

# Bear Lake Township

MANISTEE COUNTY

## ZONING ORDINANCE

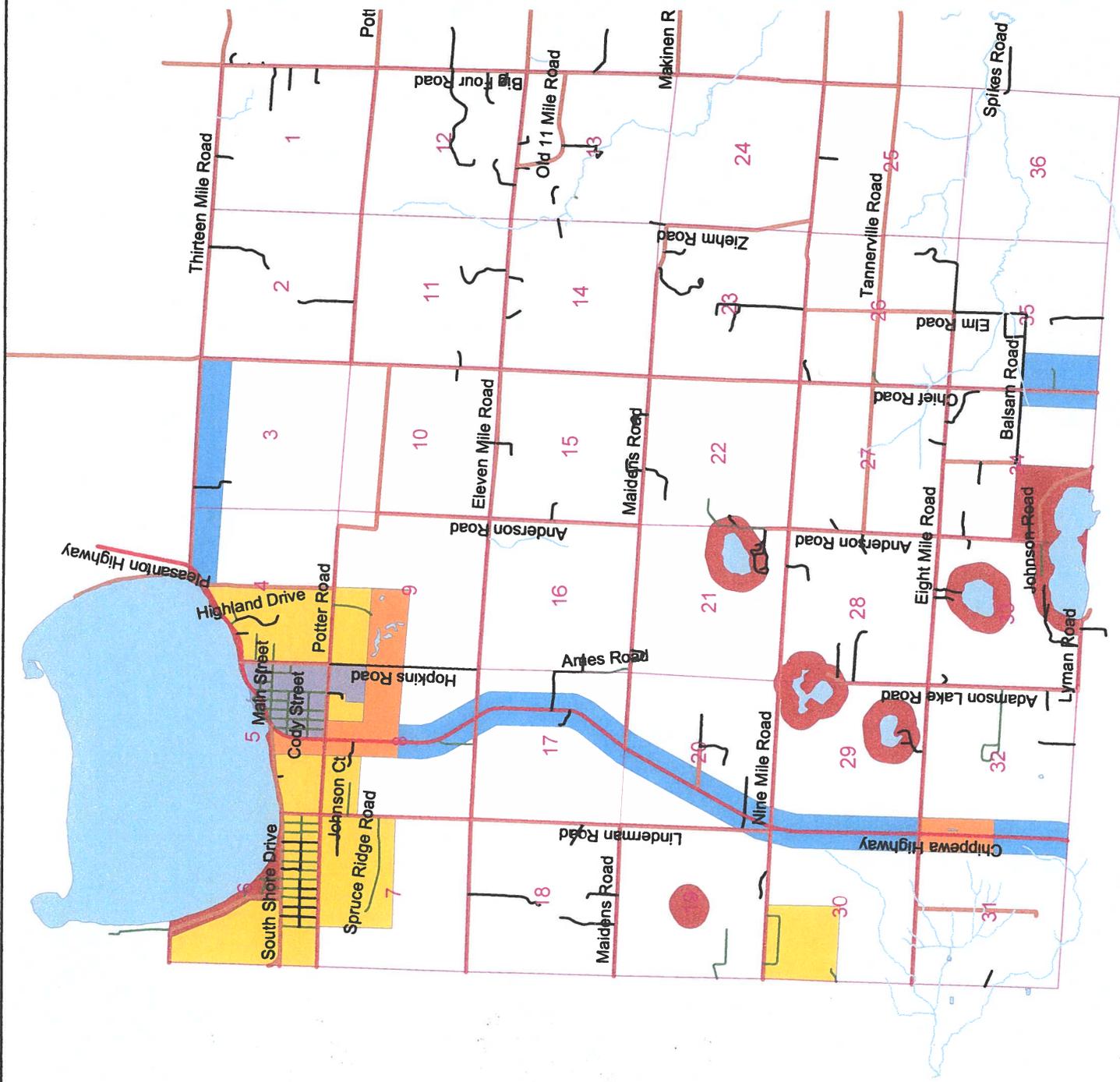


Amended March 24th, 2022  
Effective April 1st, 2022

# Bear Lake Township Zoning Map

## Legend

-  rivers
  -  lakes
  -  sections
  -  Highways
  -  County Roads
  -  Minor Roads
  -  Two Tracks
- ### Zoning Districts
-  Agricultural
  -  Bear Lake Village
  -  Commercial
  -  Multiple Use
  -  Residential
  -  Resort Residential



## ZONING MAP

### AGRICULTURE DISTRICT AG-1 / Article 37

*All properties that do not currently have any classification shall be classified as Agricultural.*

### RESORT RESIDENTIAL RR-1 / Article 40

*The property starting at the East Limits of the Village of Bear Lake and North of Highway US-31 to the shore of Bear Lake to the North Bear Lake Township line and 13 Mile Road*

*The property 300 feet West of Hopkins Forest Drive from the North township line to South Shore Drive.*

*All that area between Hopkins Forest Drive and the lake from the North township line to South Shore Drive; and between South Shore Drive and the lake from Hopkins Forest Drive to the Village of Bear Lake.*

*All parts of Chief Lake Shores Subdivision # 241 in the Southwest  $\frac{1}{4}$  of Section 34 and areas lying within 600 feet of the perimeter of Chief Lake to Lyman Road.*

*All areas lying within 600 feet of the perimeter of James Lake, Adamson Lake, Watson Lake, Lake Emma and Cooper Lake.*

### RESIDENTIAL DISTRICT R-1 / Article 44

*The remaining portion of Section 6, that is not considered Resort Residential shall be considered Residential with the exception of the Village of Bear Lake.*

*East  $\frac{3}{4}$  of the North  $\frac{1}{2}$  of Section 7.*

*North  $\frac{1}{2}$  of the Northwest  $\frac{1}{4}$  except the East 600 feet of Section 8.*

*All of the property in Section 5 that is not currently Commercial nor Resort Residential.*

*All platted areas that are not Resort Residential.*

*NW  $\frac{1}{4}$  of Section 30 shall remain Residential.*

*The W  $\frac{1}{2}$  of Section 4 lying South of US-31 and East of the Village of Bear Lake to a point 953 feet South of the intersection of Lakeside and 13 Mile Road.*

*The North  $\frac{1}{2}$  of the NW  $\frac{1}{4}$  of Section 9.*

COMMERCIAL DISTRICT C-1 / Article 53

*A parcel of land commencing at the South ¼ corner of Section 5, T23N, R15W; thence West 600 feet along the South line of Section 5; thence South to a point on the South line of the NW ¼ of Section 8, T23N, R15W and 600 feet directly West of Highway US-31; thence East 600 feet along said South line of the NW ¼ of Section 6 to the West line of Highway US-31; thence North along Highway US-31 to the point of beginning, all being in Bear Lake Township, Manistee County, Michigan.*

*A parcel of land commencing at the NW corner of the NW ¼ of the NE ¼ of Section 8, T23N, R15W thence along North line of Section 8, 600 feet; thence South to the South line of NW ¼ of NE ¼ of Section 8; thence West 600 feet to the East line of Highway US- 31; thence North along Highway US-31 to the point of beginning, all being in Bear Lake Township, Manistee County, Michigan.*

*The South ½ of the NE ¼ of Section 8, T23N, R15W; and the South ½ of the NW ¼ of Section 9, T23N, R15W; Bear Lake Township, Manistee County, Michigan.*

*A parcel of land described as commencing at the South ¼ corner of Section 5, T23N, R14W; thence West 600 feet along the South line of Section 5; thence North to the South right of way line of South Shore Drive; thence East to the West line of the Village of Bear Lake; thence South to the point of beginning, all being in Bear Lake Township, Manistee County, Michigan.*

*Parcel of land 600 feet deep on the East and West sides of US-31 commencing at 8 Mile Road and going South for ½ mile (said parcel being in the East ½ of NE ¼ of Section 31 and the West ½ of NW ¼ of Section 32, all being in Bear Lake Township, Manistee County, Michigan.*

MULTIPLE USE DISTRICT M-1 / Article 55

*Everything that is not zoned Commercial south of the Village of Bear Lake, 600 feet on each side of US-31 to Lyman Road*

*From Balsam Road to Johnson Road, a parcel 600 feet deep on the West side of Chief Road and 1260 feet deep on the East side of Chief Road.*

*A parcel of land described as commencing at the NE corner of Section 3, T23N, R15W; thence West along the section line to the SE corner of the intersection of Lakeside Avenue and 13 Mile Road; thence due South 600 feet; thence East along a line parallel to the section line to the East line of Section 3; thence North along the East section line to the point of beginning, being in Bear Lake Township, Manistee County, Michigan.*

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## Article 1 – Preamble

### 101 – Title

This Ordinance shall be known as the "Bear Lake Township Permanent Zoning Ordinance".

### 102 – Purpose

- A. To promote the public health, safety, and general welfare.
- B. To encourage the use of lands in accordance with their character and capabilities and to limit the improper use of the land.
- C. To conserve natural resource and energy.
- D. To meet the needs of the state's residents for food, fiber, and other natural resources, place of residence, recreation, industry, trade, service, and other uses of land.
- E. To ensure that uses of land shall be situated in appropriate locations and relationships.
- F. To avoid overcrowding of population.
- G. To provide adequate light and air.
- H. To lessen congestion on the public roads and streets.
- I. To reduce hazards to life and property.
- J. To facilitate adequate provisions for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation, and other public requirements.
- K. To conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources, and property.
- L. To reasonable consider the character of each district, its peculiar suitability for particular uses, the conservation of property values and natural resources, and the general and appropriate trend and character of land, building and population development.
- M. To prevent economic and ecological damages due to unwise development within the environmental areas and to prevent he degradation of the shorelands.
- N. To prevent non-compatible land uses from denying the benefits of minerals to the citizens of Bear Lake Township.

- O. To prevent unwise patters of development.
- P. To assure proper reclamation of mining sites.
- Q. To create Land Use Districts which conform with the development plan set forth in the Bear Lake Township Comprehensive Plan.

#### 103 – Legal Basis

This ordinance is enacted pursuant to P.A. 184 of 1943, as amended, (being the Township Zoning Act, M.C.L. 125.271 et seq.) The continued administration of this Ordinance, amendments to this Ordinance, and all other matters concerning operation of this ordinance shall be done pursuant to P.A. 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3101 et seq.), hereinafter referred to as the "Zoning Act".

[Annotation: Provision added by amendment effective June 22, 2007.]

## **Article 5 – Definitions**

### **501 - Introduction**

For the purpose of this Ordinance certain terms and words are herein defined. Words used in the present tense include the future, words in the singular number include the plural number and words in the plural include the singular number. The word "shall" is always mandatory and not merely directory. The word "person" shall mean an individual, partnership, corporation, or other association or their agents. Terms not herein defined shall have the meaning customarily assigned to them.

### **502 - Standard Industrial Classification Manual**

The purpose for which land or a building thereon is designed, arranged or intended to be occupied and used, or for which it is maintained. The use of land permitted in the several land use districts established by this Ordinance shall be further defined by the Standard Industrial Classification manual of 1987 which is incorporated herein by reference.

### **503 - Accessory Buildings**

A supplementary building or structure of greater than 240 square feet on the same lot or parcel of land as the main building or buildings or part of the main building, the uses of which is incidental or secondary to that of the main building or structure, but such use shall not include any building used for dwelling, residential or lodging purposes, or sleeping quarters for human beings.

[Annotation: Definition amended by amendment effective April 1, 2022.]

### **504 - Accessory Use**

A use naturally or normally incidental or subordinate to, and devoted exclusively to a permitted use of the land or buildings.

### **505 - Agricultural Products**

Includes, but is not limited to, crops (corn, wheat, hay, potatoes); fruit (apples, peaches, grapes, cherries, berries, etc.); cider; vegetables (sweet corn, pumpkins, tomatoes.); floriculture; herbs; forestry; husbandry; livestock and livestock products (cattle, sheep, hogs, horses, poultry, ostriches, emus, farmed deer, farmed buffalo, milk, eggs, and fur, etc.); aquaculture products (fish, fish products, water plants and shellfish); horticultural specialties (nursery stock, ornamental shrubs, flowers and Christmas trees); maple sap, etc.

### **506 - Agriculturally Related Products**

Items sold at a farm market to attract customers and promote the sale of agricultural products. Such items include, but are not limited to all agricultural and horticultural products, animal feed, baked goods, ice cream and ice cream based desserts and beverages, jams, honey, gift items, food stuffs, clothing and other items

promoting the farm and agriculture in Michigan and value-added agricultural products and production on site.

#### 507 - Agriculturally related uses

Those activities that predominantly use agricultural products, buildings or equipment, such as pony rides, corn mazes, pumpkin rolling, barn dances, sleigh/hay-rides, and educational events, such as farming and food preserving classes, etc.

#### 508 - Agricultural Tourism, ag-tourism and/or agri-tourism

The practice of visiting an agribusiness, horticultural, or agricultural operation, including, but not limited to, a farm, orchard, winery, greenhouse, hunting preserve, a companion animal or livestock show, for the purpose of recreation, education, or active involvement in the operation, other than as a contractor or employee of the operation.

#### 509 - Storage Building

Buildings used for storage on a parcel, without a primary residence.

[Annotation: Definition added by amendment effective November 21, 2006.]

#### 510 – Alter

To change, add or modify the location, use or structure or the structural members of a building such as bearing walls, columns, beams, posts, girders, and similar components, or in the size or location of the roof or exterior walls.

#### 511- Basement or Cellar

A basement or cellar is that portion of a building partly below the average grade of the parcel. A basement is so located that the vertical distance from the average grade to the floor is not greater than the vertical distance from the average grade to the ceiling. A cellar is so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling.

#### 512 – Buildings

Any structure, either temporary or permanent, having a roof and used or capable of being used for the shelter or enclosure of persons, animals, chattels, or property of any kind.

#### 513 – Cabin

Any building, tent or similar structure which is maintained, offered, or used for dwelling or sleeping quarters for transients, or for temporary residence, but shall not include what we commonly designated as hotels, motels, lodging houses or tourist homes.

#### 514 - Cabin Court or Cabin Park

Any tract or parcel of land on which two or more cabins as herein defined, are maintained, offered, or used for dwelling or sleeping quarters, for transients.

515 – Communication Tower

A radio, telephone, cellular telephone or television relay structure of more than 14 feet in height attached directly to the ground or to another structure, used for the transmission or reception of radio, telephone, cellular telephone, television, microwave or any other form of telecommunication signals.

516 – Corner Lot

A lot or parcel on which at least two (2) adjacent sides abut for their full length upon a street. In the case of a corner lot, there shall be front yard setback along each street and the remaining setbacks shall be side yard setbacks.

[Annotation: Definition added by amendment effective April 1, 2022.]

517 - Day Care Centers

A facility, structure or residence used for the care and housing of children. Each facility, structure or residence so used shall be licensed according to the laws and statutes of the State of Michigan and shall be operated according to the rules and regulations of the Michigan Department of Social Services which shall be applicable to child day care centers.

518 – Double – Frontage Lot

A lot other than a corner lot with frontage on more than one street other than an alley. In the case of a double-frontage lot, there shall be a front yard setback along each street and the remaining setbacks shall be side yard setbacks.

[Annotation: Definition added by amendment effective April 1, 2022.]

519 – Driveway

Access to parcel of land.

520 – Dwelling

A building, mobile home, pre-manufactured or pre-cut structure designed and used for the complete living accommodations of a family and which complies with the standards given in this Ordinance.

- A. Single-Family Dwelling: A dwelling occupied by one (1) family, and so designed and arranged as to provide living, cooking and kitchen accommodations for one (1) family only.
- B. Two-Family Dwelling: A dwelling designed to provide for separate living, sleeping, and kitchen facilities for two (2) families living independently of each other. Each dwelling unit shall conform to the minimum floor area requirement for the land use district in which it is located.
- C. Multi-Family Dwelling: A dwelling designed to provide for separate living, sleeping, and kitchen facilities for more than two (2) families living independently of each other. Each dwelling unit shall conform to the minimum floor area requirement for the land use district in which it is located.

- D. Temporary Dwelling: Cabins, tents, trailers, garages and basements, if used for human occupancy.
- E. Partial or Complete Underground Dwelling: Any dwelling other than a basement or cellar designed and built with a majority of the structure below ground level and designed so as not to be built upon.

