessory. Appropriate permits shall have been obtained from regulating agencies.
8. Water and Sewage System: Proof of acceptability of the water and septic/sewage system by the health department shall be supplied by owner when applicable.
9. A floor plan drawn to a scale of not less than  $1/8'' = 1'$  shall be on file with the appropriate fire department.

Sec. 11.8

Institutional Structures

Authorization: The Issuing Authority may authorize the construction, maintenance and operation. Such institutional uses are limited to the following:



- A. Religious Institutions: Churches or similar places of worship, convents, parsonages and parish houses, and other housing for clergy.
- B. Educational and Social Institutions: Public and private schools, auditoriums and other places of assembly, and centers for social activities.
- C. Public Buildings: Publicly owned and operated buildings and public utility buildings and structures.
- D. Human Care Institutions: Hospitals, sanitariums, nursing or convalescent homes and homes for the aged.
- E. Animal Care Institutions: Veterinarian offices, laboratories and boarding facilities for large and small animals.

Such institutions shall meet the following requirements:

- 1. Be designed to be compatible and appropriate in scale and character with existing or planned surrounding developments.
- 2. Have entrance and exit drives directly onto a public highway or street.
- 3. Have lighting designed to be unobtrusive to neighboring properties.
- 4. Structures of other than residential scale shall observe a twenty-five (25) foot setback from residential uses.

Sec. 11.9

Marinas and Canoe Liveries

- A. All site shall be located on a major thoroughfare and all ingress and egress to the site shall be from said thoroughfare.
- B. All points of entrance or exit for motor vehicles shall be located no closer than fifty (50) feet from the intersection of any two (2) streets or highways.
- C. Whenever any use permitted herein abuts property within any Residential District, a buffer strip shall be provided between all operations and structures, and the residential property. Plant materials, grass and structural screens or fences of an approved type shall be placed within said transition strip.

Sec. 11.10

Amusement Arcades

Mechanical amusement arcades may be permitted subject to the following conditions:

- A. Adequate lighting inside and outside the premises shall be provided for the safety of patrons and the public.
- B. All off-street parking, loading and public street access requirements shall be provided as required by Article IIV of this Ordinance.
- C. Bicycle racks shall be provided on-site within twenty-five (25) feet of any arcade.
- D. During periods when the school system is in normal session, excluding holidays and other vacations, no game arcade shall be open for business except between the hours of 10 A.M., and 10 P.M., on Sundays through Thursdays; and between the hours of 10 A.M., and 12 midnight Fridays and Saturdays.

Sec. 11.11

New and Used Auto, MC, RV, and Boat Dealers

- A. Outdoor display of individual pieces of equipment may be allowed in areas so designed in the site plan as approved provided the display area has been designed and constructed as part of the overall site improvements. Display areas shall be suitably landscaped. Such landscaping shall include shrubs and trees in sufficient quantity to mitigate any adverse impact of the outdoor display.
- B. Servicing and repairs shall be conducted only within a totally enclosed building.

Sec. 11.12

Shopping Centers

- A. The owner or owners of a tract of land which comprises two (2) acres or more may request site plan approval for a Planned Shopping Center. Such request shall also be accompanied by the following evidence and supporting data, without which an application shall not be accepted:
  - 1. A market analysis by a recognized, reputable market analyst setting forth conclusively economic justifications and needs for the establishment of a center of the type and size proposed by the applicant.
  - 2. A traffic survey prepared by qualified experts indicating the effects of the proposed shopping center on adjacent streets and also

indicating the anticipated points of origin, direction, and amount of traffic flow to and from the proposed center.

3. A list of proposed uses to be included in the proposed center, with the area of each to be devoted to retail space.
  4. A statement of financial responsibility to assure construction of the Planned Shopping Center in accordance with the site plan and the requirements of this Section.
- B. Site Development Requirements: All permitted activities shall be conducted entirely within wholly enclosed permanent building (s), except as noted in the following:
1. The parking of customers' and employee's automobiles.
  2. The loading and unloading of commercial vehicles, which must take place directly into or out of a building.
  3. Temporary exhibitions and special quasi-civic events, provided they are conducted in spaces designated for such possible purposes on the final plans submitted with the application for a building permit, and provided further that they may not be operated for a profit.
  4. Recreational facilities, incidental to the center's principal operations, normally conducted out-of-doors, provided there may be no admission charge.
  5. Gasoline service stations, provided that they conform to site development requirements of Section 11.6.
  6. Outdoor eating or other supplemental sales areas, provided they are approved by the Issuing Authority.
- C. Parking Areas and Circulation: All automobile parking areas and interior circulation for motor vehicles shall be designed in accordance with the following requirements:
1. Any individual parking space in the center shall be accessible by clearly demarcated walks from the shopping area.
  2. Automobile, pedestrian, and truck traffic shall be separated to the fullest possible extent.

3. Automobile circulation design shall provide for access to parking areas in such a way that there shall be no backing up of traffic into any external street under conditions of anticipated maximum center-destined traffic.
4. All areas accessible to vehicles or pedestrians shall be illuminated.
- D. Access to the shopping center shall be provided by at least one (1) direct access from a major thoroughfare, and all access points to an external street or streets shall be fully capable of absorbing the maximum hourly traffic anticipated to be generated by the center.
- E. Surface Improvements: All areas accessible to vehicles shall be paved and maintained so as to provide a permanent, durable, and dustless surface; and shall be so graded and provided with adequate drainage facilities that all collected surface water is properly handled.
- F. Structure Location: No structure, with the exception of permitted signs, fences, walls and light standards, shall be located closer to any property line of the center than a distance equal to twice its height.
- G. All signs within the center shall conform to the provisions of Article XIII.
- H. Lighting: All outdoor lighting shall be accomplished in such a manner that no illumination sources are visible outside the shopping center property lines.
- I. Transition Strips: All planned shopping centers when located adjacent to a residential district, shall be buffered with a vegetative strip.

Sec. 11.13

Light Manufacturing, Warehousing, Commercial Storage

- A. Enclosed buildings: Activities shall be carried on in completely enclosed buildings. Storage may be permitted out-of-doors, provided that within twenty-five (25) feet of any residential use, all storage shall be in completely enclosed buildings. All outdoor storage shall be effectively screened by a solid, uniformly finished wall or fence with solid entrance and exit gates, such fence or wall shall be at least six (6) feet in height. Such storage shall not be deemed to include the parking of licensed motor vehicles under one (1) ton rated capacity.

- B. Noise emanating from a use shall not exceed Seventy (70) decibels at the boundaries of the lot.
- C. Uses in this district shall conform to the following standards:
  - 1. Emit no obnoxious, toxic or corrosive fumes or gases which are harmful to the public health, safety or general welfare; except for those produced by internal combustion engines under designed operating conditions.
  - 2. Emit no smoke, odorous gases, or other odorous matter in such quantities as to be offensive at or beyond any boundary of the uses of the parcel.
  - 3. Discharge into the air no dust or other particulate matter created by any industrial operation or emanating from any products stored prior to or subsequent to processing.
  - 4. Produce no heat or glare humanly perceptible at or beyond the lot boundaries.
  - 5. Discharge no radioactive materials that exceed quantities established by the U.S. Bureau of Standards.
  - 6. Does not include in the manufacturing process any production or storage of any material designed for use as an explosive, nor in the use of any such material in production.

## ARTICLE XII

### PLANNED UNIT DEVELOPMENTS

#### Sec. 12.1

##### Intent

It is the purpose of this section to permit the Village flexibility in the regulation of land development and to encourage innovation and variety in land use and design of projects of sufficient size to be considered self-contained to the extent the project is physically and visually separated from other land uses in the immediate vicinity, is not an integral part of other already developed or committed land uses, is directly accessible from a public road and will not have any unreasonably adverse economic, social, or environmental impact on surrounding land uses. Planned Unit Developments may be located anywhere in the Village except in the R-1 zoning district upon the issuance of a Planned Unit Development Permit. The following objectives shall be considered in reviewing any application for a Planned Unit Development Permit:

- A. To permit flexibility in the regulation of land development;
- B. To encourage innovation in land use and variety in design, layout and type of structures;
- C. To achieve economy and efficiency in the use of land, natural resources, energy and the providing of public services;
- D. To encourage useful open space; to provide improved housing, employment and shopping opportunities particularly suited to the needs of the Village;
- E. To encourage the innovative reuse and improvement of existing sites and buildings.

Sec. 12.2

Dimensional & Use Regulations

In acting upon the application, the Issuing Authority may alter and establish lot size limits, required facilities, buffers, open space areas, density limits, setback requirements, height limits, building size limits, off-street parking regulations, landscaping rules, miscellaneous regulations and density and intensity limits where such regulations or changes are consistent with the intent of this article and the standards set forth herein.

