

## ARTICLE XIV ADMINISTRATION

### Sec. 14.1 Purpose and Intent

This Article sets forth the provisions and the requirements for submittal, review and approval of applications under this Ordinance and for enforcement of Ordinance violations, including the violation of permits and their conditions. These provisions are intended to clearly describe administrative duties and responsibilities, permit procedures and conditions and enforcement provisions to improve citizen and property owner understanding and to ensure efficiency in the administration of the Ordinance. These provisions are presented in five parts:

Part I -- Administrative Duties and Responsibilities

Part II -- Permit Application, Review and Approval Procedures

Part III -- Notice and Hearing Procedures

Part IV -- Site Plan Review Procedures

Part VI – Other Review Procedures

### PART I – ADMINISTRATIVE DUTIES AND RESPONSIBILITIES

### Sec. 14.2 Responsibility for Administration

14.2.1 Parties Responsible for Administration: The provisions of this Ordinance shall be administered by the Township Zoning Administrator, the West Benzie Joint Planning Commission, and the Township Boards of Trustees in accordance with the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, and the delegation of responsibility assigned by this Ordinance.

14.2.2 Responsibility of Township Boards of Trustees: The Township Boards of Trustees shall have the primary responsibility for supervision of the administration and enforcement of the Ordinance. In order to carry out this responsibility the Township Board of Trustees may adopt and file rules and guidelines to assist the Zoning Administrator and West Benzie Joint Planning Commission in administering and enforcing this Ordinance. Until such rules or guidelines are adopted, any existing rules, guidelines, the Zoning Ordinance, and the Michigan Zoning Enabling Act will constitute the rule.

14.2.3 Office of Zoning Administrator: The Township Boards of Trustees shall maintain an office of the Zoning Administrator and employ a Zoning Administrator to act as its officer to administer and enforce this Ordinance. The terms of employment and rate of compensation shall be established by the Township Board of Trustees. The Zoning Administrator shall be empowered to issue violation notices, appearance tickets and citations and may seek the issuance of warrants for the arrest of alleged violators through the office of the County Prosecutor or the Township Attorney and may bring any enforcement or civil action for violation and enforcement of this Ordinance or any permit, approval, or condition of any permit or approval, through the office of County Prosecutor or the Township Attorney or other legal representative specifically retained for such purpose.

### **Sec. 14.3 West Benzie Joint Planning Commission**

A West Benzie Joint Planning Commission shall be appointed and shall carry out its authorized activity as provided for in sections 301{MCL 125.3301 THROUGH 125.3308} of the Michigan Zoning Enabling act (MZEA)

### **Sec 14.4 Zoning Administrator**

It shall be the responsibility of the Zoning Administrator and his or her employees to be thoroughly versed in the provisions of this Ordinance and to enforce the provisions of this Ordinance and in so doing shall perform the following duties:

14.4.1 Issue Permits: All applications for zoning permits shall be submitted to the Zoning Administrator who shall issue Zoning Permits, Temporary Zoning Permits, Special Land Use Permits, PUD Permits, Condominium Project Permits and Certificates of Zoning Compliance when all applicable provisions of this Ordinance have been complied with. The Zoning Administrator shall attend Planning Commission, Zoning Board of Appeals and such other meetings related to administration of this Ordinance as necessary or when requested. The issuance of permits includes the authority to impose any condition authorized by this Ordinance.

14.4.2 File Applications: The Zoning Administrator shall maintain files of all applications for zoning approval and for all Certificates of Zoning Compliance and shall keep records of all permit approvals and denials. Such files and records shall be open to public inspection. Copies shall be furnished upon request at a cost established by the Township Boards of Trustees.

14.4.3 Inspections: The Zoning Administrator shall make as many inspections of buildings or premises as necessary in order to properly carry out the enforcement of this Ordinance or any permit, approval, or condition of a permit or approval, or order under this Ordinance. The violation of any permit or approval or any condition of a permit or approval is a violation of this Ordinance.

14.4.4 Record of Complaints: The Zoning Administrator shall keep a record of every complaint of a violation of any of the provisions of this Ordinance. Such records shall be public records.

14.4.5 Report to Boards of Trustees: On behalf of the Planning Commission, the Zoning Administrator shall report to the Boards of Trustees periodically; and once a year, shall summarize for the period since the last previous report, the number of requests for zoning approval or enforcement, including the number of requests approved, approved with conditions, and denied, by type of request, including, Zoning Permits, Special Land Use Permits, PUD Permits, Condominium Project Permits, Certificates of Zoning Compliance, all minor design modifications, administrative waivers, all complaints of violations, all interpretations made, appeals and variances granted by the Zoning Board of Appeals, all rezoning requests and text changes processed, and State action taken on all amendments. The Zoning Administrator shall include any recommendations regarding zoning changes which would improve the content and enforcement of the Zoning Ordinance.

14.4.6 Prepare Record of Decisions: The Zoning Administrator shall establish notebooks or other records for listing each decision, waiver, interpretation, or enforcement action made under this Ordinance. This record shall be organized for easy reference by date and decision to help ensure consistency of future decisions.