#### 521 – Erect

To build, construct, reconstruct, move upon or conduct any physical operations on the land required for the buildings, including excavations, fill, and drainage.

#### 522 – Established Front Yard

The parcel line where the driveway and address for the principal dwelling are assigned on a parcel.

[Annotation: Definition added by amendment effective April 1, 2022.]

#### 523 – Essential Services

Services and utilities needed for the health, safety, and general welfare of the community, such as underground, surface, or overhead electrical, gas, telephone, steam, water, sewage, recycling, and other utilities and the equipment, facilities and appurtenances necessary for such systems to furnish an adequate level of service for the Township.

[Annotation: Definition added by amendment effective April 1, 2022.]

#### 524 - Existing Building

A building existing in whole or whose foundations are complete, and whose construction is being diligently pursued on the effective date of this Ordinance.

#### 525 – Family

One or more persons living together and inter-related by bonds of consanguinity, marriage or legal adoption. A family shall be deemed to include domestic servants and gratuitous guests.

#### 526 – Farms

All of the contiguous, neighboring or associated land operated as a single unit and upon which agriculture is being carried on directly by the owner, operator, manager or tenant farmer, by his own labor, or with the assistance of members of his household or hired employees; provided, however, that land to be considered a farm hereunder shall include a continuous parcel of ten (10) acres or more in area; provided, further that greenhouses, nurseries, orchards, apiaries, poultry hatcheries, poultry farms and similar specialized operations may be considered as farms without regard to the aforesaid ten (10) acre limitation; but establishments keeping or operating fur bearing animals, game, fish hatcheries, dog kennels, stock yards, slaughter houses, stone quarries, gravel or sand pits, shall not be considered farms here under unless combined with and constituting a minor part of bona fide agricultural operations on the same tract of land. Nor shall premises operated as fertilizer works, bone yards, or for the reduction

of animal matter, for the disposal of garbage, sewage, rubbish, offal or junk constitute a farm hereunder.

#### 527 - Farm Buildings

Any building, other than a dwelling, erected, or maintained on a farm, which is essential and customarily used on farms in the pursuit of agricultural activities.

#### 528 - Farm Market/On-farm market

The sale of agricultural products or value-added agricultural products, directly to the consumer from a site on a working farm or any agricultural, horticultural or agribusiness operation or agricultural land, but not including temporary roadside stand markets.

#### 529 - Floor Area

The habitable ground floor area of a building or structure, exclusive of garage, breezeway, or porches; OR the habitable second floor area if a garage is contained on the ground floor, exclusive of breezeway, porches, or three-seasons rooms.

[Annotation: Definition amended by amendment effective April 1, 2022.]

#### 530 – Forestry

The use of land for the management and harvesting of trees from their natural setting for purposes of producing lumber, pulp or firewood.

#### 531 – Garage

- A. Private: Any building or part thereof, accessory or otherwise, for storage of motor vehicles, or trailer coaches, or recreational vehicles, where no servicing or storage for a fee is conducted.
- B. Commercial: Any building, other than a private garage, or garage operated by a municipality, used for storage, repair, greasing, washing, rental, sales, servicing, adjusting or equipping of automobiles, cars, motor driven vehicles, trailers, trailer coaches, or recreational vehicles, for remuneration, hire, or sale or where any such vehicle or engine may be fueled, repaired, rebuilt, or reconstructed, and including undercoating, or over-all painting when conducted in an enclosed booth.

#### 532 – Garden Shed

A building or structure of 240 square feet or less and not exceeding a height of eight (8) feet at the eave line.

[Annotation: Definition added by amendment effective April 1, 2022.]

#### 533 – Highway

A roadway, street or thoroughfare, public or private, contained within the limits of a right-of-way dedicated or maintained for the operation of vehicular traffic.

534 - Home Occupation

A gainful occupation or service conducted by members of a family within its place of residence; provided, that the space used is incidental or secondary to residential use, and provided, that there be no external evidence of such occupation or service except a name plate not more than four (4) square feet in area, without illumination, and in character with the neighborhood; and providing further, that said occupation or service does not require nor effect any change in the external dimensions of the building. No services shall be rendered or articles displayed outside the dwelling.

535 - Industrial Building

A building or structure housing a manufacturing, assembly, chemical, or processing operation or transportation facilities.

536 - Institution Building

A building occupied by a municipal or non-profit corporation and open to the public.

537 - Land Use Permit

A standard form issued by the Bear Lake Township Zoning Administrator or his agent upon application by an owner or his agent, for the proposed construction of a building or structure and/or the use of land in compliance with the provisions of this Ordinance.

538 – Lodge

A building used as a meeting place by members of private clubs, service, clubs, veterans organizations, and other fraternal or religious organizations and owned or leased by such groups.

539 - Lot Lines

The lot lines are the property lines bounding the lot. "Front lot line", in the case of a lot abutting upon one public or one private street means the line separating such lot from such street right-of-way. A "rear lot line" is that lot line which is opposite and most distant from the front lot line of the lot. A "side lot line" is any lot line not a front line or a rear lot line.

540 – Mineral

A naturally occurring element or combination of elements that occur in the earth in a solid state.

541 – Mining

All or part of the processes involved in the extraction and processing of mineral materials.

#### 542 - Mining Permit

A special use permit for mining, whether on a regular or temporary basis, which is required by Article 94 - 9403 - 9404 of this Ordinance. It does not replace or otherwise eliminate the need to apply for any state mining permits otherwise required by law.

#### 543 - Mobile Home

A dwelling, residence or structure, transportable in one or more sections, exclusive of any tongue or hitch assembly, and designed to be used as a dwelling with a permanent foundation, when connected to the required utilities, including plumbing, heating, and/or air conditioning and electrical systems contained therein and is installed by a Michigan licensed mobile home dealer or Michigan licensed mobile home installer as required by Michigan Public Act 419 of 1976 and the administrative rules promulgated thereunder.

#### 544 - Mobile Home Park

A parcel or tract of land under the control of a person upon which two (2) or more mobile homes are located on a continual, non-recreational basis and which is offered to the public for that purpose, regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home.

#### 545 – Motel

A building or group of buildings having units containing sleeping accommodations which are available for temporary occupancy primarily for automobile transients.

#### 546 – Neighborhood

A number of persons forming a loosely cohesive community within a larger community (as a town or village) and living close or fairly close together in more or less familiar association with each other.

#### 547 - Non-Conforming Uses

A use which lawfully occupied a building or land at the effective date of this Ordinance or amendments thereof, which does not conform after passage of the Ordinance or amendments thereto with the requirements of the Zoning District in which it is located.

#### 548 - Non-agriculturally related products

Those items not connected to farming or the farm operation, such as novelty t-shirts or other clothing, crafts and knick-knacks imported from other states or countries, etc.

549 - Non-agriculturally related uses

Activities that are part of an agri- tourism operation's total offerings but not tied to farming or the farm's buildings, equipment, fields, etc. Such non-agriculturally related uses include amusement rides, concerts, haunted houses, etc., and are subject to a special use or temporary use permit.

550 – Operator

Any person or any agency either public or private, engaged or who has applied for a special permit to engage in mining, whether individually, jointly, or through subsidiaries, agents, employees, or any person engaged in managing or controlling a mining operation.

551 – Parcel

A description of land, as identified by a property tax parcel number in the Manistee County tax roll and on which one (1) principal building and its accessory buildings may be placed, together with the open spaces required by this Ordinance.

552 – Park

A park is any non-commercial recreational area.

553 - Private and Industrial Pipelines

Any type of pipeline of any size used for private or industrial purposes.

554 - Public Meeting Place

Buildings and outdoor areas where numbers of persons congregate from time to time for educational, religious, social or recreational purposes, including churches, schools, community buildings, clubs, lodges, theaters (indoor and outdoor), places of amusement and similar assemblages.

555 - Public Utilities

Any person, firm or corporation, municipal department or board, duly authorized to furnish under governmental regulation, to the public, transportation, water, gas, electricity, communication, steam, or sewage disposal and other services.

556 - Reclamation Plan

The operators proposal for the reclamation of a project site which is submitted under this Ordinance prior to the issuance of a mining permit; including off site oil equipment and the mining of sand and gravel.

557 - Retail, Commercial and Wholesale Stores

A store, market or shop in which commodities are sold, or offered for sale, in small or large quantities at wholesale or retail.

558 - Roadside Stand

A structure used or intended to be used solely by the owner or resident tenant of the land on which it is located for the sale of agricultural products and value-added agricultural products from within Manistee County.

559 – Seasonal

A recurrent period characterized by certain occurrences, festivities, or crops; harvest, when crops are ready; not all year round.

560 - Service Institutions

A store, market or shop in which services are sold or offered for sale to the public, including, but not limited to, gasoline stations, garages, repair shops, laundries, warehouses, printing houses, undertaking establishments, barber shops and beauty parlors.

561 - Setback Lines

The minimum horizontal distance between one's building, including steps and unenclosed porches, and the boundary of one's parcel of land or in those cases where the parcel adjoins an established roadway, then the minimum horizontal distance between the building and the closest road right-of-way.

[Annotation: Definition amended by amendment effective April 1, 2022.]

562 - Sexual Oriented Business

- A. Adult Book and/or Video Store: An establishment having, as a substantial or significant portion of its stock in trade, computer services, books, magazines and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas", hereinafter defined;
- B. Adult Motion Picture Theater: An enclosure with a capacity of 50 or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting describing or relating to "specified sexual activities" or "specified anatomical areas", as hereinafter defined for observation patrons therein;
- C. Adult Mini Motion Picture Theater: An enclosure with a capacity for less than 50 persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas", as hereinafter defined for observation patrons therein;
- D. Adult Paraphernalia/Novelty Store: An establishment having, as a substantial or significant portion of its stock in trade, paraphernalia designed or usable for sexual stimulation or arousal;
- E. Massage Parlor: Any establishment having a fixed place of business where massages are administered for pay, including but not limited to massage parlors, sauna baths and steam baths. This definition shall not be construed to include a hospital, nursing home, medical home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, or

physical therapist duly licensed by the State of Michigan, nor barber shops or beauty salons in which massages are administered only to the hands, feet, scalp, face, neck or shoulder. This definition shall not be construed to include the practices of massage therapists who meet one or more of the following criteria:

1. Proof of graduation from a school of massage licensed by the State of Michigan;
  2. Official transcripts verifying completion of at least 300 hours of massage training from an American community college or university; plus three (3) references from massage therapists who are professional members of a massage association referred to in this section;
  3. Certificate of professional membership in the American Massage Therapy Association, International Myomassethics Federation, or any other recognized massage association with equivalent professional membership standards; or
  4. A current occupational license from another state;
- F. Host or Hostess Establishment: Establishments or clubs offering socialization with a host or hostess for a consideration to the host or for an admission or membership fee;
- G. Open Dance Hall: An establishment where open public dancing by patrons is available during at least four (4) days per week with partners furnished by the establishment;
- H. Adult Live Entertainment Establishments Regardless Of Whether Alcoholic Beverages May Or May Not Be Served: Establishments which include a nightclub, bar, restaurant, or similar commercial establishment, which features (a) persons who appear nude or in a "state of nudity" or "semi-nude", and/or (b) live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities";
- I. Adult Panorama: An establishment which has a substantial or significant portion of its business devoted to the viewing by patrons of films, tapes or live entertainment showing "specified sexual activities" or "specified anatomical areas";
- J. Specified Sexual Activities: Means and includes any of the following:
1. The fondling or other intentional touching of human genitals, pubic region, buttocks, anus, or female breasts;
  2. Sex acts, actual or simulated, including intercourse, oral copulation, or sodomy;
  3. Masturbation, actual or simulated;
  4. The display of human genitals in a state of sexual stimulation, arousal or tumescence;
  5. Excretory functions as part of or in connection with any of the activities set forth in subdivisions (1) through (4) of this subsection;
- K. Specified Anatomical Areas: Means human genitals less than completely or opaquely covered including the pubic region, buttocks, or anus; or

female breasts below a point immediately above the top of the areolae; or human male genitals in a discernible state of tumescence, even if opaquely covered;

- L. Substantial or Significant Portion: Means a business or establishment which has:
1. Thirty-five percent or more of its stock, materials, or services provided relating to or describing "specified sexual activities", and/or "specified anatomical areas", and/or
  2. Thirty-five 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; and/or
  3. The advertising (on signs, in publications, on television or radio and/or other media forms) associated with the business or establishment, describes or relates to "specified sexual activities", and/or "specified anatomical areas";
- M. 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 or establishment;
  2. The transfer of securities which constitute a controlling interest in the business or establishment, whether by sale, exchange or similar means;
  3. The establishment of a trust, management arrangement, gift or other similar legal device which transfers ownership or control of the business, except for transfer by bequest or other operation of law upon the death of a person possessing the ownership or control.

#### 563 - State Licensed Residential Facility

A structure constructed for residential purposes that is licensed by the State of Michigan pursuant to Act 287 of the Public Acts of 1972, as amended, being Sections 331.681 to 331.694 of the Michigan Compiled Laws, or Act 116 of the Public Acts 9 of 1973, as amended, being Sections 722.111 to 722.128 of the Michigan Compiled Laws, which provide services for six (6) or less persons under twenty-four (24) hour supervision or care for persons in need of such supervision or care.

#### 564 – Street

A thoroughfare, public or private, which affords a principal means of access to abutting property.

#### 565 – Sign

An inscribed board of space serving for advertisement and information.

- A. Advertising Sign: A sign installed on the property with the purpose of advertising merchandise which may not necessarily be sold on the property.

- B. On Premises: A sign which advertises a business, product or service located on the property.
- C. Seasonal: A sign erected for a limited period of time during the year when retailing activities for a particular farm product is available to the public.

#### 566 – Structure

A structure is any production or pieces of material artificially built up or composed of parts joined together in some definite manner; any construction, including dwelling, garages, buildings, signs and sign boards, towers, poles, antennas, standpipes or other like objects.

#### 567 - Tourist Home

Primarily a family dwelling where lodging with or without meals is furnished for compensation, chiefly on an overnight basis, and mainly to transients.

#### 568 - Tourist Cabin – Court

- A. Any building in a cabin-court which is maintained, offered or used for overnight human occupancy.
- B. Any parcel of land on which two (2) or more tourist cabins are located.

#### 569 – Trailer

A vehicle which can be drawn on a highway and is used exclusively for recreational or camping purposes. Includes the terms Motor Home, Pole-trailer, Trailer Coach, Trailer, Mobile Home, as defined in the Michigan Motor Vehicle code (Public Act 300 of 1949, M.S.A. §9.1801-9.1882) and including camping units, tents, or any other temporary dwellings.

#### 570 - Trailer Court or Park

Any site, lot, field, tract or parcel of land on which are situated two (2) or more inhabited trailer coaches, either free of charge or for revenue purposes, and shall include any building, structure, tent, vehicle, or enclosure located therein, and used or intended for use as a part of the equipment of such park.

#### 571 - Value-added agricultural product

The enhancement or improvement of the overall value of an agricultural commodity or of an animal or plant product to a higher value. The enhancement or improvement includes, but is not limited to marketing, agricultural processing, transforming, or packaging, education presentation, activities, and tours.

#### 572 – Waste

All accumulation of waste mined material and overburden placed on the land surface, whether above or below water.

### 573 - Water's Edge

The surveyed property line along the shore of a body of water or the term "water's edge" in its usual and ordinary sense and usage being that area of the shoreline where land and water meet, in the event there is no surveyed property line along the shore at the water's edge.

### 574 – Wetland

For purposes of this Ordinance, a wetland shall be in conformity with the definition set forth in the Goemaere - Anderson Wetland Protection Act, being Section 2(g) of Act 203 of the Public Acts of 1979; MCLA 28 I. 702(g); MSA I 8.595(52)(g).

### 575 – Yard

A space open to the sky, and unoccupied or unobstructed except by encroachments specifically permitted under Article 10 - 1008 and 1014 of this Ordinance, on the same lot with a building or structure. Yard measurements shall be the minimum horizontal distances.