The Issuing Authority may also authorize principal and other uses not permitted in the district where the land is located, provided that such are consistent with the intent of this Ordinance and the standards set forth herein. Dimensional and parking use restrictions of the underlying zoning shall not apply to the area within an approved PUD unless expressly retained in the Permit.

Sec. 12.3

Eligibility

A Planned Unit Development is intended to accommodate developments; (a) with mixed or varied uses, (b) sites with unusual topography or unique settings within the community, or (c) on land which exhibits difficult and costly development problems. Approval will not be granted when the Planned Unit Development is sought primarily to avoid the imposition of standards and requirements of existing zoning classifications rather than to achieve the objectives of this Ordinance. Additionally, no Planned Unit Development shall be approved unless it is demonstrated that the land use and development meets the following standards:

- A. The benefits of the development are not achievable under any single zoning classification;
- B. The site shall be self-contained;

- C. The use and development is warranted by the provision of additional amenities which would not otherwise be provided in a conventional development;
- D. The development consolidates and maximizes usable open space;
- E. Landscaping is provided to ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property and to create a pleasant pedestrian scale outdoor environment;
- F. Vehicular and pedestrian circulation, allowing safe, convenient, uncongested and well-defined circulation to and within the development shall be provided;
- G. Existing important natural, historical and architectural features within the development shall be preserved.

Sec. 12.4

PUD Applications

- A. All land for which application is made must be owned or under control of the applicant and the parcel must be capable of being planned and developed as one integral land use unit. Non-contiguous parcels may be considered. The application must be signed by all applicants.
- B. The applicant shall also provide the following information:
  - 1. A plan identifying the location and type of vegetation.
  - 2. Developer intent and objectives (physical, social and environmental.)
  - 3. A description of all exterior building materials.
  - 4. Population profile for the development.
  - 5. proposed financing.
  - 6. Impact of development on local streets, natural environmental features, schools and utilities.
  - 7. Market and economic feasibility.
  - 8. Such other information pertinent to the development of use.
  - 9. Proposed phases of the development.

Failure of the applicant to provide such requested information in a timely manner may be grounds for denial of the application.

Sec. 12.5

PUD Procedure

- A. A planned Unit Development application shall be submitted to the Zoning Administrator for review and recommendation.
- B. After review, the Zoning Administrator shall submit a written recommendation to the Issuing Authority. A public hearing shall be held by the Issuing Authority for each Planned Unit Development request properly filed under the terms of this Ordinance. Due notice of the public hearing shall be given.
- C. The issuing Authority may deny, approve or approve with conditions, a request for a Planned Unit Development. The decision on a Planned Unit Development under consideration shall be incorporated in a statement containing the conclusions which specified the basis for the decision and any condition imposed.
- D. Planned Unit Development Decision: If the Issuing Authority determines that the application is consistent with the intent and qualifying conditions of this Article, it shall enter an order authorizing development and use in accordance with the application and material submitted, modified as the Issuing Authority may consider necessary to carry out the purposes of this Ordinance and to protect the public health, safety and welfare. The order shall recite the finding of fact and the reasons upon which it is based.
- E. PUD Effect: After the approval of a Planned Unit Development, the land to which it pertains shall be developed and used in its entirety only as authorized and described in the order approving the Planned Unit Development.
- F. Phased PUD's: Planned Unit Developments may be constructed in phases provided the first phase must stand on its own without the construction of subsequent phases.
- G. Amendment: An order approving a Planned Unit Development may be amended according to the provisions of Section 9.8.
- H. Cancellation: The PUD order shall expire one (1) year from the date of final approval if the applicant has not commenced actual construction. The Issuing Authority shall have the right to extend an order for one (1) additional year. An order may be canceled by



written agreement executed by the owner of the land to which it pertains. The PUD order may be rescinded at any time by the Issuing Authority for violation of the order by the applicant, its successors, agents or assigns after notice to the current owners and occupants of the PUD area and after a hearing on the violation. Upon cancellation, the zoning requirements shall revert to the current requirements for the zoning district designated for the property prior to the order.

- I. Ordinance Amendment: A Planned Unit Development approval shall not be considered an Ordinance amendment.

Sec. 12.6

Conservation Easements

All PUD's with designated open space; historical, unique, or significant habitats; and public, outdoor, recreational areas shall have a mechanism approved by the Issuing Authority to ensure that resource or use is preserved in perpetuity, such as a conservation easement or deed restriction.

- a. Deed restrictions shall be filed with the county Register of Deeds, shall run with the land, and shall be enforceable by both the property owner (s) and the Village.
- b. Conservation easements shall be conveyed to an approved agency or organization and shall be enforced by the holder for public benefit. The conservation easement shall state the permitted and restricted activities to be approved in perpetuity by the easement holder and shall contain the following information:
  - 1. A completed conservation easement agreement that is signed by the easement grantor and holder.
  - 2. An appraisal, signed and notarized by a licensed appraiser, that identifies each restrictive and permissive regulation of the easement and the effect the regulation will have on the value of the property in relation to the property's value prior to the granting of the easement.
  - 3. A copy of the site plan, as required within this section, that shows the location, extent, and type of areas included in the conservation easement.

ARTICLE XIII

SIGNS

Sec. 13.1

Purpose

- A. The purpose of this Article is to regulate commercial and non-commercial outdoor signs in a manner which: recognizes the mass communications needs of both businesses and other parties; protects property values and neighborhood character; creates a more attractive business climate; promotes pedestrian and traffic safety by reducing sign distractions, obstructions and other hazards; and promotes pleasing community environmental aesthetics.
- B. Compliance with this Ordinance does not relieve the applicant of the responsibility for compliance with other county, state or federal sign regulations, nor does the issuance of a land use permit grant permission to the applicant to place signs on any property, including road rights-of-ways other than property owned or otherwise legally under the control of the applicant. The issuance of a land use permit only assures the applicant that the sign meets the requirements of the Village of Benzonia Zoning Ordinance.

Sec. 13.2

Permit Required

Except as otherwise provided in Sections 13.3 and 13.4 no sign may be constructed, erected, moved, enlarged, illuminated or substantially altered unless a Land Use Permit has been issued in accordance with the provisions of this Ordinance. Mere repainting or changing the message of a sign shall not in and of itself be considered a substantial alteration.

Sec. 13.3

Signs Excluded From Permit

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

- A. One (1) sign not exceeding eight (8) square feet in sign face area that is customarily associated with residential use and that is not of a commercial nature, such as signs giving property identification names or numbers of names of occupants, signs such as 4-H Clubs group memberships.
- B. Signs not exceeding four (4) square feet in sign face on mailboxes or newspaper tubes, and signs posted on private property relating to private parking or warning the public against trespassing or danger from animals.
- C. Signs erected by or on behalf of or pursuant to the authorization of a governmental body, including legal notices, identification, and informational signs, including historical markers, traffic, directional, and regulatory signs.

- D. Office signs of a non-commercial nature erected by public utilities.
- E. Flags, or insignia of any governmental or non-profit organization when not displayed in connection with a commercial promotion or as an advertising service.
- F. Integral decorative or architectural features of buildings or work of art, so long as such features or works do not contain letters, trademarks, moving parts or lights.
- G. Signs directing and guiding traffic on private property that do not exceed four (4) square feet each and that bear no advertising matter.
- H. Informational signs not exceeding one (1) square foot in sign face.
- I. A total of two (2) banners, one (1) banner and one (1) commercial advertising flag, or two (2) commercial advertising flags, each such banner or commercial advertising flag not to exceed twenty-four (24) square feet in sign face, used to attract attention to a community activity or event.
- J. Street name signs located in accord with Road Commission standards at street intersections, not to exceed one (1) square foot in sign face.

Sec. 13.4

Temporary Signs: Permit Exemptions

- A. The following temporary signs, related to temporary land uses, are permitted without a land use permit. However, such signs shall conform to the requirements set forth herein as well as all other applicable requirements of this Article.
  - 1. Real estate signs: Signs containing the message that the real estate on which the sign is located (including buildings) is for sale, lease or rent, together with information identifying the owner or agent. Not more than one such sign shall be erected per site, shall not exceed six (6) square feet in sign face area, and shall be removed within ten (10) days after sale, lease or rental.
  - 2. Construction site identification signs: Such signs may identify the project, the owner or developer, architect, engineer, contractor and subcontractors, funding sources, and may contain related information including, but not limited to, sale or leasing information. Not more than one such sign, not exceeding thirty-two (32) square feet in sign face area, shall be erected per site. In

the place of the one large sign up to four (4) individual smaller signs may be erected on the site, upon the condition that each such smaller sign shall not exceed four (4) square feet in sign face area.

3. Political Signs: Signs erected in connection with elections or political campaigns. Such signs shall be removed within three (3) days following the election or conclusion of the campaign. No such sign may exceed four (4) square feet in sign face area.
4. Special temporary event signs: One sign not exceeding twenty-four (24) square feet in sign face indicating a special temporary event such as a carnival, circus, festival or similar event, placed on the lot where the activity is to take place. Such signs may be erected not sooner than two (2) weeks before the event and must be removed not later than three (3) days after the event.
5. Seasonal commodity signs: Seasonal commodity signs shall not have a total sign face greater than thirty-two (32) square feet.

Such signs shall not be set in place until one (1) week before the beginning of the harvest season.

6. Yard sale signs or other similar temporary activity sign not covered in the foregoing categories, so long as such signs meet the following restrictions:
  - a. Not more than one (1) such sign may be located on any lot.
  - b. No such sign may exceed four (4) square feet in surface area.
  - c. Such signs shall be erected not more than three (3) days prior to the event and shall be removed immediately following the event.
- B. Other temporary signs, not listed in subsection (A), shall be regarded and treated in all respects as permanent signs.

Sec. 13.5

Determining the Number of Signs

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

- B. A two-sided or multi-sided sign shall be regarded as one (1) sign so long as:
  - 1. With respect to a V-type sign, the two (2) sides are at no point separated by a distance that exceeds five (5) feet; and
  - 2. With respect to double faced (back to back) signs, the distance between the backs of each face of the sign does not exceed three (3) feet.

Sec. 13.6

Computation Sign Area

- A. The sign face area of a sign shall be computed by including the entire area within a single, continuous, perimeter of not more than eight (8) straight lines, or a circle or an ellipse, enclosing the extreme limits of the writing, representation, emblem, or other display together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework or bracing that is clearly incidental to the display itself.
- B. If the sign consists of more than one (1) section or module, all of the area including that between sections or modules, shall be included in the computation of the sign face area.
- C. With respect to two-sided, multi-sided or three-dimensional signs, the sign face area shall be computed by including the total of all sides designed to attract attention or communicate information that can be seen at any one time by a person from one vantage point. Without otherwise limiting the generality of the foregoing:
  - 1. The sign face of a double-faced, back-to-back sign shall be calculated by using the area of only one side of such sign, so long as the distance between the backs of such signs does not exceed (5) feet.
  - 2. The sign face area of a double faced sign constructed in the form of a “V” shall be calculated by using the area of only one side of such sign (the larger side if there is a size difference), so long as the interior angle of the “V” does not exceed 30 degrees and at no point does the distance between the backs of such sides exceed five (5) feet.

Sec. 13.7

Signage Size Limits

- A. In addition to the sign-face limits stated above, the following limits also apply:

1. Commercial: Single Business – One pole or ground sign not to exceed forty (40) square feet of single sign face, plus one hundred (100) square feet of wall sign including marquee and projecting signage, and two, three (3) square-foot directional signs.
2. Commercial: Multiple Businesses – One pole or ground sign not to exceed forty (40) square feet of single sign face, plus one hundred (100) square feet of wall sign including marquee and projecting signage, and two, three (3) square-foot directional signs.
3. Institutional: One pole or ground sign not to exceed thirty-two (32) square feet of single sign face, plus twenty (20) square feet of wall sign including marquee, and projecting, and two, three (3) square-foot directional signs.
4. Agricultural: One pole or ground sign, not to exceed twenty (20) square feet of single sign face, plus one hundred (100) square feet of wall signage including marquee and projecting, and two, three (3) square-foot directional signs.
5. Lots in excess of one hundred (100) feet in width shall be allowed two-tenths (0.2) of one (1) square-foot of additional sign face for each one (1) foot of lot width in excess of one hundred (100) feet, to a maximum of three hundred (300) feet of total width, for a maximum of eight (80) square feet of sign face.

Should there be reasonable doubt as to whether a commercial development is a single lot multiple business or a business center, only the standards for one (1) development classification may be applied to any single development.

Sec. 13.8

Gasoline Service Stations

Automobile gasoline service stations, including any business selling gasoline, in addition to the principal signs may, attach two (2) other signs, not exceeding fifteen (15) square feet in display area, per side, to the column (s) of the pylon sign, advertising the price of gasoline or other accessory product sold on the premises, including the advertising of accepted credit cards.

Directional signs or lettering displayed over individual entrances or service bays, shall be permitted, provided they consist only of the words, “washing”, “lubrication”, “repairs” or “mechanic on duty” or similar words directly relating to motor vehicle services offered on the premises. Not more than one (1) such sign, per bay, shall be permitted and each sign shall not exceed four (4) square feet in total display area.

Sec. 13.9

Off Premise Highway Advertising Signs

Off Premise Highway Advertising Signs are those signs and sign structures which are defined and regulated by the Michigan Department of Transportation pursuant to the Highway Advertising Act of 1972, Public Act 106 of 1972, as amended. An off premise highway advertising sign is also defined as one which advertises a business, product or profession which is not located on the premises of the sign and are prohibited in the Village.

Sec. 13.10

Prohibited Signs

The following signs shall not be allowed in any District:

1. Signs that are not consistent with the standards of this Ordinance.
2. Signs which are not clean or in good repair,
3. Signs that are not securely affixed to a substantial structure.
4. Signs that resemble any official traffic sign or appear to attempt to direct the movement of traffic, or are located where they interfere with motorists view of intersections or driveways.
5. Revolving moving or flashing signs, pennants, banners, streamers and airborne devises.
6. Signs other than utility company signs attached to utility poles, and
7. Portable signs.
8. Off premises highway advertising signs.

Sec. 13.11

Sign Setbacks and Height Requirements

A. Setbacks: Except in the C-1 District, for the purpose of establishing sign setback requirements from an abutting roadway, the below listed types of signs shall be setback from the traveled surface of the roadway as follows:

<u>Sign</u>	<u>Feet</u>
Business Center	32

Construction Site	32
Entrance Way	27
Free Standing	32
Historical Marker	32
Home Occupation	32
Identification	32
Informational	42
Real Estate	22
Seasonal Commodity	22

- B. No sign may extend above any parapet or be placed upon any roof surface, except that for purposes of this section, roof surfaces constructed at an angle of seventy-five (75) degrees or more from horizontal shall be regarded as wall space. This subsection shall not apply to displays, including lighting, erected in connection with the observation of holidays on the roofs of residential structures.
- C. No wall sign attached to a building may project more than twelve (12) inches from the building wall.
- D. Regarding ground and pole signs, whenever possible, a ground sign shall be used, not to exceed eight (8) feet in height; however, when for safety reasons, a line of sight below the sign is needed, a pole sign, not to exceed twenty (20) feet may be permitted.

Sec. 13.12

Sign Illumination

- A. Unless otherwise prohibited by this Ordinance, signs may be illuminated if such illumination is in accordance with this section.
- B. No sign within one-hundred and fifty (150) feet of a residential zone may be illuminated between the hours of midnight and 6 a.m.
- C. Lighting directed toward a sign shall be shielded so that it illuminates only the face of the sign and does not shine directly into a public right-of-way or residential premises.
- D. Except as herein provided, illuminated signs are not permissible in the residential zoning districts.
- E. Subject to Subsection (G), illuminated tubing or strings of lights that outline property lines, sales areas, roof lines, doors, windows or similar areas are prohibited.



- F. Subject to Subsection (G), no sign may contain or be illuminated by flashing or intermittent lights or lights of changing degrees of intensity, except signs indicating the time, date or weather conditions.
- G. Subsections (E) and (F) do not apply to temporary signs erected in connection with the observance of holidays.

Sec. 13.13

Non-Conforming Signs

- A. Subject to the remaining restrictions of this Section, non-conforming signs that were otherwise lawful on the effective date of this Ordinance may be continued.
- B. No person may engage in any activity that causes an increase in the extent of non-conformity of a non-conforming sign. Without limiting the generality of the foregoing, the non-conforming sign may be enlarged or altered in such a manner as not to increase the non-conforming condition. Illumination may not be added to any non-conforming sign.
- C. A non-conforming sign may not be moved except to bring the sign into complete conformity with this Ordinance.
- D. If a non-conforming sign is destroyed, it may thereafter be repaired, reconstructed, or replaced except in conformity with all the provisions of this Ordinance.
- E. The message of a non-conforming sign may be changed so long as this does not create any new non-conformities (for example, by creating an off-premises sign.)
- F. Subject to the other provisions of this section, non-conforming signs may be repaired and renovated.
- G. If a non-conforming sign advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating or being offered or conducted, that sign shall be considered abandoned and shall be removed within thirty (30) days after such abandonment by the sign owner, owner of the property where the sign is located, or other party having control over such sign.
- H. If a non-conforming sign remains blank for a continuous period of one hundred eighty (180) days, that sign shall be deemed abandoned and shall, within thirty (30) days after such abandonment, be altered to comply with this article or be removed by the sign owner, owner of the property where the sign is located or other person having control over such sign. For purposes of this section, a sign is “blank” if:

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

#### ARTICLE XIV

##### PARKING AND LOADING REGULATIONS

Sec. 14.1

Requirements

There shall be provided in all Districts at the time of erection or enlargement of any main building or structure, automobile off-street parking space with adequate access to all spaces. The proper number of parking spaces for any given use as specified in this Article are based upon considerations of the maximum number of motor vehicles that can be expected on the premises at the same time during an average day.