- A. Front Yard: A yard extending across the full width of parcel between the front parcel line and the nearest line of the main building. In the case where there is a parcel with a lakefront parcel line, the front yard is the waterfront yard.
- B. Rear Yard: A yard extending across the full width of the parcel between the rear parcel line and the nearest line of the main building. In the case where there is a parcel with a lakefront parcel line, the rear yard shall be the yard extending across the full width of the parcel lying between the parcel line separating the road from the parcel and the nearest part of the principal building.
- C. Side Yard: A yard extending from the front yard to the rear yard between the side parcel line and the nearest line of the main building or of accessory building attached thereto.
- D. Waterfront Yard: A yard extending across the full width of the parcel lying between the nearest line of the principal building and waterfront parcel line. All regulations dealing with front yards shall also apply to waterfront yards.

[Annotation: Definition amended by amendment effective April 1, 2022.]

### 576 - SIC References

The numbers appearing in parenthesis following the permitted and special uses set forth in this Ordinance refer to the classification numbers in the Standard Industrial Classification Manual, 1987, (SIC) prepared by the Executive Office of the President, Office of Management and Budget, which is incorporated herein by reference. Uses listed in this Ordinance which are identified with a two-digit number (XX) refer to the Major Groups in the SIC. Except where otherwise indicated, a use which is identified by reference to a Major Group includes all uses listed in the SIC under that Major Group, if any, with a three-digit (XXX) or four digit (XXXX) number, the first two numbers of which are the same as the Major Group numbers. Except where otherwise indicated, a use which is identified with a three digit (XXX) number includes all used listed in the SIC, if

any, with a four digit (XXXX) number, the first three numbers of which are identical to the use in question, but does not include other uses in the same Major Group. Except where otherwise indicated, a use which is identified with a four digit (XXXX) number includes only that use referenced in the SIC and does not include other uses in the same Major Group with two or three digits.

#### 577 - Zoning Act

"Zoning Act" means P.A. 110 of 2006, as amended (being the Michigan Zoning Enabling Act, M.C.L. 125.3101 et seq.)

[Annotation: The following definitions have been deleted by amendment effective November 21, 2006

Agriculture: A use of land or structures which entails the art and science of cultivating the ground for the production of food and forage crops, including forestry, and livestock.]

## Article 10 – General Allegations

### 1001 – Purpose

It is the purpose of this Article to provide regulations that apply in all zoning districts to all permitted uses and special uses.

### 1002 – Scope

Zoning applies to all parcels of land and to every building, structure or use. No parcel of land, no building, structure or part thereof and no new building, structure or part thereof shall hereafter be located, erected, occupied or used except in conformity with this Ordinance.

### 1003 - General Provisions

No parcel, building or structure in any district shall be used or occupied in manner which crease any dangerous, injurious, noxious or otherwise objectionable element or condition so as to adversely affect the surrounding area or adjoining parcels provided any use permitted by this Ordinance maybe undertaken and maintained if acceptable measures and safeguards are employed to limit dangerous and objectionable elements to acceptable limits as established by the following performance requirements:

- A. Any activity involving the use or storage of flammable or explosive materials shall be protected by adequate fire-fighting and fire suppression equipment and by such safety devises as are normally used in the handling of any such material. Such hazards shall be kept removed from adjacent activities to a distance which is compatible with the potential danger involved as is require by applicable provisions of the State Construction Code and rules promulgated thereunder and/or the State Fire Marshal.
- B. Any activity which emits radioactivity at any point, or electrical disturbance shall not be permitted in excess of the applicable federal, state, or local regulations or rules promulgated thereunder, including but not limited to, regulations of the Federal Nuclear Regulatory Commission or Public Service Commission or Michigan Department of Health and Department of Radiology.
- C. No vibration shall be permitted in excess of applicable county noise ordinance or regulations promulgated by rule thereunder.
- D. No malodorous gas or matter shall be permitted in excess of the applicable state or federal air pollution statutes or regulations promulgated by rule thereunder.

- E. No pollution of air fly ash, dust, vapors, or other substances shall be permitted in excess of any applicable Federal or State Laws or the regulations promulgated by rule thereunder.
- F. No pollution of water bodies shall be permitted in excess of the applicable state or federal water pollution Laws or regulations promulgated by rule thereunder.
- G. No audible noise shall be permitted in excess of the standards as established by the Manistee County Noise Ordinance (March 8, 1977, as amended).
- H. No storm water runoff, which is a result of development site design, or other manmade alternatives, shall be allowed to collect which results in water standing on the surface, unless the standing water is part of a properly managed and maintained storm water retention system sediment pond; or the standing water is in a natural wetland.

The administrator shall enforce this section by cooperation with and reporting suspected violations to the respective enforcement agency(s) responsible for enforcement of the statutes, rules or ordinances cited above. The Township Board may take direct enforcement action only after a finding that cooperation by the administrator with other agencies has not been successful.

#### 1004 - Waste Accumulations and Outside Storage

It shall be unlawful for any person to accumulate rubbish or waste materials of any kind on any land in Bear Lake Township except in a permitted Refuse System establishments (4953). Scrap and Waste Material establishments (5093) or a licensed sanitary landfill. No sewage, waste water or water containing foreign substances shall be deposited or drained into any open ditch, creek, stream, lake, pond, or other body of water unless the same has first been approved by the state and county health authorities. The provisions of this Section shall not be deemed to prohibit storing or spreading of manure, fertilizers, or other solid conditioners as part of the permitted farm, forestry or home garden or lawn operation.

#### 1005 - Compliance with County Sanitary Code

Every structure or device hereinafter erected or moved upon any premises and used, designed or intended for human habitation shall conform to the requirements of the Manistee-Mason County Sanitary code. No land use permit shall be issued by the Zoning Administrator, the Zoning Board of appeals, or the Township Planning Commission for such use until the requirements of said sanitary code have been met.

#### 1006 - Water Protection (Green Belt Areas)

Notwithstanding anything to the contrary contained in this Ordinance, except Article 37, 3702 F, the following provisions shall apply in all land use districts:

- A. No dwelling or other structure shall be built; located or constructed closer than fifty (50) feet on a horizontal plane to the edge of wetland or flowing bodies of water in any land use district.
- B. Within fifty (50) feet of the edge of wetlands or flowing bodies of water only ten (10%) percent of the trees, shrubs and other natural growth may be removed in a five (5) year period. No building or structure shall be built, located or constructed within a wetland or flood plains of any flowing bodies of water in any land use district as may be determined by the Department of Natural Resources.

1007 - Hazardous Substance Ground Water Protection

All business and facilities which use, store, or generate hazardous substances in quantities greater than twenty-five (25) gallons or two hundred twenty (220) pounds per month, whichever is less shall comply with all State of Michigan and Federal agency requirements.

This section is designed to protect the natural environment, including lakes, ponds, streams, wetlands, flood plains, ground water, street slopes, and natural and man-made drainage system.

1008 – Height

No building or structure or part thereof shall be erected or altered to a height exceeding two and one-half (2½) stories, or thirty-five (35) feet, except that non-dwelling buildings or structures other than accessory buildings or structures, may be erected or altered to a height not exceeding fifty (50) feet if approved by the Zoning Board of Appeals, pursuant to its power to grant variances, or the Township Planning Commission in connection with an application being sought pursuant to Article 86, 8602.

1009 - Access to Public Roads

- A. In any district every use, building or structure established after the effective date of this Ordinance shall be located on a parcel which abuts a public or private road or easement which provides access to a public road, such public or private road or easement being at least sixty-six (66) feet in width unless a lesser width was duly established or recorded prior to the effective date of this Ordinance provided that private easement shall be at least twenty (20) feet wide. This does not apply to driveways.
- B. Public, private roads or easements shall be cleared to a minimum of twenty (20) feet wide with a sixteen (16) foot roadbed, graded and maintained.

[Annotation: Subsection added by amendment effective April 13, 2001.]

1010 - Private Roads

Every private road which provides or may provide access to and from a public road for three (3) or more dwelling units or principal buildings on separately owned parcels shall meet the following conditions:

- A. Be constructed in a good workmanlike manner upon and parallel to the centerline of the right-of-way which is established by duly recorded conveyance and which is not less than sixty-six (66) feet in width, or the current Manistee County Road Commission designate right-of-way width, whichever is greater.

[Annotation: Subsection amended by amendment effective April 13, 2001.]

- B. Be constructed so as to sufficiently control storm water runoff and permit effective storm water drainage by such means as two foot deep ditches constructed parallel to and on either side of the road, by sloping the sides of the road from the center thereof, or by other effective methods.

- C. Be constructed according to standards as may be adopted by Manistee County Road Commission.

- D. Road names: All frontage roads serving more than two (2) residential properties shall have a road name. The Board Commission shall be the agency with exclusive authority to name roads in the unincorporated areas of the county. The Village Council shall be the agency with exclusive authority to name roads in their respective incorporated municipality.

[Annotation: Subsection added by amendment effective April 13, 2001.]

- E. The layout of roads shall provide as much as possible for a continuous circuit for travel. In special cases where the land to be divided are limited in area or are subject to a natural barrier, the Township Board or Zoning Administrator may approve a dedication which provides access to another road at one end only if a cul-de-sac of fifty-two (42) foot minimum roadbed radius with seventy-five (75) foot radius right-of-way is provided at the terminus of the road to permit turning in a continuous circuit. No more than five (5) driveways will be permitted to enter the cul-de-sac beyond the point of curvature at the beginning of the cul-de-sac.

1011 - Traffic Visibility at Corners

No vehicles shall be parked, nor fence, hedge, planting of shrubs, signs or any similar structures which obstructs safe vision at a road corner shall be located, erected or maintained, within a distance of forty (40) feet from the point of intersection of the front parcel line and side parcel line adjacent to the road.

1012 – Driveway

All buildings and structures shall provide access to an adjoining public highway, private road or easement by means of a driveway not less than sixteen (16) feet in width cleared and maintained.

### 1013 - Advertising Signs

- A. Off premises advertising signs may be permitted within the setback area provided that they comply with the following conditions:
1. Such advertising sign or display complies with the statues of the State of Michigan.
  2. Such advertising sign shall be permitted in the commercial and multi-use districts. When adjacent to and in ended for US-31 traffic they are limited to 300 square feet.
  3. Advertising signs shall be permitted in the agricultural district. Size shall be limited to 24 square feet.
  4. Such advertising sign or display is not erected within three hundred (300) feet of an existing sign or display excepting for directional signs within one hundred (100) feet of an intersection.
  5. Attractively designed groups of directional signs not more than four (4) square feet per sign may be placed on property regardless of zone, at road intersections. Such groups of signs shall be subject to the approval of the Zoning Administrator and the issuance of a land use permit before they are erected.
  6. Signs with a political message directly associated with a campaign on a pending ballot issue or candidate during a period of the political campaign prior to the election, but not more than ten (10) days after the election.
- B. The provisions of 1013 - A, shall not apply to the following:
1. Temporary sale, lease or rent signs, providing:
    - (a) No more than two (2) signs are displayed.
    - (b) Such signs are located on the lot or structure for sale, lease or rent.
    - (c) Such sign does not contain an area of more than ten (10) square feet.
    - (d) Such sign is removed within seven (7) days following the sale, renting, or leasing of the property.
  2. Bulletin boards of churches, schools, libraries and public buildings, provided:
    - (a) Such bulletin board is located on the premises hereof
    - (b) Such board is not located as to obstruct the view of traffic from the sidewalks, driveways, roadways and adjoining property.
  3. On premises advertising signs and displays of a commercial enterprise, business, industry or professional person providing:
    - (a) Such signs or display is limited to the products or services of the enterprise.
    - (b) Such sign does not obstruct the view of traffic from the sidewalks, roadways, driveways, or exits of adjoining property.

- (c) Their operation does not constitute a nuisance by reason of glare, intermittent action or other action.

C. Sign Approval

Advertising signs, billboards, advertising display, outdoor display, and other advertising may be erected and maintained within the Township by first obtaining the approval of the Zoning Administrator who shall, pursuant to Article 84, Section 8401, grant approval for any advertising media which conforms to the provisions of this Section. The fee for the permit shall be set by resolution of the Township Board. Any state or federal regulations to the contrary shall supercede any determination or rules of the Zoning Administrator concerning signs, and any contrary provision of this Ordinance.

1014 - Vehicular Parking Spaces, Access and Lighting

A. For each dwelling, commercial, industrial, manufacturing, retail or service business or establishment hereafter erected or altered and located on a public highway, road or street in any land use district, including buildings and structures used principally as a place of public assembly, there shall be provided and maintained suitable space off the public right-of-way which is adequate for the parking or loading of motor vehicles in the proportions shown as follows. The parking space called for hereunder shall be considered minimum requirements under this Ordinance.

1. Dwellings: Two (2) parking spaces for each family unit occupying the premises.
2. Motels, Hotels and Similar Establishments Offering lodging: One (1) parking space for every three (3) spaces of legal sleeping capacity.
3. Hospitals, Rest Homes, Convalescent Homes and Institutions of a Similar Nature: One (1) parking space of each four (4) beds, plus one (1) space for each doctor.
4. Theaters, Churches, Auditorium, Public and Private Halls, Amusement and Recreation Establishments, and all Places of Public Assembly: One (1) parking space for each four (4) seats of legal capacity.
5. Offices and Professional Buildings: One (1) parking space for every two hundred (200) square feet of floor area; provided, however, that doctor's offices and clinics shall be provided with three (3) spaces for each doctor.
6. Restaurants and Other Public Food Service Establishments: One (1) parking space for each three (3) seats of legal capacity.
7. Retail Stores and Shops: One (1) parking space for each one hundred (100) square feet of floor area.
8. Personal Service Shops, including Barber or Beauty Shops: One (1) parking space for each two hundred (200) square feet of floor area.
9. Taverns: One (1) parking space for every sixty-six (66) square feet of floor area.

10. Agricultural Value Added, Tourism and Related Uses (Section 1601)
  - (a) One space for each 500 square feet of retail area and one space for every 1,000 square feet of outdoor related activities such as agricultural mazes, petting farms, outdoor play equipment, etc.
  - (b) Employee parking should be provided at one space per employee that does not live within the confines of the site.
  - (c) For uses permitted by right in the AG-1 District, parking facilities may be located on a grass or gravel parking areas. All parking areas shall be defined by either gravel, cut lawn, or other visible marking.
  - (d) For uses permitted as a special use in the AG-1 District, parking may be either gravel or paved as determined by the Planning Commission during the Special Use Permit Process. Information should be provided by the applicant pertaining to intensity of use and estimates for peak seasonal patronage.
11. Roadside Stand
  - (a) Roadside Stands shall provide off-street parking outside of the Highway or Road Right-of-Way with sufficient space for five (5) vehicles.

- B. In addition to the above requirements, parking space in the proportion of one (1) space for every two (2) persons employed at the establishment shall be provided. Where no specific requirement is designated for other businesses, parking space which is adequate according to the above standards shall be provided for employees and patrons.
- C. A parking space shall be a minimum area of 10' x 20', with center and cross aisles begin 20' wide.

#### 1015 – Fences

Fences not exceeding six (6) feet in height may be constructed on any portion of a lot except that portion of a front yard between the actual front setback line of the main dwelling unit and the front lot line of the lot. For any fence in excess of six (6) feet, the side yard setback requirements shall apply. Fences located in the front yard portion of a lot shall be limited to a height of four (4) feet and be of a decorative type.

#### 1016 – Dwellings

No person shall use, occupy or permit the use of occupancy of a structure as a dwelling, which does not comply with the dwelling standards of this Ordinance, or standards of the State of Michigan and the United States Department of Housing and Urban Development, whichever is applicable, within any district within the Township. All dwellings shall comply with the minimum square footage requirements of this Ordinance of the land use district for which it is located and be at least twenty-two (22) feet in length by twenty-two (22) feet in width in its core living area, except in the Agricultural District, AG-1, the core living area shall be at least fourteen (14) feet in length by

fourteen (14) feet in width. Core living area shall be the main or central part of the dwelling, excluding wings, attached garages, enclosed porches, expansions or any part of a building added after initial completion or added to a mobile home after delivery and set-up on the site and it is occupiable.