- A. Required off-street parking spaces shall consist of a parking strip, parking bay, driveway, garage, or combination thereof and shall be located on the premises they are intended to serve.
- B. Location of off-street parking for other than residential use shall be either on the same lot or within three hundred (300) feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot. Ownership shall be shown of all lots or parcels intended for use as parking by the applicant.
- C. Joint use of off-street parking areas may be provided collectively by two (2) or more buildings or uses, provided the total number of parking spaces shall not be less than the sum of the requirements of the space requirement computed separately.

In the instance of dual function of off-street parking space where operating hours of parking needs of individual buildings or uses concur at distinctly different times, the Village Council may grant an exception.

- D. Fractional Spaces: When units of measurement determining the number of required parking spaces result in a fractional space, any fraction up to and including one-half (1/2) shall be disregarded and fractions over one-half (1/2) shall require one (1) parking space.
- E. In cases of uses not specifically mentioned, the requirements of off-street parking spaces shall be in accord with the use which the Zoning Administrator considers is similar in type.
- F. Use of off-street parking areas shall prohibit commercial repair work, storage of merchandise, or servicing or selling of trucks or motor vehicles.

Sec. 14.2

Parking Space Requirements

Residential: including single and two family dwellings, apartments, townhouses and mobile homes.	Two per dwelling unit
Commercial: Churches, etc.	One per three seats
Clinics  employee	Four per doctor plus one per
Restaurants, bars, banks doctor's and dentist's office	One per 100 sq. ft.
Rooming houses, convalescent homes	Four times occupancy
Barber, beauty shops	Two per chair plus one per employee
Furniture, appliance, hardware showrooms and repair shops	One per 800 sq. ft.
Laundromat	One per two machines
Hotels, motels, tourist homes bed and breakfast	1.25 per rental unit
Business offices	One per 200 sq. ft.
Shopping center	One per 100 sq. ft.
Gasoline service station	One per bay, plus one

per employee

Sec. 14.3

Parking Site Requirements

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

- A. No parking lot shall be constructed until a permit therefore is issued by the Zoning Administrator.
- B. Before such permit is issued, plans and specifications shall be submitted to the Zoning Administrator showing the location, capacity, size, site, design, surfacing, marking, lighting, drainage, curb cuts, entrances, exits and any other detailed features essential to the design and construction of the proposed parking facility.
  - 1. Plans for the layout of off-street parking facilities shall be in accord with the following minimum requirements.

PARKING PATTERN	MANEUVERING LANE WIDTH	PARKING SPACE WIDTH	PARKING SPACE LENGTH
1-29 (PARALLEL PARKING)	12 FT	8 FT	23 FT
30 TO 53	12 FT	8 FT 6"	20 FT
54 TO 74	15 FT	8 FT 6"	20 FT
75 AND UP	20 FT	9 FT	20 FT

- 2. All parking spaces shall be provided access by means of maneuvering lanes. Backing directly onto a street shall be prohibited.
- 3. Adequate ingress and egress to the parking lot by means of clearly-defined drives shall be provided for all vehicles. Ingress and egress to a parking lot lying in an area zoned for other than single-family residential use shall not be across land zoned for single-family residential use.
- 4. Each entrance and exit to and from any off-street parking lot located in an area zoned for other than single-family residential use shall be at least twenty-five (25) feet distant from adjacent property located in any single-family residential district.
- 5. All off-street parking areas abutting residential districts shall be provided with an obscuring fence no less than four feet (4') in

height. Such fences shall be constructed of materials approved by the permit Issuing Authority and shall be durable, weather resistant and easily maintained.

6. Except for single-family and two-family residential lots, all parking areas, including parking spaces, maneuvering lanes and access drives shall be provided with a durable, smooth and dustless surface; and shall be graded and drained to dispose of all collected surface water.
7. Except for single-family residential lots, all parking areas with a capacity of four (4) or more vehicles shall provide adequate lighting throughout the hours when the parking areas is in operation. All lighting shall be installed as to be confined and directed into the parking area only.
8. A no-building buffer strip not less than (10) feet wide shall be required on the perimeter of all parking lots. Said buffer strip shall be used for landscaping, screening or drainage as required herein.

Sec. 14.4 Loading & Unloading Requirements

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

- A. Loading space required under this Section shall be provided as areas additional to the off-street parking space required in Section 14.3 of this Article and shall not be considered as supplying off-street parking space.
- B. There shall be provided adequate space for standing, loading and unloading services not less than twelve (12) feet in width, twenty-five (25) feet in length and fourteen (14) feet in height.

ARTICLE XV

NON-CONFORMING USES AND STRUCTURES

Sec. 15.1 Intent

While it is the intent of this Ordinance to prevent the establishment of new non-conforming situations within the Village, reality dictates that compatible non-conforming uses and structures, which were lawfully established prior to the adoption of this Ordinance, that do not and are likely not to significantly depress the value of nearby property, and which do not pose a threat to public health,

safety and welfare of the Village, be allowed to continue by the present owner, their heirs and assigns, under the following conditions:

- Sec. 15.2     Limitations on Expanding Non-Conforming Situations  
Any dimensional non-conforming structure or structure devoted to a non-conforming use may be expanded horizontally provided all the conditions of Section 3.2 are met, and also may be expanded vertically, provided the addition does not extend outside the existing footprint of the structure, and all other requirements of this Ordinance are met.
- Sec. 15.3     Involuntary Destruction  
Any dimensional non-conforming structure or any structure devoted to a non-conforming use which is involuntarily destroyed may be restored or reconstructed, provided the same is commenced within one (1) year and completed within the time period the permits are valid.
- Sec. 15.4     Voluntary Discontinuance  
If a non-conforming use is voluntarily discontinued for one (1) year or more, it shall be deemed abandoned, and any further use must be in conformity with permitted uses in the district in which the property is located.
- Sec. 15.5     Restriction of Change  
Whenever a non-conforming use has been changed to a use which is in greater conformity with the provisions of the district in which it is located, and has remained as such for one (1) year, such use shall not thereafter be changed back to the former non-conforming use or to a use less in conformity with the provisions of this Ordinance.
- Sec. 15.6     Voluntary Demolition  
On a Lot of Record, when a dimensional non-conforming structure is voluntarily demolished for purposes of rebuilding another structure on the premises, all setback requirements for the zoning district shall be met, whenever possible; however, if all such setbacks cannot be met, the provisions of Sec. 3.2 may be applied.

## ARTICLE XI

### ENVIRONMENTAL PROVISIONS

- Sec. 16.1     Regulation of Environmentally Sensitive Areas  
All uses allowable in zoning districts of this Ordinance shall comply with the standards set forth in this section regulating the development of environmentally sensitive areas. These requirements shall be considered in addition to use restrictions or other applicable regulations for each zoning district, and shall be considered as a separate portion of the zoning application.

Sec. 16.2 Intent

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

Sec. 16.3 Environmentally Sensitive Areas

The protection of areas of environmental concern, such as wetlands, must be considered in conjunction.

A. Wetlands

Are defined by degree of soil wetness, generally including those soils classified by the Goemere-Anderson Wetlands Act (PA 203 of 1979) as being able to support aquatic vegetation regardless of whether it has standing water or not. No activity shall be permitted unless a wetlands permit has been obtained by the applicant from the Michigan Department of Environment Quality (DEQ).

B. Steep Slopes

When the proposed building site has slopes in excess of thirty-three (33) percent, questionable soils stability or evidence of erosion, the applicant shall consult with the County Soil Erosion Control Agent before a permit can be issued.

Sec. 16.4 Retaining Wall Permit

No retaining wall shall be erected without first having consulted with the Benzie County Soil Erosion Control Agent

Sec. 16.5 Removal of Vegetative Cover

The applicant shall provide evidence that the cutting and removing of trees and other native vegetation will be performed according to the following standards:

A. The removal of more than forty (40) percent of trees that are six (6) inches or more in diameter (measured at 1 foot above ground level) shall not be permitted.

B. Cutting shall be done in such a manner as to avoid erosion, to preserve rare species of trees or greenery, to preserve scenic qualities, and to preserve desirable screening.

- C. All trees intended to remain standing and undamaged shall be clearly marked on the proposed site plan.
- D. In order to protect the trees and the roots of the trees, all structures and roads shall be set back at least ten (10) feet from the trees identified on the site plan to be left standing or undamaged.
- E. Whenever feasible, groups or clumps of trees shall be preserved to encourage survival of the root zone.
- F. Exceptions to the requirements of this subsection are as follows:
  1. Tree removal or transplanting occurring during use of land for agriculture or the operation of a commercial nursery.
  2. Actions made necessary by an emergency, such as a tornado, windstorm, flood, freeze, dangerous and infectious insect infestation or disease, or other disaster, in order to prevent injury or damage to persons or property or to restore order.
  3. Tree trimming, removal, or transplanting performed by or on behalf of any governmental agencies.
  4. Repair or maintenance work performed by public utilities necessitating the trimming or cutting of trees.
  5. Removal or trimming of dead, diseased, or damaged trees where the damage resulted from an accident or non-human cause.

Sec. 16.6 Stormwater Detention

- A. When any land in the Village is developed or altered in any way which affects Stormwater runoff, the owner shall detain such Stormwater from runoff onto adjacent properties, including roads and other rights-of-way, in such a manner which shall result in the maximum amount of Stormwater runoff not exceeding that which existed prior to the development or improvement of the property, and in accord with the requirements of the Soil Erosion Sedimentation Control Act, PA 347 of 1972, as amended.
- B. Special attention shall be given to proper site drainage so that runoff of Stormwater will not adversely affect neighboring properties or the surface water quality of the area lakes and streams. Stormwater control mechanisms, such as retention/detention basins, vegetative buffers, swales and infiltration trenches, shall be required to ensure that the peak rate of stormwater runoff after development does not exceed the rate prior to development. (For a storm with a twenty-five (25) year frequency and twenty-four (24) hour duration.)



- C. All developments shall be designed, constructed and maintained to protect the water quality of the area lakes and streams.

## ARTICLE XVII

### ADMINISTRATION

#### PART I – ZONING ADMINISTRATION

Sec. 17.1 The Zoning Administrator

The office of Zoning Administrator is hereby established. The Zoning Administrator shall be appointed by the Village Council and shall serve at its pleasure. He shall receive such compensation as the Village Council may, from time to time, determine. The Zoning Administrator may also serve in some other capacity as an employee or appointed officer of the Village of Benzonia. He shall administer the provisions of this Ordinance and shall have all administrative powers in connection therewith which are not specifically assigned to some other officer or body.

Sec. 17.2 Powers and Duties

It shall be the duty of the Zoning Administrator to:

- A. Be thoroughly versed in the provisions of the Village of Benzonia Zoning Ordinance.
- B. Receive applications for land use permits and building permits and issue or deny the same.
- C. Receive and transmit all applications set forth in Article IX of the Ordinance.
- D. Inspect sites, buildings or structures as necessary to ensure compliance with permits and provisions of the Zoning Ordinance.
- E. Investigate alleged Ordinance violations.
- F. Serve appearance tickets as authorized under Section 17.3 herein; appear in court or other judicial proceedings to assist in the prosecution of ordinance violators.
- G. Undertake such other ordinance enforcing duties as may be delegated by the Village Council.
- H. Make recommendations to the Village Council regarding zoning changes which would improve the content and enforcement of the Zoning Ordinance.
- I. Attend Village Council meetings, upon request.

- J. Submit reports to the Village Council as necessary and report in person to Village Council meetings upon request.

Sec. 17.3 Appearance Tickets

The Zoning Administrator is hereby authorized to issue and serve appearance tickets with respect to all misdemeanor violations of the Benzonia Village Zoning Ordinance, as amended, and may issue and serve upon a person an appearance ticket if he or she has reasonable cause to believe that the person has committed an offense.

PART II ZONING BOARD OF APPEALS

Sec. 17.4 Zoning Appeals

A. Unless a Zoning Board of Appeals has been established, the Village Council shall hear all zoning appeals. The Appeal Board shall perform its duties and exercise its powers so that the health, safety and welfare of the public may be secured; and that substantial justice be done.

B. This shall provide for the establishment of a Board of Appeals with five (5) members in accordance with Public Act 207 of 1921.

Sec. 17.5 Rules

A. The Appeal Board shall fix rules to govern its procedures.

B. The concurring vote of a majority of the members of the Appeal Board shall be necessary to reverse an order, requirement, decision or determination of the administrative official or body, or to decide in favor of the applicant any matter upon which they are required to pass or to effect any variation in an ordinance adopted under this act.

C. The Appeal Board shall not change the intent of this Ordinance.

Sec. 17.6 Appeals, Variances and Interpretations

The Appeal Board shall hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by the Zoning Administrator or by any other official in administering or enforcing any provision of this Ordinance. The procedure for appealing to the Appeal Board is as follows:

A. The appeal shall be taken within such time as prescribed by the by-laws of the Appeal Board.

B. A fee, prescribed by the Village Council, shall be submitted to the Zoning Administrator at the time of the filing of the application form.

- C. Appeals to the Appeal Board may be taken by any person aggrieved or by an officer, department, board, agency, or bureau of the county, state, federal, or other legally constituted form of government.
- D. The person, firm, agent, or attorney thereof making the appeal shall file by completing and signing the application form provided by the Village.
- E. All persons, not licensed to practice law in the State of Michigan, shall file a written statement signed by the principal stating the agent's right to act upon their behalf.
- F. A completed application form shall be submitted to the Zoning Administrator. The Zoning Administrator shall forthwith transmit to the Appeal Board, the application and all papers constituting the record from which the appeal was taken.
- G. An appeal stays all proceedings in furtherance of the action appealed.
- H. When a properly executed application form has been filed, the Village Clerk shall schedule the matter for a public hearing.
- I. Notice of the public hearing shall be published in a newspaper having a general circulation in the Village at least five (5) days but not more than fifteen (15) days before the hearing date. The notice shall:
  - 1. Describe the nature of the appeal,
  - 2. Indicate the property involved,
  - 3. State when and where the hearing will be held,
  - 4. State when and where written comments will be received,
  - 5. State when and where the application, Zoning Ordinance and Map may be examined.
- J. The notice shall be delivered in person or by mail to:
  - 1. The owners of property involved.
  - 2. All persons to whom real property is assessed within three hundred (300) feet of the property involved,
  - 3. All members of the Appeal Board.

Sec. 17.7

Variances

The Appeal Board shall have the power to authorize, upon appeal, a variance from requirements of the Zoning Ordinance, provided the applicant has proven a "practical difficulty" by demonstrating as follows:

- A. That strict compliance with the Ordinance would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity with such restrictions unnecessarily burdensome;
- B. That the problem is due to a unique circumstance of the property;
- C. That the specific conditions relating to the property are not so general or recurrent in nature, in the zoning district, so as to require an amendment to the zoning ordinance, instead of a variance;
- D. The property problem was not created by the action of the applicant;
- E. That the granting of the variance will not cause a substantial adverse effect upon property values in the immediate vicinity, or in the district in which the property of the applicant is located;
- F. That the requested variance will relate only to the property under the control of the applicant;
- G. That the non-conforming dimensions of other lands, structures, or buildings in the same zoning district shall not be considered grounds for the issuance of a variance.
- H. That the variance is the minimum variance that will make possible the reasonable use of the land, building or structure in the zoning district in which it is located;
- I. That the proposed use of the premises is in accord with the zoning ordinance;
- J. That the variance would do substantial justice to the applicant as well as to other property owners in the district;
- K. That the granting of the variance will ensure that the spirit of the ordinance is observed, public safety secured and substantial justice applied.

Sec. 17.8 Rules For Granting Variances

The following rules shall be applied in the granting of a variance:

- A. The Appeal Board shall specify, in writing, such conditions regarding the character, location, and other features which will, in its judgment, secure the objectives and intent of this Ordinance. The breach of such condition shall automatically invalidate the permit granted.
- B. Each variance granted under the provisions of this Ordinance shall become null and void unless the construction authorized has been commenced within one (1) year after the hearing date when the variance was granted.