#### 1017 - Location of Accessory Buildings and Structures

- A. All accessory buildings and structures shall be in the side yard or rear yard, except when built as part of the main building,
- B. When built where the parcel abuts a body of water, the front yard is the waterfront yard and accessory buildings, or above grade structures are not permitted. When a road runs through a parcel, a 25-foot setback shall be applied to the portion of the parcel abutting the road right of way.
- C. An accessory building attached to the principal building of a parcel shall be made structurally a part thereof, and shall comply in all respects with the requirements applicable to the principal building.
- D. No accessory building attached to the dwelling in any residential district shall be larger than the 1.5x the square footage of the floor area of the principal structure or dwelling on the same parcel.
- E. An accessory building and structure, unless connected with a roof at least four (4) feet wide attached and made part of the principal building as provided, shall not be closer than ten (10) feet to the principal building and/or any other above grade accessory structure, and shall meet all setback requirements of the district in which it is to be erected, moved or altered or used.
- F. Except for waterfront properties, accessory buildings or structures may be located in a front yard in all Zoning Districts if all the following are met:
  - 1. The property shall contain at least one (1) acre of land; OR is a double-frontage lot.
  - 2. The accessory structure is located to one side of the property and not in front of the principal dwelling as seen from the established front yard.
  - 3. All yard setbacks shall be met.
  - 4. The accessory building shall not be more than half the distance between the primary dwelling and the road right of way of the established front yard.
- G. In all residential districts, on parcels of (1) acres or less, one detached accessory structure is permitted not to exceed 1,200 sq ft. On parcels greater than (1) but less than (5) acres, a second detached accessory building is permitted not to exceed 1,500 sq. ft. On parcels of (5) acres or more, the second detached accessory building may not exceed 2,000 sq.

ft. Detached accessory buildings that were constructed prior to the current zoning ordinance (April 11, 1995) are exempt from the limit to the number of accessory buildings on a parcel.”

[Annotation: Section amended by amendment effective April 1, 2022.]

#### 1018 - Temporary Dwellings

No person shall use or permit the use of any temporary dwellings or trailer as defined in this Ordinance as a principal or seasonal dwelling except after full compliance with Section 8401 Compliance with county Sanitary Code, and further except:

- A. As a temporary dwelling quarters during the construction and installation of any dwelling with the provisions of this Ordinance, when the following conditions are met:
  - 1. The location of the temporary dwelling or trailer shall comply with all setback requirements of this Ordinance.
  - 2. The physical condition of the temporary dwelling or trailer shall not deteriorate to the extent that its continued use threatens the public health, safety or welfare.
  - 3. The use of the temporary dwelling or trailer shall be limited to four (4) months, beginning with the issuance of a land use permit in accordance with Article 84, Section 8401, the permit may be renewed for not more than two (2) months upon approval of the Zoning Administrator, if construction and installation of the dwelling is being delayed and completion of the structure is not found to be the fault of the property owner.
- B. As part of a campground licensed and operated in accordance with the rules and regulations of the Michigan Department of Public Health and the Michigan Mobile Home Commission.
- C. As a temporary recreation on a non-commercial/no-rental basis by tourist, campers and sportsmen on land owned by the user and for a period not to exceed eight (8) weeks in a calendar year. The trailer or temporary dwelling must be removed when not being used by the owner.

#### 1019 - Mobile Homes

No person shall use, occupy or permit the use or occupancy of a mobile home as a dwelling within any district within the Township not designated as a mobile home park, except as hereinafter provided:

- A. It complies with the minimum square footage requirements of this ordinance for the land use district in which it is located.
- B. It shall be at least twenty-two (22) feet in length by twenty-two (22) feet in width in its core living area, except in the Agricultural District, AG-1, the core living areas shall be at least fourteen (14) feet in length by fourteen (14) feet in width. Core living area shall be the main or central part of the

mobile home, excluding wings, garages, porches, expansions, or any part of the mobile home added after initial completion or added after delivery and se-up on the parcel.

- C. It is firmly attached to a permanent foundation constructed on the site in accordance with the Michigan State Construction code and shall have a wall in the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable building code for single family dwellings. In addition, it shall be installed pursuant to the manufacturer's set up instructions and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission.
- D. Each mobile home shall be installed with the wheels removed and shall not have any exposed towing mechanism, undercarriage or chassis.
- E. Each mobile it shall be connected to a public sewer and water supply or to such private facilities as are approved by the local Health Department.
- F. The mobile home shall contain no additions or rooms or other areas which are not constructed with similar quality workmanship as the original structure including permanent attachment to the principal structure and construction of a foundation as required herein.
- G. The mobile home shall comply with the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development (HUD) under the provisions of 24 CFR 3280 as the same are from time to time amended. Additionally, all mobile homes shall meet or exceed all applicable roof, snow load, and strength requirements. Compliance with the Mobile Home construction and Safety Standards shall be shown by a HUD Seal affixed to the mobile home and evidence of the existence of a HUD Seal shall be presented to the Zoning Administrator prior to the issuance of and land use permit for a mobile home.
- H. The foregoing standards shall not apply to a mobile home located in a licensed mobile home park except to the extent required by State or Federal Law or otherwise specifically required in this ordinance pertaining to such parks.
- I. All construction required by this section shall be commenced only after a building permit has been obtained in accordance with the applicable construction code provisions and requirements.

## 1020 - Home Occupations

Home occupations shall not be allowed in any zoning district except as hereinafter provided:

- A. The home occupation(s) takes place in a dwelling owned by the resident and where the resident engaging in the home occupation lives on a full time basis.
- B. The home occupation(s) shall be accessory to the residential use of the property.
- C. The activities and carrying on of the home occupation shall be operated in such a manner that other residents of the area, under normal circumstances, would not be aware of the existence of the home occupation.
- D. The home occupation(s) shall be conducted entirely within the enclosed dwelling or auto garage accessory to the house with no external evidence of the activity except for a sign that shall not exceed six (6) square feet in size.
- E. The home occupation(s) shall not involve the
  - 1. Generation of any hazardous waste as defined in P.A. 64 of 1979, as amended, being the Hazardous Waste Management Act (MCL 299.433, et seq), or
  - 2. Use of materials which are used in such quantify, or are otherwise required, to be registered pursuant to the code of Federal Regulations, Title 29, Chapter XVII, part 1910(2), except this provision shall not apply to material purchased retail over the counter for household cleaning, lawn, care, operation of a photo- copying machine, paint, printing, art and craft supplies or heating fuel
- F. No additional rooms or accessory structures may be added to the dwelling to accommodate the home occupation.
- G. Home occupation is allowed as a permitted use in the district in which it is located.

## 1021 - Bulk Regulations

- A. No more than one principle building, structure, use or activity shall be permitted to occur on any one parcel and no accessory buildings, structures, or uses shall be permitted on any parcel which is not occupied by a principle building, structure, use or activity, except that a land use permit may be issued for the contemporaneous construction of a principle building and an accessory building or structure.

- B. The maintenance of setback height, floor area ratio, coverage, open space, mobile home site, transition strip, parcel area and parcel area per dwelling unit required for one use, building or structure shall be a continuing obligation of the owner of such building or structure or of the parcel on which such use, building or structure shall be located. No setback, height, floor area ratio, coverage, open space, mobile home site, transition strip, parcel area per dwelling unit, allocated to or required about or in connection with one parcel, use, building or structure may be allocated to any other parcel, use, building or structure.
- C. No one parcel once designated and improved with a building or structure shall be reduced to the area or divided into two or more parcels unless each parcel resulting from each such reduction or division and designated and improved with a building or structure shall conform with all of the bulk and yard regulations of the land use district in which it is located, including regulations concerning the minimum parcel area and road frontage.
- D. The setback and yard requirements established by this ordinance shall apply uniformly in each land use district to every parcel, building or structure, except that any of the following structures may be located anywhere on a parcel: open and unroofed terraces, patios, flag poles, hydrants, clothes lines, sidewalks, private driveways, trees, plants, shrubs, and hedges.
- E. The height requirements established by this ordinance shall apply uniformly in each land use district to every building and structure, except that the following structures and appurtenances shall be exempt from the height requirements of this ordinance: spires, belfries, penthouses and domes not used for human occupancy or habitation, chimneys, ventilators, sky-lights, water tanks, bulkheads, utility poles, power lines, radio and television broadcasting and receiving antenna, silos, parapets, and other necessary mechanical appurtenances provided their location shall conform where applicable to the requires of the Federal Commission, the Civil Aeronautics Administration and other public authorities having jurisdiction.

#### 1022 - Keyhole Waterfront Access

It is the intent of this section to promote the integrity of the lakes within Bear Lake Township while preserving the quality of recreational use of the inland waters; to protect the quality of the lakes by discouraging excess use; to promote the ecological balance of the waters by limiting incompatible land use of the wetlands associated with the lakes; and to maintain the natural beauty of the lakes by minimizing man-made adjustments to the established shorelines. Nothing in this ordinance shall be construed

to limit access to lakes or waterways by the general public by way of public park or public access site provided or maintained by any unit of state, county or local government. This section shall apply in all zoning districts.

- A. In any zoning district where a parcel of land is contiguous to a lake, such parcel (the "Access Parcel") may be used as access property or as common open space held in common by a subdivision, association or any similar agency; or held in common by virtue of the terms of a plat of record; or provided for common use under deed restrictions of record; or owned by two (2) or more dwelling units located away from the waterfront; only if the following conditions are met:
1. The parcel of land contain a minimum of 7,000 square feet; and a minimum of fifty (50) lineal feet of water frontage for each individual dwelling unit or each single family unit to which such access privileges are extended or dedicated. The minimum depth for such a parcel shall be one hundred forty (140) feet. No access property so created shall have less than one hundred (100) feet of water frontage, with at least fifty (50) lineal feet of water frontage for each lot, parcel or dwelling unit with access privileges. Frontage shall be measured by a straight line, which intersects each side lot line at the water's edge.
  2. In no event shall water frontage of such access parcel of land consist of a swamp, marsh, or bog as shown on the most recent U.S. Geological Survey Maps, or the Michigan Department of Natural Resources MIRIS Map, or have otherwise been determined to be wetland by the Michigan DNR; and in no event shall a swamp, marsh, or bog be altered by dredging, the addition of beach or fill material or by the drainage of water for the purpose of increasing the water frontage required by this regulation.
  3. In no event shall such access parcel abut a man-made canal or channel, and no canal or channel shall be excavated for the purpose of increasing the water frontage required by this regulation.
  4. An access parcel, as provided for in and meeting the conditions of this ordinance, regardless of total area, shall not be used as a residential lot for the purpose of constructing a dwelling and/or accessory structure(s), or for any commercial or business use.
  5. Only one pier or dock shall be allowed for each access parcel. The pier or dock shall not be longer than 120% of the average of the four (4) adjacent residential lot piers or docks on either side of the access property.
  6. No camping, overnight parking, or use of trailers shall be allowed on the access parcel.

In any district in which access parcels have been established before the effective date of this ordinance or subsequent amendment thereto, such access parcels shall retain historic uses. It is the intent of this ordinance to permit such lawful non-conformance to continue, but not to encourage additional access parcels.

[Annotation: Section added by amendment effective November 21, 2006.]

1023 - Essential Services

The Planning Commission shall have the power to permit the use of lands and the erection and use of buildings and facilities for an essential service in any district. The Planning Commission may further authorize buildings in connection with an essential service to be constructed to a height or of a building area greater than permitted in the district upon a finding that such use, height and area is reasonably necessary for the public convenience and service.

[Annotation: Section added by amendment effective April 1, 2022.]

1024 - Garden Sheds:

Garden sheds of 240 square feet or less in area are not classified as structures. The following requirements shall apply:

- A. Erection/construction of garden shed does not require a land use permit.
- B. Garden sheds must be located in the side or rear yards on residential parcels and not less than five (5) feet from any primary dwelling and/or above grade accessory structures. On waterfront parcels, such structures may be located on the waterfront, side, or rear yard of the parcel, providing that all mandated setbacks and any other requirements are complied with.
- C. Garden sheds must be secured to the ground using screw-in soil anchors or a minimum of 4X4 inch treated posts 18 inches deep at each corner and well secured to the structure.
- D. On residential parcels, a maximum of two (2) such structures are permitted.
- E. In no case shall a garden shed be erected on any parcel lacking a principal building.

[Annotation: Section added by amendment effective April 1, 2022.]

## Article 16: Specific Use Standards

[Annotation: Article added by amendment effective June 16, 2020.]

### 1601: Agricultural Value Added, Tourism and Related Uses Purpose:

To provide for allowance of agricultural sales of farm and non-farm related products, tourism of farm operations/facilities and activities/gatherings

Definition: Agricultural Value Added, Tourism and Related uses include:

- A. Storage, retail or wholesale marketing, or processing of agricultural products into a value-added agricultural product is permitted use in a farming operation if more than fifty percent (50%) of the stored, processed, or merchandised products are produced by the farm operator for at least 3 of the immediately preceding 5 years.
- B. Cider Mills, Wineries or Distilleries selling product, in a tasting room, derived from crops grown primarily on site for at least 3 of the immediately preceding 5 years, provided that the premises is licensed by the Michigan Liquor Control Commission.
- C. Direct marketing of produce in a farm market or on-farm market provided that any building, or combination of buildings used for such purposes contain a total of not more than 2,500 square feet. This doesn't include Roadside Stands as defined in this ordinance and as regulated in Section 1602.
- D. Seasonal U-pick fruits and vegetables operations.
- E. Seasonal outdoors mazes of agricultural origin such as, but not limited to straw bales or corn
- F. Food sales/processing, processing any fruits/produce.
- G. Uses B through F listed above may include any or all of the following ancillary agriculturally related uses and some non-agriculturally related uses so long as the general agricultural character of the farm is maintained and the income from these activities represents less than fifty percent (50%) of the gross receipts from the farm.
  1. Value-added agricultural products or activities such as education tours or processing facilities, etc.
  2. Bakeries selling baked goods contained produce grown primarily on site (e.g., minimum fifty percent (50%))
  3. Playgrounds or equipment typical of a school playground, such as slides, swings, etc. (not included motorized vehicles or rides.)
  4. Petting farms, animal display, and pony rides
  5. Wagon, sleigh and hayrides
  6. Nature trails
  7. Open air or covered picnic area with restrooms
  8. Educational classes, lectures, seminars
  9. Historical agricultural exhibits
  10. Kitchen facilities, processing/cooking items for sale
  11. Gift shops for the sale of agricultural products and agriculturally related products
  12. Gift shops for the sale of non-agriculturally related products such as

antiques or crafts, limited to twenty-five percent (25%) of gross sales

H. Non-agriculturally related uses listed as permitted uses above may include the following ancillary uses as temporary land uses; small scale entertainment (e.g., music concert, car show, art fare), family-orientated animated barns (e.g., fun houses, haunted houses, or similar) and small mechanical rides provided that:

1. A temporary use permit shall be obtained from the Zoning Administrator, following approval through formal motion of the Planning Commission with a majority in favor. Said temporary use permit shall be valid for only one period of use. A fee may be charged for said permit.
2. Said use shall be permitted only for one (1) period per year not to exceed a consecutive sixty (60) days. And for a timeframe and hours of operation as determined by the planning commission prior to issuance of the permit.
3. Applicant must provide evidence of liability insurance coverage, acceptable to the Township, of not less than \$1,000,000.
4. Inspections shall be conducted by the Building Inspector and other officials as may be required, prior to the period of use. Evidence of approval in the form of an inspection certificate shall be provided to the Zoning Administrator prior to the issuance of a temporary land use permit. A fee may be charged for covering the cost of such inspection(s) and certificate(s).
5. Notwithstanding other provisions of this ordinance, said use need not be accessory to a bona-fide farm or agricultural use provided that:
  - (a) It is located on a parcel of not less than five (5) acres, and
  - (b) Has been in existence, has been lawfully approved by the Township, and has been operated for at least one (1) season prior to the effective date of this ordinance provision.
- I. Uses within this section must meet the sign standards of Section 1013
- J. Uses within this section must meet the parking standards of Section 1014. A. 10.

1602: Roadside Stands Purpose:

To provide for sale of agricultural products produced within Manistee County and sold through a roadside stand as a permitted use.

A. Standards:

1. Shall be limited to two-hundred square feet in size
2. Shall be located at least twenty-five (25) feet from the edge of right-of-way
3. Shall only be operable for 6 months in a calendar year
4. Shall meet the sign standard of Section 1013
5. Shall meet the parking standards of Section 1014. A. 11.