- Sec. 17.9      Reapplication  
Except on the grounds of newly-discovered or proof of changed conditions found by the Board to be valid, no application for variance which has been denied wholly or in part by the Appeal Board shall be resubmitted for a period of one (1) year from the date of the last denial. If said evidence or proof is found to be valid, the Board shall then, at the same hearing, proceed with the appeal, variance or interpretation.
- Sec. 17.10    Interpretation and Other Powers  
The Appeal Board shall have the power to:
- A. Interpret, upon request, the provisions of this Ordinance in such a way as to carry on the intent and purpose of this Ordinance.
  - B. Determine the precise location of the boundary lines between zoning districts.
  - C. Classify a use which is not specifically mentioned as part of the use regulations of any zoning district so that it conforms to a comparable permitted or prohibited use, in accordance with the purpose and intent of each district.
  - D. Determine the off-street parking and loading space requirements of any use not specifically mentioned in this Ordinance.
- Sec. 17.11    Essential Services  
The Appeal Board shall have the power to permit the erection and use of a building, or an addition to an existing building, or a public service corporation for essential services, in any permitted district to a greater height or of larger or smaller area than the district requirements herein established, and permit the location in any use district of a public utility building, structure or use if the Board shall find such use, height, area, building or structure reasonably necessary for the public convenience and service.
- Sec. 17.12    Burden of Proof in Appeals and Variances  
When an appeal is taken to the Appeal Board, the applicant shall have the burden of presenting to the Board, sufficient evidence and argument to justify the requested order or decision.
- Sec. 17.13    Bond Authorized  
In authorizing any variance, the Appeal Board may require that a bond be furnished to insure compliance with the requirements, specifications and conditions imposed with the granting of a variance.

## ARTICLE XVIII

## SEXUALLY ORIENTED BUSINESSES (SOBS)

### Sec. 18.1 Preamble

There is convincing documented evidence that sexually oriented businesses, because of their very nature, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them; and, have serious objectionable characteristics, particularly when they are located in close proximity to each other.

It is not the intent of this Ordinance to suppress any activity protected by the First Amendment of the United States Constitution or the Michigan Constitution, but to enact content neutral regulations which address the adverse secondary effects of sexually oriented businesses.

It is not the intent of this Ordinance to suppress any activity protected by the First Amendment of the United States Constitution or the Michigan Constitution, but to enact content neutral regulations which address the adverse secondary effects of sexually oriented businesses.

The Village recognizes that state and federal law prohibits the distribution of obscene materials and expects and encourages state enforcement officials to enforce state and federal obscenity statutes against any such illegal activities within the Village.

### Sec. 18.2 Intent and Purpose

It is the purpose of this Ordinance to regulate sexually oriented businesses and related activities to promote and ensure the health, safety, and general welfare of the citizens of the Village and to establish reasonable and uniform regulation and uniform regulations to prevent the deleterious effects of sexually oriented businesses within the Village. The provisions of this Ordinance do not have the purpose of imposing a limitation or restriction on the content of any communicative material, including sexually oriented materials. Similarly, it is not the intent of this Ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment of the United States Constitution or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent of this Ordinance to condone or legitimize the distribution of obscene materials.

### Sec. 18.3 Definitions

As used in this Article, the following terms shall have the indicated meanings:

- A. ADULT BOOK OR VIDEO STORE: An establishment having as a substantial or significant portion of its stock in trade, books, magazines, periodicals, films, computer software or video tapes which are distinguished or characterized by their emphasis on matter depicting, describing or relating

to “specified sexual activities” or specified anatomical areas,” as defined herein.

- B. ADULT ENTERTAINMENT ESTABLISHMENT: A theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances presented for the enjoyment of the audience which has paid or promised to pay an admission fee and which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities”.
- C. ADULT MINI-THEATER: A commercial establishment where, for any form of consideration, in an enclosed area with a capacity of less than ten (10) persons, films, motion pictures, video cassettes, slides, or similar photographic reproductions are shown which are characterized by an emphasis on the depiction or description of “specified sexual activities” or specified anatomical areas”.
- D. ADULT MOTION PICTURE THEATER: A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas,” as defined herein.
- E. ADULT NOVELTY BUSINESS: A business that has as a substantial or significant portion of its activity in the sale of devices which stimulate human genitals or devices designed for sexual stimulation.
- F. NUDITY or STATE OF NUDITY: The appearance of a human bare buttock, anus, male genitals, female genitals, or female breast without a fully opaque complete covering or the breast below a point immediately above the top of the areola, or human male genitals in a discernible turgid state even if complete and opaquely covered.
- G. PERMIT: A Special Land Use Permit for the operation of a sexually oriented business and issued pursuant to the provisions of this Ordinance.
- H. PERMITTEE: A person in whose name a permit to operate a sexually oriented business has been issued as well as the individual listed as an applicant on the application for a permit.
- I. PERSON: An individual, proprietorship, partnership, limited liability company, corporation, association, or other legal entity.
- J. SEXUALLY ORIENTED BUSINESS: An adult book or video store, adult motion picture theater, adult mini-theater, adult novelty business, or adult entertainment establishment.

K. SPECIFIED ANATOMICAL AREAS Includes:

1. Less than completely and opaquely covered human genitals, pubic regions, buttocks and female breasts below a point immediately above the top of the areola;
2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

L. SPECIFIED SEXUAL ACTIVITIES Includes:

1. Acts of human masturbation, sexual intercourse, or sodomy;
2. Fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts;
3. Human genitals in a state of sexual stimulation or arousal.

M. SUBSTANTIAL OR SIGNIFICANT PORTION: A business will be deemed to have a substantial or significant portion of its stock in trade or services if it meets at least one of the following criteria:

1. Thirty-five (35) percent or more of the stock, materials, or services provided describes or relates to specified sexual activities, specified anatomical areas, or both.
2. Thirty-five (35) percent or more of the usable floor area of the building is used for the sale, display, or provision of services describing or relating to specified sexual activities, specified anatomical areas, or both.
3. The advertising (on signs, in publications, on television or radio and/or other media forms) associated with the business, describes or relates to specified sexual activities, specified anatomical areas, or both.

N. TRANSFER OF OWNERSHIP OR CONTROL: of a sexually oriented business means and includes any of the following:

1. The sale, lease, or sublease of the business;
2. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means;
3. The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

Sec. 18.4 Permit Required

- A. It shall be unlawful for a person to operate a sexually oriented business without a valid permit issued by the Issuing Authority, being the Benzonia Village Council.



- B. An application for a permit must be made on a form provided by the Village of Benzonnia. The application must be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.
  
- C. An application for a permit shall be made and delivered to the Zoning Administrator by the intended operator of the establishment. The intended operator shall be required to give the following information on the application form:
  - 1. a. The name and street address (and mailing address, if different) and driver's license number of the intended operator if he/she has such a driver's license.
  - b. The name and street address (and mailing address, if different) of the owner (s), if different.
  
  - 2. The name under which the establishment is to be operated and a general description of the services to be provided.
  
  - 3. The telephone number of the establishment or, if unavailable, the operators.
  
  - 4. The address, tax parcel number, and legal description of the tract of land on which the establishment is to be located.
  
- D. The fact that a person possesses other types of state or county permits and/or licenses does not exempt them from the requirement of obtaining a sexually oriented business permit from the Village.
  
- E. The application shall be accompanied by the following:
  - 1. Payment of the application fee in full;
  
  - 2. Proof of current fee ownership of the tract of land on which the establishment is to be situated in the form of a copy of the recorded deed, land contract, or other instrument of conveyance;
  
  - 3. If the persons identified as the fee owner (s) of the tract of land in Item 2 above, are not also the owners of the establishment, then the lease, purchase contract, purchase option contract, lease option contract or other document (s) evidencing the legally enforceable right of the ownership or proposed owners of the establishment to have or obtain the use and possession of the tract or portion thereof that is to be used for the purpose of the operation of the establishment.

- F. The application shall contain a statement under oath that:
  - 1. The applicant has personal knowledge of the information contained in the application and that the information contained therein and furnished therewith is true and correct; and
  - 2. The applicant has read the provisions of this article.

Sec. 18.5 Issuance of Permit

A. The Issuing Authority shall approve the issuance of a permit to an applicant within sixty (60) days after receipt of an application unless one or more of the following is found to be true:

- 1. An applicant is under eighteen (18) years of age.
- 2. An applicant is overdue in his payment of fines, or penalties assessed against him or imposed upon him in relation to a sexually oriented business.
- 3. An applicant has failed to provide information reasonably necessary for issuance of the permit or has falsely answered a question or request for information on the application form.
- 4. An applicant who has been denied a permit by the Village to operate a sexually oriented business within the preceding twelve (12) months, or whose license to operate a sexually oriented business has been revoked within the preceding twelve (12) months.
- 5. The premises to be used for the sexually oriented business has not been approved by the health department for the use intended, if applicable.
- 6. The permit fee, as established by the Benzonia Village Council, has not been paid.
- 7. An applicant has been convicted of any of the following criminal offense in any jurisdiction:

Prostitution, procuring a prostitute, or solicitation of a prostitute; sale, distribution or display of obscene material; soliciting, procuring or aiding and abetting an unlawful sexual performance by a minor; possession, sale or distribution of child pornography; public lewdness; indecent exposure; indecent conduct with a child; sexual assault or rape; incest; or sexual solicitation of a child.