## Article 18 – Land Use Districts

### 1801 - Land Use Districts

The unincorporated portion of the Township of Bear Lake is hereby divided into five (5) land use districts, from the most restrictive to the least restrictive, as follows:

Article 40	Resort Residential, District RR-1
Article 44	Residential, District R-1
Article 37	Agricultural, District AG-1
Article 55	Multiple Use, District M-1
Article 53	Commercial, District C-1

### 1802 - Identification of Official Zoning Map

The land use districts are bounded on a map entitled "Official Zoning Map", which zoning map and the contents thereof are incorporated herein by reference. The Official Zoning Map shall be identified by the signature of the Township Supervisor, attested by the Township Clerk, and bear the seal of the Township under the following words: "This is to certify that this is the Official Zoning Map referred to in the Bear Lake Township Permanent Zoning Ordinance", together with the effective date of this Ordinance.

### 1803 - Authority of Official Zoning Map

Regardless of the existence of copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map, which shall be located in the Bear Lake Township Hall, shall be the final authority as to the location of all land use district boundaries.

### 1804 - Replacement of Official Zoning Map

In the event that the Official Zoning Map become damaged, destroyed, lost or difficult to interpret because of the nature or number of changes made thereto, the Township Board may adopt a new Official Zoning Map which shall supersede the prior official Zoning Map. The new Official Zoning Map correct drafting or other errors or omissions on the prior Official Zoning Map, but no such correction shall have the effect of amending this Ordinance or the prior Official Zoning Map, unless it shall have been adopted in accordance with the Zoning Act. The new Official Zoning Map shall be identified by the signature of the Township Supervisor, attested by the Township Clerk, and bear the seal of the Township under the following words: "This is to certify that this is the Official Zoning Map referred to in the Bear Lake Township Permanent Zoning Ordinance adopted on (date) which replaces and superceded the Official Zoning Map which was adopted on (date).

### 1805 - Rules of Interpretation

- A. All questions concerning the exact location of boundary lines of any land use district not clearly shown on the Official Zoning Map shall be

determined by the Zoning Board of Appeals, consistent with the purposes of this Ordinance and the following rules of interpretation.

- B. Unless otherwise indicated, the boundary lines of land use districts shall be interpreted in accordance with the following rules of interpretation.
1. A boundary indicated as approximately following the centerline of a highway, street, alley or easement shall be construed as following such centerline as it existed on the date of enactment of this Ordinance.
  2. A boundary indicated as approximately following a recorded lot line or the line bounding a parcel shall be construed as following such line as it existed on the date of enactment of this Ordinance.
  3. A boundary indicated as approximately following the corporate boundary line of the city, village or township shall be construed as following such line as it existed on the date of enactment of this Ordinance.
  4. A boundary indicated as following the water's edge shall be construed as following such water's edge, and in the event of change in the location of the water's edge, shall be construed as following the actual water's edge at the time of interpretation.
  5. A boundary indicated as following the centerline of a stream, river, canal, lake or other body of water shall be construed as following such centerline as it exists at the time of interpretation.
  6. A boundary indicated as parallel to, or an extension of, a feature indicated in Paragraphs A through E above shall be so construed.

## Article 37 – Agricultural, District AG-1

### 3701 - Use Regulation

- A. Permitted uses by permit authorized pursuant to Article 84, 8401. The numbers appearing in parenthesis following the listed uses refer to classification numbers which appear in the Standard Industrial Classification Manual of 1987.
1. Agriculture Production -Crop (01)
  2. Agriculture Production-Livestock (02)
  3. Agriculture Services (07)
  4. Forestry (08)
  5. Fishing, Hunting, and Trapping (09)
  6. Lumber and Wood Products (24)
  7. Maple Syrup Rendering Facilities
  8. Roadside stands (In compliance with Section 1602)
  9. Single family or two-family dwellings (88)
  10. Multi-family dwellings which serve as the principal residence for seasonal or itinerant farm employees
  11. Riding stables, riding and hiking trails
  12. Home occupations, including the incidental sales of farm products
  13. Accessory uses and buildings
  14. Farm buildings
  15. Child Day Care Services (835)
  16. Storage Buildings
  17. Agricultural Value Added, Tourism and Related Uses (in compliance with section 1601)
- B. Special uses by permit authorized pursuant to Article 86, 8601. The numbers appearing in parenthesis following the listed uses refer to classification numbers which appear in the Standard Industrial Classification Manual of 1987.
1. Sand, gravel and mineral extraction (14)
  2. Oil and gas processing or sweetening facilities (29)
  3. Electrical, gas and sanitary services (49)
  4. Retail building materials and gardening supplies establishments (52)
  5. Campgrounds, trailer parks and mobile home parks (703)
  6. Barber and beauty shops (723) and (724)
  7. Farm machinery and equipment sales establishments (5083)
  8. Oil and gas filed services (138)
  9. Farm supply establishments (5191)
  10. Auction Rooms
  11. Communication Tower
  12. Architectural Metal Work (3446)
  13. Bed and Breakfast operations provided that such use is part of bona-fide farm and the operator lives permanently on-site

14. Direct marketing of produce, farm market or on-farm market when a building or combination of buildings contain more than 2,500 square feet
15. Restaurant operations when incidental and accessory to other permitted agricultural tourism uses on the site

#### 3702 - Minimums

- A. Minimum parcel area - 1 acre with minimum road frontage of 200 feet.
- B. Minimum setbacks, including all accessory buildings.
  1. Front- 50 feet.
  2. Rear - 20 feet
  3. Side - 20 feet
- C. Minimum setback from the water's edge of any lake, stream, creek, river or wetland area - 50 feet.
- D. Minimum floor area - 850 square feet.
- E. Minimum parcel width at building line - 200 feet.

#### 3703 - Special Use Criteria

In addition to the criteria for special use approval contained in 8601, the following standards shall be applied in considering a special use permit application in the Agricultural District, AG-1.

- A. The proposed use shall be situated in a manner so as to reduce to a minimum the amount of productive agricultural land which is converted to the proposed use.
- B. Oil and gas processing plants or sweetening facility shall not be permitted to release hydrogen sulphide gas or mercaptan compounds into the atmosphere.
- C. No oil and gas processing plants or sweetening facilities shall be constructed, operated or maintained within 500 feet of any dwelling.

#### 3704 - Seasonal Help Housing

Dwellings for the use of seasonal and itinerant farm employees and migratory workers shall be exempt from the minimum lot size and minimum floor area requirements of this section, but shall comply with all provisions of the Michigan Public Health Codes and all Federal Regulations.

3705 - Storage Buildings

- A. Minimum Area 2 ½ Acres with minimum road frontage of 330 feet
- B. Minimum set-backs
  - 1. Front - 150'
  - 2. Rear - 20'
  - 3. Side - 20'
- C. Minimum setback from waters edge of any lake, stream, creek, river, or wetland area – 150 feet
- D. Maximum floor area 2400 square feet

## Article 40 – Resort Residential, District RR-1

### 4001 - Use Regulations

- A. Permitted Uses by permit authorized pursuant to Article 84, 8401. The numbers appearing in parenthesis following "Permitted Uses" refer to the classification list in the Standard Industrial Classification Industrial Manual 1987.
  - 1. Single and two-family dwellings (88)
  - 2. Accessory buildings, structures and uses
  
- B. Special Uses by permit authorized pursuant to Article 86, 8601. The numbers appearing in parenthesis following "Special Uses" refer to the classification numbers as used in the Standard Industrial Classification Industrial Manual of 1987.
  - 1. Home occupations solely operated by the owner

### 4002 – Minimum

- A. Minimum parcel area - 20,000 square feet
  
- B. Minimum parcel width at building line - 100 feet
  
- C. Minimum road frontage - 100 feet
  
- D. Minimum floor area - 1,000 square feet
  
- E. Minimum setbacks, including all accessory buildings:
  - 1. Front - 25 feet
  - 2. Rear - 25 feet
  - 3. Side - 10 feet

[Annotation: Subsection amended by amendment effective April 1, 2022.]
  
- F. The minimum setback from the water's edge of any lake, stream, creek, river or wetland area shall be 50 feet or the average distance from the water's edge of the four nearest neighboring structures of a type similar to the proposed structure, whichever is lesser.
  
- G. A substandard lot size shall not prevent the use of a building lot or parcel of land of lesser size that was of legal record or has been laid out by a Licensed Land Surveyor prior to the adoption of zoning in Bear Lake Township

## Article 44 – Residential District, R-1

### 4401 - Use Regulations

A. Permitted uses by permit authorized pursuant to Article 84, 8401. The numbers appearing in parenthesis following permitted uses refer to the classification list in the Standard Industrial Classification Manual of 1987.

1. Single and two-family dwellings (88)
2. Accessory buildings, structures and uses
3. Home occupations
4. State Licensed residential facilities
5. Churches
6. Fire Protection (9224)
7. Educational Services (82)

[Annotation: Subsection amended by amendment effective April 1, 2022.]

B. Special uses by permit authorized pursuant to 86, 8601. The numbers appearing in parenthesis following special uses refer to the classification numbers are used in the Standard Industrial Classification Manual, 1987.

1. Office of physicians, dentists, osteopathic physicians and other health practitioners. (801), (802), (803), and (804)
2. Bed and Breakfast (7021)
3. Pharmacies

### 4402 – Minimum

A. Minimum parcel area - 20,000 square feet

B. Minimum parcel width at building line - 100 feet.

C. Minimum road frontage - 100 feet.

D. Minimum setbacks, including all accessory buildings

1. Front - 25 feet
2. Rear - 25 feet
3. Side - 10 feet

[Annotation: Subsection amended by amendment effective April 1, 2022.]

E. Minimum setback from the water's edge of any lake, stream, creek, river or wetland area- 50feet.

F. Minimum floor area- 1,000 square feet

G. A substandard lot size shall not prevent the use of a building lot or parcel of land of lesser size that was of legal record or has been laid out by a Licensed Land Surveyor prior to the adoption of zoning in Bear Lake Township.

4403 – Maximum

A. Maximum accessory height to peak of roof - 18 feet.

[Annotation: Section amended by amendment effective April 1, 2022.]

## Article 53 - Commercial District, C-1

### 5301 - Use Regulations

- A. Permitted uses by permit authorized pursuant to Article 84, 8401. The numbers appearing in parenthesis following the listed uses refer to number and classification appearing in a Standard Industrial Classification Manual of 1987.
1. Any use allowed as a permitted use in the Multi-Use District, M-1
  2. Retail establishments (52 through 59)
  3. Service establishments (70 through 89)
  4. Finance, insurance and real estate establishment (60 through 67)
  5. Public administration (91 through 97)
  6. Construction establishments (15, 16, 17)
  7. Wholesale trade establishments (50, 51)
- B. Special uses by permit authorized pursuant to Article 86, 8601. The numbers appearing in parenthesis following the listed uses refer to number and classifications appearing in the Standard Industrial Classification Manual of 1987.
1. Veterinary Services (074)
  2. Farm labor and management services (076)
  3. Landscape and horticultural services (078)
  4. Food and kindred products manufacturing (20)
  5. Apparel and other textile products manufacturing (23)
  6. Lumber and wood products manufacturing (24)
  7. Furniture and fixtures manufacturing (25)
  8. Miscellaneous converted paper products manufacturing (264)
  9. Paperboard container and box manufacturing (307)
  10. Printing and publishing (27)
  11. Miscellaneous plastics products manufacturing (307)
  12. Leather and leather products manufacturing (31)
  13. Electric and electronic equipment manufacturing (36)
  14. Motor vehicle parts and accessories manufacturing (3714)
  15. Building, repairing and parts manufacturing (3732)
  16. Motorcycle and bicycle parts manufacturing (3751)
  17. Travel trailer and camper manufacturing (3792)
  18. Instrument and related products manufacturing (38)
  19. Miscellaneous manufacturing industries (39)
  20. Sexually Oriented Businesses

The following uses are regulated for which a special use permit is required:

- (a) adult book and/or video store
- (b) adult motion picture theater
- (c) adult mini motion picture theater
- (d) adult paraphernalia/novelty store
- (e) massage parlor

- (f) host or hostess establishments
- (g) open dance hall
- (h) adult live entertainment establishments regardless of whether alcoholic beverage may or may not be served
- (i) adult panorama
- (j) any combination of the foregoing

5302 – Minimums

- A. Minimum parcel area - 40,000 square feet
- B. Minimum parcel width throughout - 150 feet
- C. Minimum highway frontage - 150 feet
- D. Minimum setbacks, including all accessory building
  - 1. Front - 100 feet
  - 2. Rear - 20 feet
  - 3. Side - 20 feet
- E. Minimum setback from the water's edge of any lake, stream, creek, river or wetland area - 300 feet
- F. Minimum floor area - 850 square feet

5303 - Additional Special Use Criteria

- A. No storage of any goods, supplies, merchandise or returnable containers shall occur outside the confines of a building or structure, unless there shall be provided an enclosure, by solid fence or its equivalent, not less than six (6) feet high around such yard and storage area. Fences shall be constructed and maintained of materials consisting of solid wood or lumber or a chain link fence with metal strip. Information concerning yard storage and fence materials shall be included in the site plan material required by Article 86, 9601.
- B. Notwithstanding anything to the contrary contained in Section 5301-B, manufacturing establishments applying for special use permits shall be strictly limited to the fabrication and assembling of component parts and materials. Manufacturing operations entailing the production of metals, chemicals, or plastics from raw materials shall not be permitted under a special use permit.
- C. Sexually Oriented Businesses
  - 1. Purpose: It is recognized that sexually oriented businesses have a deleterious effect upon adjacent areas, causing blight, an increase in crime, a decrease in property values, a chilling effect upon other businesses and residents, and a downgrading of the quality of life in adjacent areas, especially when such uses are concentrated in the same general area, it is considered necessary and in the best interest of the orderly and better development of the

- community to prohibit the overcrowding of such uses into a particular location and require their dispersal throughout the commercial zone of the Township to thereby minimize their adverse impact to the best extent possible on any other permitted use.
2. Conditions: In order to obtain and retain a special use permit for operation of a sexually oriented business regulated use as defined by this Ordinance, the following conditions must be met, in addition to all other standards set forth herein for special use permits:
    - (a) A special use permit must be acquired through the special use procedures as described in Article 86
    - (b) In order to prevent the undesirable concentration of sexually oriented businesses, the regulated uses as defined by Section 5301 shall not be located within 1,000 feet of any other such regulated uses as defined by this Section, nor within 300 feet of any residentially zoned district or pre-existing residential use prior to enactment of the zoning districts, school, day care center, church, or other religious institution or public park or other public facility, as measured along a line forming the shortest distance between any portion of the respective properties;
    - (c) The regulated uses, as specified by Section 5301, shall only operate between the hours of 8:00 a.m. and 10:00 p.m.;
    - (d) There shall be a manager on the premises at all times;
    - (e) No one under the age of 18 shall be allowed onto the premises by the on-site manager of the regulated use;
    - (f) No product or service for sale or gift, or any picture or other representation thereof, which relates in anyway to "specified sexual activities" or "specified anatomical areas", shall be displayed so as to be visible from the street or exterior of the building of the regulated use; No product or service for sale or gift, or any picture or other representation thereof, which relates in anyway to "specified sexual activities" or "specified anatomical areas", shall be displayed so as to be visible from the street or exterior of the building of the regulated use;
    - (g) Once a special use permit has been issued for a sexually oriented business, the regulated uses shall not be expanded and/or other amended in the manner required by Section 8611 of this Ordinance;
    - (h) A special use permit for a sexually oriented business is subject to the terms and conditions of validity set forth in Section 8609 of this Ordinance.
  3. Exceptions to Conditions: The Planning Commission may waive the foregoing spacing requirements if it finds all of the following conditions exist:
    - (a) The proposed use will not be contrary to the public interest or injurious to nearby properties in the proposed location and the

spirit and intent of the purpose of the spacing regulations will still be observed;

- (b) The proposed use will not enhance or promote a deleterious effect upon adjacent areas through causing or encouraging blight, a chilling effect upon other business and residents or a disruption in neighborhood development;
- (c) The establishment of the proposed regulated use in the area will not be contrary to any program of neighborhood conservation nor interfere with any program of urban renewal;
- (d) Where all other applicable regulations within the Township Zoning Ordinance or other pertinent Township ordinances will be observed.

## Article 55- Multiple Use District, M-1

### 5501 - Use Regulations

A. It is the intent of this district to protect the complex and varied existing land uses in manufacturing, residential and utilities, while at the same time attempting to accommodate different appropriate development in this area such as retail uses, services, parks and residential uses with the intent that this district will be amended as future development warrants. Permitted uses shall be by permit authorized pursuant to Article 84, 8401. The numbers appearing in parenthesis refer to number classifications appearing in the Standard Industrial Classification Manual of 1987.

1. Single and two-family dwellings
2. Home occupations
3. Parking for currently licensed automobiles
4. Retail trade (52 through 5999)
5. Finance insurance and real estate (60 through 6799)
6. Services (70 through 8999)
7. Accessory buildings, uses and structures
8. Parking
9. Educational Services (82)
10. Child Day Care Services (835)
11. Roadside Stands (in compliance with Section 1602)
12. Agricultural Value-Added, Tourism and Related Uses (in compliance with Section 1601)

B. Special uses by permit authorized pursuant to Article 86, 8601. The numbers appearing in parenthesis following the listed uses refer to number classifications which appear in the Standard Industrial Classification Manual of 1987.

1. Multi-family dwellings
2. Outdoor recreation/park
3. Campgrounds
4. Construction (15 through 1799)
5. Manufacturing (20 through 3999)
6. Transportation and public utilities (40 through 4971)
7. Wholesale (50 through 5199)
8. Accessory buildings, uses and structures
9. Planned unit development

### 5502 – Minimums

A. Minimum parcel area - 40,000 square feet except that multi-family dwellings shall provide a parcel of land not less than 5,000 square feet in size for each dwelling unit. For purposes of this Article, the minimum parcel area shall not include lands designated by the Michigan Department of Natural Resource to be wetlands, located in a high risk erosion area or located in flood plain where flood waters are expected to have a destructive current.

B. Minimum parcel and road frontage - 150 feet.

C. Minimum setbacks, including all accessory buildings

1. Front - 100 feet
2. Rear - 20 feet
3. Side - 20 feet
4. When a proposed non-residential or non-park use is to be contiguous to any existing dwelling, the proposed non-residential or non-park use shall have created or maintained one of the following buffers along the common boundary of the parcel on which the existing dwelling is located:
  - (a) a set back of 50 feet
  - (b) an earthen berm 4 feet or more in height
  - (c) a solid wall or fence 4 feet or more in height
  - (d) a proportionally adjusted combination of the above

D. Minimum floor area 850 square feet

## **Article 80 - Non-Conforming Uses, Buildings and Structures**

### **8001 – Continuance**

The lawful use of any parcel of land, building or structure existing at the time of the enactment of this Ordinance or, in the case of an Amendment of this Ordinance, then at the time of such Amendment, although it does not conform with the provisions thereof, may be continued as hereinafter provided.

### **8002 - Involuntary Destruction**

- A. No residential or agricultural building or structure damages by fire or other causes to the extent of more than seventy-five (75%) percent of its appraised value shall be repaired or rebuilt except in conformity with the provisions of this Ordinance. Such reconstruction, repair or restoration shall be diligently pursued and, in all cases, commenced within one (1) year following the damage. Resumption of use shall take place within ninety (90) days of completion of such reconstruction , repair or restoration.
  
- B. No commercial building or structure damaged by fire or other causes to the extent of one hundred (100%) percent of its appraised value shall be repaired or rebuilt except in conformity with provisions of this Ordinance. Such reconstruction, repair or restoration shall be diligently pursued and, in all cases, commenced within three (3) years following the damage. Resumption of use shall take place within ninety (90) days of completion of such reconstruction, repair or restoration.
  
- C. Clean Up: In the event of an involuntary destruction of any structure in excess of seventy-five (75%) of its appraised value, the property owner shall within thirty (30) days remove all rubble, debris or portions of that structure which shall constitute a hazard to the public health, safety or welfare as determined by the Zoning Administrator. In the event any open basement or excavation shall exist following an involuntary destruction, the owner shall within thirty (30) days fill in such excavation unless reconstruction is commenced in the thirty (30) day period following the involuntary destruction.

### **8003 - Discontinuance**

Any non-conforming residential, agricultural or commercial use, building or structure which has not been occupied or which has not been used for such non-conforming purposes for a period of three (3) years or more shall not thereafter be used or occupied unless it conforms to the provisions of this Ordinance.

### **8004 – Extension**

- A. A non-conforming residential or agricultural building or structure may not be extended, reconstructed or structurally altered during its life to an extent in aggregate cost of more than fifty (50%) percent of its appraised value, unless said building or structure conforms to the provisions of this Ordinance.

- B. A non-conforming single family dwelling may be extended, reconstructed or structurally altered during its life to an extent beyond an aggregate cost of more than fifty (50%) of its appraised value where the sole non-conformity is a failure to satisfy the minimum parcel area requirement in a particular land use district.
- C. A non-conforming commercial building or structure may not be extended, reconstructed or structurally altered during its life to an extent in aggregate cost of more than one hundred (100%) percent of its appraised value, unless said building or structure conforms to the provisions of this Ordinance.
- D. As used in this section "appraised value" shall be determined as of the time of the first extension, reconstruction or structural alteration. "Appraised value" shall be determined to be two times the state equalized value of the non- conforming building or structure, exclusive of land value as determined by reference to the latest ad valorem property tax records of the Township.

8005 – Substitution

- A. For the purpose of this Section, the permitted uses in the land use districts listed in Articles 40, 44, 37, 55, 53, District RR-1 Resort Residential , contains the most restricted uses and descending to District C-1 Commercial District, containing the least restricted.
- B. With the approval of the Zoning Administrator, a non-conforming use, building or structure may be replaced by or substituted with a more restricted use, even though such replacement does not change the non-conforming status of such use, building or structure in the land use district in which it is located.

## Article 82 - Administration

### 8201 - Bear Lake Township Zoning Administrator

- A. The provisions of this Ordinance shall be administered by the Bear Lake Township Zoning Administrator. Applicants for the position of Township Zoning Administrator shall be interviewed by the Bear Lake Township Planning Commission. The Bear Lake Township Planning Commission shall make its recommendations to the Bear Lake Township Board regarding the qualifications of the applicants. The Bear lake Township board shall appoint, from the list of applicants recommended by the Township Planning Commission, a Zoning Administrator who shall serve for such term, subject to such conditions, and at such rate of compensation as the Board shall determine, and the duty of the enforcement of this Ordinance shall rest with the Zoning Administrator as shall be authorized by law. The zoning Administrator shall, for the purpose of this Ordinance, have the power of a police officer.
- B. Eligibility: Elected officials of Bear Lake Township and/or Manistee County and/or members of the Bear Lake Township Planning Commission and Zoning Board of Appeals shall be ineligible for appointment to the office of the Township Zoning Administrator, except as otherwise provided in 8201 - C.
- C. Interim Zoning Administrator: In the event of the resignation, death, disability or disqualification of the Bear Lake Township Zoning Administrator, the Secretary of the Bear lake Township Planning Commission shall serve as interim Zoning Administrator until a new Zoning Administrator shall be appointed by the Bear Lake Township Board.
- D. In issuing an order, requirement, decision or determination on any discretionary matter referred to him or upon which he is required to pass under this Ordinance, it shall be sufficient for the Zoning Administrator to reasonably conclude that in addition to the standards set forth in Article 84, 8402, the proposed order, requirement, decision or determination is compatible with the present uses of adjacent land, is consistent with and promotes the intent and purpose of this Ordinance, is compatible with the natural environment, is consistent with the capabilities of public services, and facilities affected by such order, requirement, decision or determination and protects the public health, safety and welfare.

### 8202 - Public Notice

All applications for development approval requiring a public hearing shall comply with the Michigan Zoning Enabling Act, AP 110 of 2006 and the other provisions of this Section with regard to public notification.

- A. When the provisions of this Ordinance or the Michigan Zoning Enabling Act require that notice be published, the Zoning Administrator shall be responsible for preparing the content of the notice, having it published in a newspaper of general

circulation in Manistee County and mailed or delivered as provided in this Section.

- B. All mail, personal and newspaper notices for public hearings shall:
1. Identify and describe the nature of the request. Identify whether the request is for a rezoning, text amendment, special land use, planned unit development, variance, appeal, ordinance interpretation or other purpose.
  2. Indicate the location of the property that is subject to the request. The notice shall include a listing of all existing street addresses within the subject property. Street addresses do not need to be created if none exist, parcels can be identified by tax ID number, or including a map. No street addresses must be listed when eleven (11) or more adjacent properties are proposed for rezoning, or when the request is for an ordinance interpretation not involving a specific property.
  3. The date time and place of public hearing.
  4. A statement describing when and where written comments will be received concerning the request.
  5. The location where the demand for appeal or proposed amendments can be viewed and copied.
  6. Information concerning handicap access.
- C. When the provisions of this Ordinance or state law require that personal or mailed notice be provided, notice shall be provided to:
1. The owners of property for which approval is being considered.
  2. Except for rezoning requests involving eleven or more adjacent properties or an ordinance interpretation request that does not involve a specific property; to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property subject to the request, regardless of whether the property or occupant is located within the boundaries of Bear Lake Township. If the name of the occupant is not known, the term "occupant" may be used in making notification.
- D. Unless otherwise provided in the Zoning Act or this Ordinance where applicable, notice of a public hearing shall be provided as follows; for a public hearing on an application for a rezoning, text amendment, special land use, planned unit development, variance appeal, or ordinance interpretation: not less than fifteen days before the date the application will be considered for approval.

## Article 84 - Permits

### 8401 - Land Use Permits

No land shall be occupied or used and no building or structure shall hereafter be erected, altered, relocated or demolished under the provisions of this ordinance until a permit authorizing the same shall be issued by the Zoning Administrator.

### 8402 - Land Use Applications

- A. The Zoning Administrator shall require that copies of plans, specifications and such other information as he may deem necessary shall be filed with the application for permit. Such other information shall include, but not limited to:
1. Site plans, including specifications and drawings showing the location, design and size of the proposed land use and the buildings and structures to be located thereon.
  2. The legal seating and/or sleeping capacity of all buildings and structures, if applicable.
  3. A concise statement of all operations and uses which will be conducted on the land and buildings.
  4. A concise statement of the services, if any, to be offered to the public, if applicable.
  5. Any other information required by this Ordinance.
  6. A non-refundable fee shall accompany each application for a permit under this Section. The fee shall be established from time to time by the Bear Lake Township Board.
- B. No permit shall be issued under this Section for any use which:
1. fails to conform to any relevant provision of Article 10, 1001, et seq
  2. which fails to conform to any minimum requirement established for land use district in which the proposed use is to be located or,
  3. which fails to conform to any standard set forth in the definition of the proposed use, as defined in this Ordinance.
- C. No new use shall be established or excavation or construction begins before such permit is issued, and a copy posted in a prominent position on the building site.

### 8403 - Permit Exceptions

No permit is needed under this Section for:

- A. Exterior or interior repair and improvement which does not structurally alter the premises or change the exterior shape or form of any building in any manner.
- B. Relocation or replacement of machinery or equipment within a building located in a commercial or industrial zone, conforming to the provisions of this Ordinance and used for commercial or industrial purposes, nor for modification ore

replacement, unless said modification structurally alters the premises or change the exterior shape or form in any manner.

**8404 - Start Work Deadline**

A permit issued under this Section is void if the use is not commenced within one (1) year. A renewal may be granted by the Zoning Administrator after a restudy of the permit for a fee as established by the Bear Lake Township Board.

**8405 - Void Permits**

- A. A violation of any condition or specification in a permit issued under this Section shall void the permit.
  
- B. Any improper or incorrect information contained in the application for permit issued under this Section shall void the permit until property corrected upon the permit application; provided that, as corrected, the applicant continues to meet all requirements for a permit.

**8406 - Fee**

A non-refundable fee shall accompany each application for a permit under this Section. The fee shall be as established from time to time by the Bear Lake Township Board.

## **Article 86 - Special Use Permit**

### **8601 - Introduction**

No land shall be occupied or used and no building or structure shall hereafter be erected, altered or relocated under the provisions of this Article until a permit authorizing the same shall be issued by the Township Planning Commission following an application for review and approval pursuant to the requirements of this Article.

### **8602 - Authority to Grant Special Use Permit**

The Township Planning Commission may deny, approve or approve with conditions the request for special land use approval. Any conditions imposed shall be in accordance with the requirements of the Zoning Act.

### **8603 – Application and Fee**

If a use is listed as a possible special use in any district, anyone with an interest in the property may apply for a Special Use Permit. A Special Use Permit application shall be made on a form provided by the administrator and submitted to the administrator along with a Site Plan and the required fee. The fee will be established from time to time by the Bear Lake Township Board. Any additional costs incurred in processing the application, beyond that covered by the fee, including, but not limited to publication costs, and attorney fees for the Township shall be paid by the applicant before the permit is issued. No portion of the fee shall be refundable.

### **8604 - Application Review for Completeness**

- A. The Township Planning Commission as a condition to granting a special use permit under this Section, may require the applicant to submit such additional or further information as it deems necessary to make an informed decision on the request for special land use approval. The site plan, as approved by the Zoning Administrator and any supplementation required by the Township Planning Commission under the provisions of this paragraph shall become a part of the record of approval.
- B. The site plan shall be in writing and accompanied by a non-refundable fee established by the Bear Lake Township Board to cover the cost of processing.
- C. The Planning Commission may vote to waive or modify any requirements for information requested under the terms of this Section.
- D. Unless the Planning Commission votes to waive or modify any requirements of this Section, the application shall not be accepted unless the information required by this Article and Article 94 is supplied by the applicant. In the case of an incomplete application, the review and decision on the application shall not commence and no special use permit shall be issued.

- E. Transmittal to Township Planning Commission: Upon completion of review of the site plan by the Zoning Administrator who shall review the site plan for completeness, the Zoning Administrator shall trans it the same to the Township Planning Commission.

8605 - Notice and Hearing

Within thirty (30) days of receipt of the approved site plan from the Township Zoning Administrator, the Township Planning Commission shall give the public notice required by the Zoning Act, and thereafter, shall hold a public hearing in accordance with the Zoning Act. The date set for review of the application for a special land use permit may be either the date of a regular meeting of the Township Planning Commission or a special meeting called for the purpose of reviewing the request. The public hearing may be recessed for a reasonable period of time, as determined by the Planning Commission if it feels that additional information or study is needed.

8606 - Required Standards

No permit for a special land use shall be issued for any use, building or structure which:

- A. fails to conform to any applicable provisions of Article 10;
- B. fails to conform to any minimum requirements established for the land use district in which the proposed special land use is to be located; or
- C. fails to conform to any standard set forth in the definition of the proposed special land use, as defined in this Ordinance.

8607 - Required Findings: For Making Determination

The Township Planning Commission shall review the particular facts and circumstances of each proposed special land use and shall find and record adequate data, information and evidence, showing that such proposed use:

- A. Will be consistent with and promote the intent and purpose of this Ordinance;
- B. Will be designed, constructed, operated, maintained and managed so as to be compatible with adjacent uses of land and harmonious and appropriate in appearance with the existing or intended character of the general vicinity;
- C. Will be served adequately by essential public facilities and services as highways, streets, police and fire protection, drainage structures, and solid and liquid waste disposal methods;
- D. Will not disrupt the orderly and proper development of the district as a whole or be in conflict with or discourage the principle permitted uses of adjacent or neighboring lands or buildings;

- E. Will not unnecessarily diminish land used to meet the needs of the State's citizens for food, fiber, energy and use of other natural resources;
- F. Will not be more objectionable to nearby properties by reason of traffic, noise vibrations, dust, fumes, smoke, glare, flashing lights or disposal of waste, than the operation of any principle permitted use;
- G. In the case of a special use permit for mining, whether on a regular or temporary basis, will result in no very serious consequences , which may be shown by meeting or exceeding the standards listed below, in addition to the required findings listed above:
  - 1. That the establishment, maintenance, or operation of the special use will not substantially affect the existing use of adjacent property, and will not have a substantially adverse effect on the long-term future use of the adjacent property;
  - 2. That the special use shall conform to all governmental regulations pertaining to the activity itself;
  - 3. (3) That the mining operation shall conform to applicable air and water quality standards;
  - 4. That the noise, vibration, and dust levels at the property lines shall be within the levels determined by the Planning Commission;
  - 5. That an undeveloped buffer zone, commencing not less than 20 feet from the property line of the mining site or such other distance as the Planning Commission finds necessary for the protection and safety of adjacent property from mining , with a stable angle of slope repose shall be provided along property lines;
  - 6. Where deemed practicable and necessary by the Planning Commission, an earth bank or vegetative screen shall be erected and/or maintained to screen the mining operation from view from any residential district located within one-half mile of the operation;
  - 7. Where deemed necessary by the Planning Commission , each mining operation shall be enclosed by at least a single-strand barbed wire fence, maintained at all times, with warning signs spaced no more than 200 feet apart to indicate the presence of a mining area;
  - 8. That an application shall not be of a speculative nature, nor shall the mining cause harm to adjacent property;
- H. In the case of a Communication Tower, the Planning Commission shall find that each of the following site and performance requirements are satisfied:
  - 1. SIZE AND SETBACKS
    - (a) A minimum parcel size of one (1) acre; this minimum size requirement shall supersede all other parcel size requirements for the land use district in which the communication tower is located.