The applicant shall certify, as part of the application, that they have not been convicted of any one or more of the foregoing criminal offenses.

B. The permit, if granted, shall state on its face the name of the person or persons to whom it is granted, and the address of the sexually oriented business. The permit shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time.

C. The Zoning Administrator, at the direction of the Issuing Authority, may also take all steps necessary to revoke a permit if it is determined that a permittee gave false or misleading information in the material submitted during the application process.

Sec. 18.6

Inspection

An applicant or permittee shall allow the Village Zoning Administrator or representatives of the County Code Enforcement Office to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law at any time it is occupied or open for business.

Sec. 18.7

Action to Revoke Permit

The Zoning Administrator shall take enforcement action, including the commencement of suit seeking revocation of a permit, if any of the following occurs:

- A. A permittee gave false or materially misleading information in the application process.
- B. A permittee has been convicted of using and/or allowing the use of controlled substances within the establishment.
- C. A permittee has been convicted of prostitution or other activity fostering, promoting or otherwise facilitating prostitution, within the establishment or elsewhere.
- D. A permittee or employee of the sexually oriented business has been convicted of any crime of a sexual nature or involving sexual conduct or the solicitation thereof within the establishment or elsewhere.
- E. A permittee has been convicted of knowingly allowing a person under eighteen (18) years of age to enter the establishment.
- F. There has been a transfer of ownership or control of an establishment without the prior consent of the Zoning Administrator, as required herein.

Sec. 18.8

Transfer of Permit

A permittee shall not transfer his permit to another, nor shall a permittee operate a sexually oriented business under the authority of a permit at any

place other than the address designated in the application. Permittee must complete application.

Sec 18.9

Location Restrictions

- A. A sexually oriented business may not be operated within seven hundred fifty (750) feet of:
  - 1. A church, synagogue or regular place of religious worship;
  - 2. A public or private school; or
  - 3. Another sexually oriented business, or
  - 4. A licensed day care center.
- B. A sexually oriented business may not be operated within three hundred (300) feet of:
  - 1. A boundary of any residential zoned district or any residential structure;
  - 2. A public park.
- C. A sexually oriented business may not be operated in the same building, structure, or portion thereof, containing another sexually oriented business.
- D. For the purpose of this Article, measurement shall be made in a straight line, without regard to intervening structure or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted to the nearest property line of the premises of a church, synagogue, regular place of worship, or public or private school, or to the nearest boundary of an affected public park, residential district, or residential lot, or licensed day-care center.
- E. For purposes of Subsection D of this section, the distance between any two sexually oriented business uses shall be made from the closest exterior wall of the structure in which each business is located.
- F. A sexually oriented business may only be operated in a commercial (C-2) zoning district as designated in the Village Zoning Ordinance.

Sec. 18.10

Regulations Pertaining to Adult Entertainment Establishments

- A. A person who operates or causes to be operated an adult entertainment establishment which presents live entertainment for the enjoyment of an audience which has been paid or promised to pay an admission fee and

which depicts specified sexual activities or displays specified anatomical areas, shall comply with the following requirements:

1. Upon application for a sexually oriented business permit, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures (indicating the type of illumination intensity of each such fixture) and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty (30) square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. Unless it is for a new commercial structure to be built, professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises.
2. The application shall be sworn to be true and correct by the applicant.
3. No alteration in the configuration or location of a manager's station may be made without the prior approval of the Zoning Administrator.
4. It is the duty of the owners and operator of the premises to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.
5. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.
6. It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present in the premises to ensure that the view area specified in Subsection 5 remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons

will not be permitted in the application filed pursuant to Subsection 1 of this section.

7. 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 (1.0) foot-candle as measured at the floor level.
8. It shall be the duty of the owners and operator and it shall also be the duty of any agents and employees present in the premises to ensure that the illumination described above is maintained at all times that any patron is present in the premises.
9. The premises shall meet all barrier free requirements and building code requirements imposed by the County Building and Inspections Department.
10. Hours of operation shall be limited to 8:00 a.m. to 10:00 p.m.
11. When live performers are involved in the sexually oriented business, privacy dressing rooms are to be provided, and an aisle between the performance area and the dressing room shall be kept clear and unobstructed so the performers can pass through without contact with patrons.
12. Parking layouts shall not adversely affect the flow of traffic within the site, or to and from the adjacent streets.
13. All off street parking areas shall be sufficient for all vehicles patronizing the establishment, shall be illuminated during all hours of operation with down shining lighting, and shall be open to view from the adjacent street.
14. Grounds maintenance shall include routine clearing of rubbish and trash from the grounds, and hauling away of same at least one-per-week.
15. No person shall reside in or permit any person to reside in the premises of an adult oriented business.
16. All performers shall be salaried by the operators/owners of the sexually oriented business.
17. No person shall become the lessee or sublessee of any property for the purpose of using said property for a sexually oriented business without the express written permission of the owner of the property.

18. The maximum number of persons, including patrons, performers and operators, allowed in a structure at any one time shall be as established by the current Building Officials and Code Administration, Inc. (BOCA) Code, however, the number of patrons allowed on premises at any one time shall be limited to the amount of seating available, but shall not exceed one person for each fifteen (15) square feet of public net floor space, exclusive of restrooms, dance floor, administrative areas, hallways, etc.

Sec. 18.11

Exterior Portions of Sexually Oriented Business

- A. It shall be unlawful for an owner or operator of a sexually oriented business to allow the merchandise or activities of the establishment to be visible from a point outside the establishment.
- B. It shall be unlawful for the owner or operator of a sexually oriented business to allow the exterior portion of the sexually oriented business to 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.
- C. Signs shall contain no photographs, silhouettes, drawings or pictorial representations of any manner, and may contain only the name of the enterprise.

Sec. 18.12

Persons Younger Than Eighteen Prohibited From Entry; Attendant Required

- A. It shall be unlawful to allow a person who is younger than eighteen (18) years of age to enter or be on the premises of a sexually oriented business at any time that the sexually oriented business is open for business.
- B. It shall be the duty of the operator of each sexually oriented business to ensure that an attendant is stationed at each public entrance to the sexually oriented business at all times during such sexually oriented business's regular business hours. It shall be the duty of the attendant to not allow any person under the age of eighteen (18) years to enter the sexually oriented business. It shall be presumed that an attendant knew a person was under the age of eighteen (18) unless such attendant asked for and was furnished:
  - 1. A valid operator's, commercial operator's or chauffeur's license; or
  - 2. A valid personal identification certificate reflecting that such person is eighteen (18) years of age or older.

Sec. 18.13

Exemption

It is a defense to prosecution under this Ordinance that a person appearing in a state of nudity did so in a modeling class operated:

1. By a proprietary school, licensed by the State of Michigan, a college, junior college, or university supported entirely or partly by taxation;
2. By a private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.

Sec. 18.14

Notices

- A. Any notice required or permitted to be given by the Village or other agency under this Ordinance to any applicant, operator or owner of an establishment may be given either by personal delivery or by certified United States mail, postage prepaid, return receipt requested, addressed to the most recent address as specified in the application for the permit, or transfer application that has been received by the Village or any notice of address change that has been received by the Village. Notices mailed as above shall be deemed given upon their deposit in the United States mail. In the event that any notice given by mail is returned by the postal service, the village shall cause it or a replica thereof to be posted at the principal entrance to the establishment.
- B. Any notice required or permitted to be given to the Village by any person under this Ordinance shall not be deemed given until and unless it is received in the principal office of the Village.
- C. It shall be the duty of each owner who is designated on the permit application and each operator to furnish notice to the Village, in writing, of any change of residence or mailing address.

Sec 18.15

Non-Conforming Uses

Any business lawfully operating on the effective date of this Ordinance that is in violation of the location or structural configuration requirements of this Ordinance shall be deemed a non-conforming use. The non-conforming use will be permitted to continue for a period not to exceed one (1) year, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. If two or more sexually oriented businesses are within seven hundred fifty (750) feet of one another and otherwise in a permissible location, the sexually oriented business which was first established and continually operating at a particular location is the conforming use and the later-established business (es) is non-conforming.