- (b) No part of any tower or antenna shall be constructed, located or maintained at any time, permanently or temporarily, on or upon any required setback area for the district in which the antenna or tower is to be located.
- (c) Towers shall be located so that they do not interfere with radio, television or other reception in nearby residential areas.
- (d) Towers shall be located so there is room for vehicles doing maintenance to maneuver on the parcel owned or leased by the applicant.
- (e) The base of the tower shall occupy no more than five hundred (500) square feet.
- (f) The maximum height of a communication tower shall be the minimum height demonstrated by the applicant to be necessary for reasonable communication.
- (g) Where the parcel adjoins any residentially zoned property or land use, the developer shall plant two (2) alternating rows of evergreen trees with a minimum height of five (5) feet on twenty (20) foot centers along the entire perimeter of the tower and related structures. In no case shall the evergreens be any closer than ten (10) feet to any structure.
- (h) The base of all towers shall be set back from each lot line of the parcel a distance equal to at least the height of the tower.

## 2. ACCESSORY STRUCTURES

- (a) Accessory structures are limited to uses associated with the operation of the tower and may not be located any closer to any property line than thirty (30) feet.
- (b) All signals and remote control conductors of low energy extending substantially horizontally above the ground between a tower or antenna and a structure, or between towers, shall be at least eight (8) feet above the ground at all points, unless buried underground.

## 3. CONSTRUCTION STANDARDS

- (a) The base of the tower and all wire cable supports shall be fenced with a minimum six (6) foot high fence designed to prevent access to the site and the wire cable supports.
- (b) The tower owner shall agree to design and build the tower to provide for a minimum of four additional antennas. Subleases for this space shall be made available to the public at a rate reflecting current local industry standards.
- (c) All towers shall be equipped with an anti-climbing device to prevent unauthorized access.
- (d) Tower construction plans shall be certified by a registered structural engineer.

- (e) The applicant shall provide verification that the antenna mount and structure have been reviewed and approved by a professional engineer and that the installation is in compliance with all applicable codes.
- (f) All towers must meet the standards of the Federal Aviation Administration and the Federal Communications Commission.
- (g) Metal towers shall be constructed of, or treated with, corrosive-resistant material.
- (h) Antennas and metal towers shall be grounded for protection against a direct strike by lightning and shall comply as to electrical wiring and connections with all applicable statutes, regulations and standards.
- (i) Towers with antennas shall be designed to withstand a uniform wind loadings as prescribed in all applicable building or construction codes.
- (j) Towers shall not be artificially lighted unless required by the Federal Aviation Administration.
- (k) Existing on-site vegetation shall be preserved to the maximum extent practical.
- (l) There shall be no displayed advertising or identification of any kind intended to be visible from the ground or other structures, except as required for emergency purposes.
- (m) The antenna shall be painted to match the exterior treatment of the tower. The chosen paint scheme should be designed to minimize off-site visibility of the antenna.
- (n) Structures shall be subject to any state and federal regulations concerning non-ionizing electromagnetic radiation and the environmental effects of radio frequency emissions. If more restrictive state or federal standards are adopted in the future, the antenna shall be made to conform to the extent required by such standards or the Special use approval will be subject to revocation by the Zoning Board. Cost for testing and verification of compliance shall be borne by the operator of the antenna.

4. USE STANDARDS

- (a) There shall be no employees located on the site on a permanent basis to service or maintain the antenna. Occasional or temporary repair and service activities are excluded from this restriction.
- (b) The tower shall be removed by the property owner or lessee within six (6) months of being abandoned. For the purpose of this paragraph abandoned is defined as non-use. If the tower is not removed by the owner within the specified time, the Township shall have the right to remove the tower and assess a lien against the parcel to recover the costs associated with the removal.

5. MISCELLANEOUS STANDARDS

- (a) All applications and special use permits for communication towers shall be signed by the licensed operator of the communication service.
- (b) The applicant has demonstrated that it is not feasible to collocate on an existing tower by the payment of market rent or other market compensation to the owner of an existing tower, or that collocation on an existing tower is not technologically reasonable because of unreasonable interference or structural incapacity of an existing tower.

8608 - Other Informational Consideration

The Township Planning Commission, in reviewing an application for special use permit, may consider:

- A. The present use of the land involved in the application;
- B. The number and location of similar uses in the land use district in which the proposed special use will be located; and
- C. The comments received following the public notice and hearing; provided, however, that such information shall be considered only as it may affect the standards and findings required by this Article and shall not, alone, be sufficient grounds for the denial of a special use permit.

8609- Voiding of Permits

Any improper or incorrect information contained in the application for a special use permit or the site plan submitted in connection therewith or the violation of any condition or standard imposed by the Township Planning Commission in the issuance of a special land use permit or by this Ordinance shall immediately void the special use permit. A special use permit is also void if the use is not commenced or construction is not begun within one (1) year of the date of issuance.

8610 - Performance Guarantees

- A. In granting a special use permit, the Township Planning Commission may require that a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Township Planning Commission and covering the estimated cost of improvements associated with a special use project and/or the estimated cost of reclamation of all areas disturbed by mineral extraction operations and/or the estimated cost of removing a communication tower be furnished by the applicant to ensure compliance with an approved site plan and the special use requirements. Such bond shall be deposited with the Township Clerk at or before the time of the issuance of the special use permit.

- B. In fixing the amount of such bond for non-mining special use permits, the Township Planning Commission shall limit it to reasonable improvements required to meet the standards of this Ordinance and to protect the natural resources or the health, safety, and welfare of the residents of the Township and future users or inhabitants of the proposed project or project area including, but not limited to, roadways, lighting, public utilities, sidewalks, screening, waste disposal, and drainage. The term "improvements" does not include the entire project, nor improvements for which a performance guarantee has been deposited pursuant to Act 288 of the Public Acts of 1967, as amended. The Township Planning Commission and the applicant shall establish an agreeable procedure for the rebate of any bonds required under this section, in reasonable proportion to the ratio of the work completed on the required improvements as work progresses. Said agreement shall be written as an element of the conditions of approval of the special use permit.
- C. In the case of a special use for mining on a regular or temporary basis:
1. Any operator who obtains a mining permit from the Planning Commission for two or more project sites within Bear Lake Township may elect, at the time the second or any subsequent site is approved, to post a single bond in lieu of separate bonds on each site. Any single bond so posted shall be in an amount equal to the estimated cost of reclaiming all sites the operator has under each of his mining permits issued in Bear Lake Township less that amount deposited for the particular sites with the appropriate governmental agencies. When an operator elects to post a single bond in lieu of separate bonds previously posted on individual sites, the separate bonds shall not be released until the new bond has been accepted by the Planning Commission.
  2. At the termination of each bonding period, the Planning Commission shall review the bond amount on mining and reclamation progress and shall either maintain the existing bond, return all or a portion of the existing bond, or request the operator to increase the amount of the bond.
  3. The operator may file with the Planning Commission a request for release of bond at such time as the operator feels that all reclamation has been satisfactorily completed or is in progress in accordance with the approved reclamation plan on any or all of the affected lands. Such request for release of bond shall include the name and address of the operator, the permit number, a legal description of the area, and a final reclamation report on the area for which the release of bond is requested. The final reclamation report shall contain the following information:
    - (a) Name and address of the operator, permit number, and legal description of the land;
    - (b) A map and/or aerial photograph on which the operator shall indicate the final contours, slope angles of the affected land,

- surface water drainage and ponds, and the locations of any remaining structures and roads;
- (c) A description of reclamation activities leading to completion of the approved reclamation requirements including: topsoil disposition and thickness, revegetation practices, disposition of waste dumps, tailing ponds, and surface structures, haulage and access roads, sediment control practices, and maximum depth of artificial lakes or ponds;
  - (d) Operators of all underground mineral extraction operations shall also submit a complete plan of all entries, workings, and levels as well as a description of the sloping and ground support methods at the cessation of operations;
  - (e) For underground mining operations, a description of the stability of lands overlaying the underground workings and a description of methods to be used for sealing all shafts, adits, includes and other mine entries;
  - (f) Such other pertinent information and maps as may be required to evaluate the completion of reclamation and the advisability of returning the operator's bond. Final release of the bond shall not occur until the operator files a final reclamation plan under the terms of this Ordinance.

D. Upon receipt of a request for release of the bond, the Planning Commission shall:

1. Inspect the designated lands;
2. Publish, in accordance with Article 86, 8601, notice that the release of bond application is pending and specify a 30-day period for filing of complaints with the Planning Commission against the release of bond;
3. Publish, in accordance with Article 86, 8601, notice of a public hearing at such time and place as the Planning Commission determines to consider the request for release of bond and make a determination on the validity of complaints. The notice required in (b) of this sub-section and this sub-section may be published at the same time, but in all cases the public hearing shall be held at least 30 days after the first notice required in (b) of this sub-section;
4. In the case of a special use permit for mining, if the reclamation is found to be satisfactory and all valid complaints have been satisfied, the Planning Commission shall release the appropriate amount of bond 30 days after the public hearing. If the reclamation is found to be unsatisfactory; so notify the operator by registered mail setting forth the reasons for denial of release of bond and the corrective action necessary for release of bond.
5. In the case of non-mining special use permits, if the Planning Commission finds that the applicant has faithfully performed its agreement established under Article 94, 9410 above, it shall release the appropriate amount of bond 30 days after the public hearings,

otherwise it shall so notify the applicant by registered mail setting forth the reasons for denial of release of bond and the corrective action needed to be taken.

- E. Nothing in this section shall be construed to infringe upon the Planning Commission's authority to take appropriate action on bonds, including forfeiture of all or part of the bond for cause. Forfeiture shall not be approved by the Planning Commission unless there has been publication of notice and a public hearing held consistent with the terms of this Ordinance.

#### 8611 - Change, Renewals and Transfer of Special Use Permits

- A. The holder of a special use permit may at any time apply to the Planning Commission for amendment, cancellation, renewal, transfer, or change in the special use permit including a reclamation plan, provided that this section shall not include an expansion of a mining operation, a removal of mined lands from the aerial extent of the approved permit, a release of a bond or other security mechanism, or the renewal of a temporary mining special use permit.
- B. The application for the amendment, cancellation, or change shall be submitted to the Planning Commission which shall approve, approve conditionally, or deny the application subject to the standards set forth in this Ordinance.
- C. A regular mining special use permit shall be renewed at the end of the permit term for successive five-year terms after public hearing and notice as long as the operator continues to produce mineral materials from the property, conforms to the approved reclamation plan, and conforms to the provision of this Ordinance and is within the timetable of operations as established by 9403 of this Section.
- D. No holder of a special use permit shall assign, sell, lease or transfer in any manner any rights granted under the special use permit until his successor or assigns have complied with all the requirements of this Ordinance, including all requirements of a reclamation plan associated with a special use permit for mining and the filing of a bond of like amount with the Planning Commission. Upon compliance with the requirements of this Ordinance, the Planning Commission shall release the first holder from the requirements of this Ordinance, including any bond, and transfer the permit to the successor.
- E. Any application granted with conditions attached under the terms of this Section shall have the conditions attached in writing to the document of approval. Such conditions may cover any standard or requirement listed in this Ordinance. A violation of the conditions shall constitute a violation of this Ordinance, subject to penalties listed in this Ordinance.

#### 8612 – Inspections

- A. Upon issuance of a special use permit, the Planning Commission or its approved agents may inspect the project site to determine compliance with the requirement

of this Ordinance. Inspections may also include the required records of a mining operation.

B. Such inspection shall be at reasonable times with notice provided to the operator.

#### 8613 – Penalties

- A. Whenever the Planning Commission finds a violation of this Ordinance including unapproved deviation from a site plan or reclamation plan, it shall be recorded and the Planning Commission shall send the holder of the special use permit, by registered mail, an order specifying the nature of the violation, time of violation, and corrective steps necessary to achieve compliance with this Ordinance.
- B. The Planning Commission shall cancel the special use permit of any holder who fails to comply with the order within 30 days after the order is served unless the holder named therein, within 10 days after notice, requests in writing a hearing before the Planning Commission. Failure to show just cause for the continued violation and lack of compliance with the order shall result in permit cancellation and immediate cessation of all activities on the affected property.
- C. The penalties provided for herein shall in addition to the penalties provided in Article 98, 9803 of this Ordinance.

## Article 94 - Site Plans

### 9401 - Site Plans

The site plan required under this Section shall include:

- A. Plans, specifications and drawings showing the location, design and size of the proposed land use and the buildings and structures to be located thereof; all abutting roads and streets; and the location of all existing structures.
- B. The legal seating and/or sleeping capacity of all buildings and structures
- C. A concise statement of all operations and uses which will be conducted on the land and buildings
- D. A concise statement of all services, if any, to be offered to the public
- E. Information concerning the intensity of use, including hours and times of operation and use, and the density of population which will occupy and use the premises
- F. Information concerning the generation of traffic and traffic movements
- G. Information concerning the requirements of the special land use for public services and utilities, including the number of sewer hoop-ups, generation and disposal of solid and liquid waste, and the amount of fresh water to be consumed
- H. The amount of soil, dirt, sand or gravel to be excavated and removed from the site, or the amount and composition of all fill to be placed on the site.
- I. The applicant's name and address in full and the principal offices and resident agent of the business if other than a sole proprietor; a statement that the applicant is the owner of the land involved in the application or is acting on the owner's behalf; and the address and legal description of the land involved including the Property Tax Roll Number involved in the application.
- J. The names and addresses of all owners of property which is assessed within 300 feet of the boundary of the property involved in the application, and the names of all occupants of all structures within 300 feet of the boundary of the property involved in the application.
- K. Information showing all setback distances for proposed structures from the front, side and rear lot lines, rivers, lakes, streams, or other bodies of water.

9402 - For Special Uses in the Agricultural District-AG-I

- A. Location of past and present mining and land areas held for future extraction by operations.
- B. The presence, location, extent and quality of potentially valuable mineral deposits both known and inferred.

9403 - For A Special Use Permit For Mining On A Regular Basis

- A. A map and/or aerial photograph of the property which shall indicate:
  - 1. Boundaries of the affected and adjacent lands;
  - 2. Surface drainage of the affected land;
  - 3. Location and names of all streams, roads, railroads, utility lines, and pipelines on or immediately adjacent to the area;
  - 4. Location of all structures within one thousand feet of the outer perimeter of the area, present owners and occupants of such structures, and purposes for which each structure is used;
  - 5. Proposed location, aerial extent, and depth of intended mine excavation;
  - 6. Proposed location of the mine, waste dumps, tailing ponds, sediment basins, stockpiles, structures, roads, railroad lines, utilities or other permanent or temporary facilities used in mining
  - 7. Estimated depth to ground water.
- B. A description of the mining and processing equipment to be uses;
- C. A description of measures to be taken to control noise and vibrations from the operation;
- D. A description of measures to be taken to screen the operation from view;
- E. Proposed primary travel routes to be used to transport the mined material to processing plants or markets away from the property;
- F. A description of the plans for topsoil storage;
- G. A reclamation plan which shall include:
  - 1. A map or plan and description of the proposed reclamation including grading, final slope angles, highwall reduction , benching and terracing of slopes, slope reduction, slope stabilization and revegetation where applicable, and erosion control, and alternative future land uses;
  - 2. Description of topsoil stripping and conservation during storage and replacement;
  - 3. Plan and description of anticipated final topography, water impoundment's, and
  - 4. Description of plans for disposition of surface structures, roads, and related facilities after cessation of mining;

5. A plan for disposal of treatment of any harmful or toxic materials found in any formations penetrated by the mining operation or produced during the processing of minerals on the affected land, and of chemicals or materials used during the mining or processing operations;
  6. The estimated cost of reclamation for the total project;
- H. A statement in writing and adequate evidence to indicate the duration of the lease in years;
- I. A timetable of the commencement, duration and cessation of mining operations;
- J. Any and all mining permits held by the applicant within the state.