A sexually oriented business lawfully operating as a conforming use is not rendered a non-conforming use by the subsequent location of a church, synagogue, or regular place of religious worship, or public or private school, within seven hundred fifty (750) feet, or the location of a boundary of any



residential zoned district or any residential structure, a licensed day care center or a public park, within five hundred (500) feet. This provision applies only to the renewal of a valid permit and does not apply when an application for a permit is submitted after a permit has expired or has been revoked.

Sec. 18.16 Injunction

A person who operates or causes to be operated a sexually oriented business without a valid permit or otherwise violates this Ordinance shall be subject to a suit for injunctive relief and/or revocation of the sexually oriented business permit, as well as fines or other penalties as provided by this Zoning Ordinance.

Sec 18.17 Variances and Limitation on Re-application

Relief from any requirement of this Ordinance may be granted by the Village Council or Appeal Board. Any evidence and any guarantee may be required as proof that the conditions stipulated in connection therewith will be fulfilled.

No application for a waiver of a spacing requirement or other Village Council or Appeal Board approval for a Regulated Use which has been denied wholly or in part, or granted with conditions shall be re-submitted for a period of one (1) year from the date of said order, except on the grounds of new evidence not previously available or proof of changed conditions.

Sec. 18.18 Expansion and Discontinuance

- A. Once established, a sexually oriented business may not be expanded in any manner without first applying for and receiving the approval of the Issuing Authority.
- B. If the regulated use is voluntarily discontinued, the use may not be re-established without first applying for and receiving the approval of the Issuing Authority.
- C. Nothing herein shall prevent the reconstruction, repairing, or rebuilding and continued use of any building or structure under the regulation of this Ordinance, which is damaged by first collapse, explosion, or any other involuntary cause.

ARTICLE XIX

WIRELESS COMMUNICATION TOWERS

Sec. 19.1 Purpose

The purpose of this Article is to establish general guidelines for the siting of wireless communications towers and antennas. The goals of the Article are to:

- A. Protect other land uses, especially residential uses, from potential adverse impacts of towers and antennas.
- B. Minimize the total number of towers throughout the community.
- C. Strongly encourage the joint use of new and existing tower sites as a primary option.
- D. Encourage users of towers and antennas to locate them, to the extent possible, to preserve the fragile aesthetics of the tourism-based economy of the Village.
- E. Encourage users of towers and antennas to configure them in a way to minimize adverse visual impact through careful design, siting, landscaping and innovative camouflaging techniques.
- F. Enhance the ability of the providers of telecommunication services to provide such services quickly, effectively and efficiently.
- G. Consider the public health and safety of communication towers.
- H. Avoid potential damage to adjacent properties from tower failure.

Sec. 19.2 Definitions

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

- A. Alternative tower structure means man-made trees, clock towers, water towers, bell steeples, light poles and similar alternative - design mounting structures that camouflage or conceal the presence of antennas or towers.
- B. Antenna means any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.
- C. Backhaul network means the lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long-distance providers, or the public switched telephone network.
- D. FAA means the Federal Aviation Administration.
- E. FCC means the Federal Communications Commission.

- F. Height means, when referring to a tower or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.
- G. Pre-existing towers and pre-existing antennas means any tower or antenna for which a permit has been properly issued prior to the effective date of this Ordinance, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.
- H. Tower means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.

Sec. 19.3 General Requirements

- A. Towers and antennas may be considered either a principal or accessory use. Whenever possible:
  - 1. Antennas shall be placed on existing structures.
  - 2. Shall be limited to the lowest possible height which still allows reasonable coverage of an area.
  - 3. Shall be a neutral color and shall not be lighted unless otherwise required by the FAA or FCC.
- B. Towers shall comply with engineering standards for structural integrity.
- C. Towers shall not be considered “Essential Services” or public or private utilities but shall instead be regulated by this Article and Article IX of this Ordinance.
- D. Towers shall be permitted in any zoning district except a residential district.
- E. No signs or advertising shall be allowed on a tower.
- F. Antennas and metal towers shall be grounded for protection against direct strike by lightning.
- G. Towers shall be set back from any adjoining lot line a distance of at least equal to the height of the tower.

- H. No new tower shall be permitted unless the applicant demonstrates, to a reasonable satisfaction, that no existing tower or structure is available because of engineering requirements of structural strength, height, or electromagnetic interference.
- I. Towers shall be enclosed by security fencing not less than six (6) feet in height and be equipped with an anti-climbing device.
- J. Tower facilities shall be landscaped with a buffer strip of plant materials at least ten (10) feet wide and of sufficient height to effectively screen off the compound. If evergreens are utilized that will attain a height of eight (8) feet or more at maturity, they must be at least three (3) feet in height when planted.

Sec. 19.4

Uses

- A. Towers less than fifty (50) feet in height, owned and operated by a federally licensed amateur radio station operator, or used exclusively for receive only antennas are exempt from this Ordinance.
- B. Antennas located on public property under lease or license with the Village shall be exempt from a permit under this license.
- C. The Zoning Administrator may issue a Land Use Permit for a tower or antenna, after an administrative review:
  - 1. For an antenna to be attached to an existing structure, provided the antenna does not extend more than thirty (30) feet above the highest point of the structure.
  - 2. For the replacement of a tower by a monopole.
  - 3. For one extension of a tower, not to exceed thirty (30) feet, to facilitate the collocation of an additional antenna.
- D. All other tower and antenna applications shall be processed by the Village Council, or Planning Commission, if one exists, following the prescribed procedure for a Special Land Use Permit in accordance with Article IX.
- E. If any application for a tower or antenna is not processed within sixty (60) days from the date the completed application is received, either by approval or denial, the application shall be deemed to be approved.

Sec. 19.5

Inventory of Existing Sites

Each applicant for a tower and/or antenna permit shall provide the Zoning Administrator with an inventory of its existing towers, antennas or sites approved for towers or antennas, that are either within the Village, or within one (1) mile of the Village limits, including specific information about the location, height,

design, occupancy and capacity of each tower. The Zoning Administrator may share such information with other applicants, however, the Zoning Administrator is not, by sharing such information, in any way representing that such sites are available or suitable.

Sec. 19.6 Buildings and Equipment Storage

The cabinet or storage structure shall contain no more than two hundred (200) square feet of gross floor area, or be more than ten (10) feet in height. Where antennas are collocated on a single tower, the size of the structure may be increased by fifty (50) percent of basic size for each additional antenna.

Sec. 19.7 Removal of Abandoned Towers and Antennas

- A. Any tower or antenna that is not operated for a continuous period of twelve (12) months shall be considered abandoned and shall be removed within ninety (90) days after notice from the Village.
- B. Failure of the owner to remove the abandoned tower or antenna within the said ninety (90) days shall be grounds to remove the tower or antenna at the owner's expense.
- C. Any tower or antenna damaged or destroyed may be repaired or rebuilt without having to first obtain administrative approval or a Special Land Use Permit, provided the type, height and location is the same as the original tower or antenna.

ARTICLE XX

AMENDMENTS

Sec. 20.1 Initiating Amendments

The Village Council, may from time to time, amend, supplement or revise district boundaries in the same manner provided in PA 207 of 1921 for the enactment of the original Ordinance.

Sec. 20.2 Amendment Procedure

- A. All provisions of this Article shall be subject to the provisions of the City or Village Zoning Act (MCL 125.581 - 125.592) as the same may be from time to time amended.
- B. Each petition for amendment initiated by one (1) or more owners of property shall be submitted to the Zoning Administrator who shall refer it for recommended action to the Village Council in accordance with PA 207 of 1921, as amended.

ARTICLE XXI

TABLE OF DIMENSIONAL REQUIREMENTS

Sec 21.1 Table of Dimensional Requirement

ZONING DISTRICT	SETBACKS FRONT/SIDE REAR	WIDTH	HEIGHT	AREA	PERCENT COVER
R-1 Single Family Res	40' 10' 10'	100'	30'	15,000 SF	50
R-2 Mixed Res (1)	40' 10' 10'	100'	30'	15,000 SF (1)	50
C-1 Compact Comm.			30'		
C-2 General Comm.	40'	100'	30'	30,000 SF	50

(1) See Article VI for Two Family and Multi-Family Dwellings.

ARTICLE XXII

EFFECTIVE DATE

Sec. 22.1 EFFECTIVE DATE

I, Vicki Rankin, Clerk of the Village of Benzonia, Michigan, hereby certify that this Zoning Ordinance was introduced and adopted at a meeting of the Benzonia Village Council convened in the Village Hall, Benzonia, Michigan on October 2, 1997, and shall become effective October 28, 1997

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Vicki Rankin, Clerk  
Village of Benzonia