9404 - For A Special Use permit For Mining On A Temporary Basis

- A. As may be required by the Planning Commission, a map and/or aerial photograph of the land with any or all of the information as listed in 9401 and 9403 of this Section, relating to requirements for maps and/or aerial photographs for regular mining special use permits;
- B. As may be required by the Planning Commission, any or all of the information listed in 9401 and 9403 of this Section, relating to requirements for information for regular mining special use permits.

## **Article 95- Planned Unit Development**

### **9501 - Planned Unit Development**

This section recognizes that it may be desirable to modify certain restrictions of this Ordinance in the context of an innovative, efficient, planned unit development. The rationale for this departure from normal policy is virtually the entire ordinance is drafted in contemplation of regulating discrete, individually proposed uses. Whenever it can be demonstrated the needs of the community will be better served by a private plan which combines multiple structures or uses on a single area, it may be possible to modify some of the regulations which inhibit such a plan without formal amendment of this Ordinance.

### **9502 - Eligibility**

No use shall be eligible for special treatment under this Section unless all of the following are determined:

- A. the application proposes a planned unit development as defined by this Ordinance; and
- B. planned unit development of the type contemplated is authorized by Special Use Permit in the relevant Land Use District; and
- C. every use contemplated in the planned unit development in the respective Land Use Districts are:
  1. legal uses and special uses in the respective Land use District in which it is located;
  2. duplexes; and
  3. apartment building with not more than four housing units; and
  4. the application is otherwise consistent with the legislative policy expressed in 9501

### **9503 - Procedure**

Applications for planned unit development are essentially Special Use Permit applications which request a waiver of basic dimensional restrictions. Accordingly, they shall be processed by the Planning Commission under Section Article 86, 8601 et seq, except that any basic restriction relating to minimum lot size, minimum usable floor area, maximum height or setbacks may be modified in accordance with this Section.

9504 - Basis Restrictions and Modification Procedure

A. The Commission shall:

1. calculate the gross acreage of the site proposed for the planned unit development;
2. calculate the net land area as follows:

Given Total Land are in Proposal (in units of land area) + \_\_\_\_\_

Subtract Land which is cut off from main parcel by roads, railroads, existing land use, or major water courses, wetlands, such that common use is hindered or the land is otherwise unavailable for buildings, and shown on a site plan. - \_\_\_\_\_

Subtract Acreage set aside for street right-of-way purposes, regardless of the amount of land actually allocated for street right-of-way. - \_\_\_\_\_

Subtract Area of greenbelt as required in division 3 below, on a site plan - \_\_\_\_\_

Equals Net Land Area = \_\_\_\_\_

B. Planned Unit Developments shall be developed in accordance with the following regulations:

1. Minimum Gross Site Area. No structure shall be permitted unless they are part of a coordinated development with a gross site area of eight acres or more. Gross site area shall be defined for the purpose of this Section as the total land area described in a certified land survey and held in common ownership.
2. Minimum Net Land Area. No structures shall be permitted unless the minimum net land area shall not be less than one-half (1/2) of the gross area.
3. Structure Foundation Area Coverage. No development shall be approved with more than thirty-five (35%) percent of the net land area covered by structure foundation area.
4. Greenbelt Requirement. The necessity for, and specification of a greenbelt around the perimeter of a development shall be determined by the Planning Commission during site plan review. Any green belt so required and specified shall be at least ten (10) feet in width and landscaped and maintained with at least one (1) canopy tree, two (2) understory trees, and three (3) shrubs for each one hundred (100) linear feet of greenbelt. No structures shall be erected within a greenbelt area.

5. No structures shall be erected within the identified environmentally sensitive area (sand dunes, beach, water bodies, wetlands, floodplain, high risk erosion area, water setback areas, high risk erosion setback, slopes over 25 percent, unless specifically identified by the Planning Commission as necessary to protect the environmentally sensitive area or to enhance the environmentally sensitive area for passive recreational value.
  6. The green belt and environmentally sensitive areas shall be shown spatially, with their boundaries, on the submitted site plan.
- C. Following the above calculations:
1. The Commission then shall divide the gross area by the maximum number of principal structures allowed per given square feet in the respective Land Use District in which the proposed Planned Unit Development is located in to determine density.
    - (a) When calculating available land area, all the land involved in the proposed Planned Unit Development may be used for gross acreage, regardless if the land is all in one Land use District or not.
    - (b) If the gross acreage is located in more than one Land Use District, the Land Use District in which most of the land is located shall be used to determine number of principal structures or dwelling units permitted.
  2. The Land Use District in which most of the land is located shall be used to determine which Land Use District regulations dealing with parking, setbacks, building heights, maximum percentage of lot coverage, minimum square feet of building area, and signs apply.
  3. Nothing contained herein shall prevent the clustering of structures if desired by the applicant so long as the minimum densities and other regulations of the Ordinance are met.
  4. The density obtained from the calculations in this Section represents maximum number of total dwellings, housing units and principal structures which may be permitted for development. Following these calculations, the Commission then may:
    - (a) permit clustering of development and/or allow a reduction in the size of individual lots within the Planned Unit Development below the minimum area required so long as the density for the entire available land area is not exceeded; and/or
    - (b) waive, wholly or in part any minimum usable floor area requirements, setback or maximum height, density, specified by the restrictions of the respective Land use District if doing so results in:
      - I. Additional public property in the development and/or public easement on property in the development that is acceptable to the Township, and/or

- II. Lower costs for installation and/or maintenance of public utilities owned and operated, or to be owned and operated, by the Township, and/or
- III. Public Park land developed in or near the development, and/or
- IV. Some other public value to the Township

## Article 96 - Board of Appeals

### 9601 - Zoning Board of Appeals

- A. There is hereby established a Zoning Board of appeals which shall perform its duties and exercise its powers as provided by the Zoning Act, as amended, in such a way that the objectives of this Ordinance shall be enforced, the public health, welfare and safety secured, and substantial justice done.
- B. The Zoning Board of Appeals shall consist of five (5) members. Members of the Zoning Board of Appeals shall be appointed by the Township board in accordance with the Zoning Act, and shall be governed in accordance therewith. One member of the Zoning Board of Appeals shall also be a member of the Township Planning Commission. Members shall serve terms of three years. There shall also be two (2) alternate members for the same term as regular members as may be appointed, from time to time, by the Township board. An alternate member may be called to serve as a regular member of the Zoning Board of appeals in absence of a regular member if the regular member is absent from or will be unable to attend two (2) or more consecutive meetings of the Zoning Board of Appeals or is absent from or will be unable to attend meetings for a period of more than thirty (30) consecutive days. An alternate member may also be called to serve as a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision is made. The alternate member has the same voting rights as a regular member of the Zoning Board of Appeals. Appointments to vacancies must be made within one month after the preceding member's term has expired.

### 9602 Duties of the Zoning Board of Appeals

- A. The Zoning Board of appeals shall act upon all questions as they may arise in the administration of this Ordinance, including the interpretation of the Official Zoning Map. It shall hear and decide appeals from and review any order, requirement, decision or determination made by the Zoning Administrator. It shall also hear and decide all matters referred to it or upon which it is required to pass under this Ordinance. The concurring vote of the majority of the members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator or decide in favor of the applicant any matter upon which it is required to pass under, or to effect any variation in, this Ordinance. An appeal may be taken by any person aggrieved or by any officer, department, board or bureau of the township, county or state.
- B. Such appeal shall be taken within such time as shall be prescribed by the Zoning Board of Appeals by general rule by the filing with the Zoning Administrator of a notice of appeal specifying the grounds therefore. The Zoning Administrator shall

forthwith transmit to the Zoning Board of Appeals all the papers constituting the record upon which the action appealed was taken.

- C. The Zoning Board of Appeals shall fix a reasonable time for the hearing of the appeal and give written notice thereof to the parties and their attorneys, if any, in accordance with Section 8202 of this ordinance. The Zoning Board of Appeals shall decide all matters within a reasonable time. Upon the hearing, any person may appear in person or by agent or by attorney. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination made by the Zoning Administration, and, to that end, shall have all of the powers of the Zoning Administrator and may issue or direct the issuance of a permit. Upon the hearing of an appeal from any order, requirement, decision or determination of the Zoning Administrator, the Zoning Board of Appeals shall limit itself to a review and determination that the Zoning Administrator has correctly applied the relevant standards under this Ordinance, that the Zoning Administrator's order, requirement, decision or determination is based upon the competent material and substantial evidence on the whole record and that the Zoning Administrator's order, requirement, decision or determination is consistent with constitutional requirements of due process and equal protection. Nothing contained herein shall be construed as preventing the Zoning Board of Appeals from construing an appeal as a request for a variance from the strict terms of this Ordinance and proceeding in accordance with the succeeding Section.
- D. The Township Board shall remove a member of the ZBA for misfeasance, malfeasance or nonfeasance in office upon written charges and after public hearing.
  - 1. A member of the ZBA shall disqualify him or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office under the Zoning Act.

#### 9603 – Variances

- A. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this Ordinance, the Zoning Board of Appeals shall have the power in passing upon appeals to vary or modify any of these rules or provisions of this Ordinance so that the spirit of the Ordinance is observed, the public health and safety secured, and the substantial justice done.
- B. The Zoning Board of Appeals may require the applicant for a variance from the provisions of this Ordinance to submit such surveys, plans or other information, in addition to such information already contained in the record, as is necessary for the Zoning Board of Appeals to investigate thoroughly the matters before it. The Zoning Board of Appeals may impose such conditions or limitations in granting a variance, not contrary to law, as it may deem necessary to comply

with the spirit, intent and purpose of this Ordinance. A majority vote of the membership of the Zoning Board of Appeals is necessary to grant a dimensional variance and rule on an interpretation of the ordinance. The decision shall be in writing and reflect the facts, conclusions, and reasons for the decision.

- C. A dimensional variance may be granted by the Zoning Board of Appeals only in cases where the applicant demonstrates in the official record of the public hearing that practical difficulty exists by showing all of the following:
1. The need for the requested variance is due to unique circumstances or physical conditions of the property involved, such as narrowness, shallowness, shape, water or topography.
  2. The need for the variance is not the result of the actions of the property owner or previous property owners.
  3. That strict enforcement of the ordinance will unreasonably prevent the property owner from using the property for a permitted purpose or will be unnecessarily burdensome.
  4. The requested variance is the minimum variance necessary to meet the property owner's needs as well as other owners in the district.
  5. The requested variance will not cause an adverse impact on surrounding property.
  6. The Zoning Board of Appeals shall not grant a variance to allow a use not permissible under the terms of this Ordinance.

#### 9604 - Interpretation of Ordinance Text

- A. Interpretation - Pursuant to the requirement of MCL §125.297a; MSA §5.2963(27a) nothing contained herein shall be construed as prohibiting the Zoning Board of Appeals from interpreting the text of this Ordinance in such a fashion that will allow in a Land Use District buildings, uses and structures which are sufficiently similar to the specifically delineated permitted or special uses in that land use District, under the same permitted or special use regulations. Such interpretation shall not have the effect of granting a variance but rather shall be deemed only to be an interpretation of the Ordinance test.
- B. Standards - In determining whether a proposed building, use or structure is sufficiently similar to a specifically delineated permitted or special use, the Zoning Board of Appeals shall consider the relevant policies for the Land Use District in question as set forth in the Land Use and Development Component of the Bear Lake Township Master Plan, the nature, use and purpose of the proposed building, use or structure and whether or not the proposed building, use or structure is a permitted or special use in any other Land Use District in the Township.
- C. Precedent - An earlier determination under this Section shall be considered a precedent for other applications proposing an identical building, use or structure in the same Land Use District, provided the earlier determination was made with respect to a building, use or structure sufficiently similar to a specifically

delineated permitted use in the Land Use District and not with respect to a specifically delineated special use. An earlier determination with respect to an identical, sufficiently similar special use shall be considered as a precedent only to the extent that such sufficiently similar special use shall be considered as a candidate for a special use permit in that Land Use District, but shall otherwise be subject to all requirements of Article 86, 8601 of this Ordinance.

## **Article 98-Amendments, Validity, and Penalties**

### **9801 - Amendments**

The Township Board may, from time to time, amend, supplement, or change the regulations and boundaries of districts or provisions of this Ordinance in the manner prescribed by the Zoning Act.

### **9802 - Validity**

This Ordinance and the various parts, sections, subsections, phrased and clauses thereof are hereby declared to be severable. If any part, sentence, paragraph, section, subsection, phrase or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of the Ordinance shall not be affected thereby. The Township Board hereby declares that it would have passed this Ordinance and each section, subsection, phrase, sentence and clause thereof irrespective of the fact that any one or more sections, subsections, phrases, sentences or clause be declared invalid.

### **9803 – Penalties**

- A. Nuisance Per Se: Any building or structure which is erected, reconstructed, altered, converted, maintained, or used or any use of land or premises which is begun, maintained or changed in violation of any provisions of this Ordinance is hereby declar3ed to be a nuisance per se.
  
- B. Authorized Local Official. The Zoning Administrator is hereby designated as the authorized local official to issue municipal civil infraction citations.
  
- C. Violations; Civil Infractions. Any person, including, but not limited to, an individual, partnership, corporation, limited liability company, or other incorporated or unincorporated voluntary association, who violates any provision of this Ordinance shall be guilty of a civil infraction. Violation of this Ordinance and its penalties shall be judicially enforced through the 85th Judicial District Court. Enforcement for violations of this Ordinance shall be as follows:
  - 1. Unless immediate action is necessary upon the determination by the Zoning Administrator that there is a danger to the public health, safety, or welfare, the person violating this Ordinance shall be served personally or through first class mail with a notice of violation requiring that the violation be corrected within thirty (30) days of this notice;
  - 2. Upon failure to correct the violation or in cases when immediate action is necessary, a person violating this Ordinance shall be issued a citation requiring their appearance in the 85th Judicial District Court. A person who violates this Ordinance shall be guilty of a civil infraction and shall be fined not less than \$150.00 nor more than \$500.00 plus costs.
  - 3. A person who violates this Ordinance shall be guilty of a civil infraction and when having been previously found responsible or admitted

responsibility for a violation of this Ordinance in a civil infraction proceeding, shall be fined not less than \$300.00 nor more than \$500.00 plus costs.

4. A person who violates this Ordinance shall be guilty of a civil infraction and when having been on at least two prior occasions found responsible or admitted responsibility for violation of this Ordinance in a civil infraction proceeding, shall be fined \$500.00 plus costs.

D. Violations; Civil Action. The Township board, the Township Zoning Administrator, the Board of Appeals, the Attorney for the Township, or any owner or owners of real estate within the Land Use District in which such building, structure or land is situated, may institute a nuisance, injunction, mandamus, abatement or any other appropriate action or actions, proceeding or proceedings, to prevent, enjoin, abate, or remove any building or structure or use, which has been erected, constructed, reconstructed, altered, converted, maintained or used in violation of this Ordinance.

E. Cumulative Remedies. The rights and remedies provided herein are cumulative and in addition to all other remedies provided by law. The issuance of a municipal civil infraction citation and a finding or admission of responsibility for violation of this Ordinance in a civil infraction proceeding shall not bar a civil action seeking equitable relief beyond the jurisdiction of the 85th Judicial District Court under sub-section D, hereof, arising from the same violation.

#### 9804 - Conflicting Provisions

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed to the extent of the conflict.

#### 9805 - Effective Date

The effective date of this Ordinance shall be April 11, 1995.

Amended #1 - Effective Date January 19, 1998

Amended #2 - Effective Date August 3, 1998.

Amended #3 - Effective Date September, 2000.

Amended #4 - Effective Date February, 2003.

Amended #5 - Effective Date May, 2006.

Amended #6 - Effective Date June 22, 2007.

Amended #7- Effective Date June 29th, 2020.

Amended #8 – Effective Date April 1, 2022