14.4.7 Prepare Forms, Manuals and Guidelines: The Zoning Administrator shall periodically prepare or update forms, procedure manuals and guidelines for the smooth administration of the Zoning Ordinance. All such forms, manuals and guidelines shall be reviewed and approved by the Planning Commission. A form, procedure or guideline may be implemented by the Zoning Administrator for not more than sixty (60) days after being established without West Benzie Joint Planning Commission approval.

14.4.8 Enforce the Zoning Ordinance: The Zoning Administrator shall be the principal Ordinance enforcement officer. He/she shall ensure conformance with issued permits, investigate alleged Ordinance violations, and undertake such other enforcement activities as may be delegated by the Township Boards or West Benzie Joint Planning Commission. Other individuals may be hired for this purpose, or the task may be delegated to others who work under the supervision of the Zoning Administrator. Once a case is shifted to the County Prosecutor or other legal representative retained for such purpose, the Zoning Administrator and Prosecutor or other legal representative shall share enforcement responsibility.

14.4.9 Administrative Waivers:

A. Authority and Limit of Waiver: The Zoning Administrator is authorized to grant administrative waivers to the provisions of this Ordinance for a use permitted by right in a manner and an amount not to exceed a ten (10) percent variation from any site development standards, parking and loading requirements, sign requirements, lot width-to-depth ratios and the specific dimensional, area, and similar provisions and requirements contained in this Ordinance. Up to a ten (10) percent variation in front, side or rear yards may be granted on any nonconforming lot of record. This authority does not extend to waiver or consideration of different land uses other than those expressly permitted within a zoning district nor to a Special Land Use, PUD, Condominium Project or other use subject to Site Plan Review.

B. Criteria: Upon receipt of a written request for an administrative waiver, the Zoning Administrator shall prepare a report of the situation and all factual data concerning the site in terms of: (1) what the situation would be if developed pursuant to the standards stated in this Ordinance, (2) what the situation would be if the administrative waiver were granted, (3) what impacts, if any, on the public and neighboring property owners would result if the administrative waiver were granted, and (4) the conclusion on the waiver request and the rationale for that conclusion. No administrative waiver shall be granted if doing so would create a nuisance or result in significantly more noise, odor, dust, bright or flashing lights, or similar negative impact on the public or abutting property. Decisions rendered by the Zoning Administrator shall be in the form of a letter which specifically states a determination on each of the items listed above. An appeal on any administrative waiver may be made by any affected person to the Zoning Board of Appeals within ten (10) days following the decision. No decision by a Zoning Administrator on an administrative waiver shall be effective until after this ten (10) day period has passed. In the event of an appeal, the effect

of the decision is stayed. All abutting property owners shall receive notice of any administrative waiver request and when a decision on the waiver is expected to be made, prior to a determination by the Zoning Administrator. Abutting property owners may file a written statement on the administrative waiver request with the Zoning Administrator, but the decision of the Zoning Administrator shall be based on the standards contained in this Section.

C. Appeals: An appeal of administrative waiver decision may be made to the Zoning Board of Appeals.

#### 14.4.10 Modifications of Approved Permits or Site Plans

A. The Zoning Administrator may authorize insignificant deviations from an approved site plan or from Zoning Permits, Special Land Use Permits, Planned Unit Development Permits and Condominium Project Permits. A deviation is insignificant if it has no discernible impact on the site, neighboring properties, the general public, or those intended to occupy or use the proposed development. All requests for modifications of an approved site plan or permit issued under the provisions of this Ordinance shall be in writing on a form provided by the Zoning Administrator. The Zoning Administrator shall keep a record of any authorized deviation.

B. Minor site design modifications or changes in permits (including approved site plans) are permissible with the approval of the permit-issuing authority. Such permission may be obtained without a formal application, public hearing, or payment of any additional fee. For purposes of this section, minor modifications are those which will have no foreseeable effect or discernible impact to natural features on the property, beyond the property boundary such as minor changes in the siting of buildings or structures, the alignment of utilities, and the alignment of walkways, interior roadways and parking areas. Minor changes for good cause may be authorized provided no such changes shall increase the size or height of structures, increase the number or type of dwelling units or square feet of nonresidential uses, add another land use, reduce the efficiency or number of public facilities serving the development, reduce usable or other required open space, or encroach on or impair natural resources and features. Minor modifications or changes shall not violate a requirement of this Ordinance, or involve a modification or change that otherwise would require a variance from the ZBA. The Zoning Administrator shall keep a record of all minor design modifications or changes granted and report each modification as part of the annual report under Section 14.5.6.

C. Any modification, change, or deviation not qualifying as a minor amendment is considered to be a major modification, change, deviation or amendment and must be approved by the permit issuing authority following the same procedure required for the original permit or approval.

D. All other requests for changes in approved plans will be processed as new applications. If such requests are required to be acted upon by the West Benzie Joint Planning Commission or Zoning Board of Appeals, new conditions may be imposed, but the applicant retains the right to reject such additional conditions by withdrawing his request for an amendment and may then proceed in accordance with the previously issued permit.

E. An applicant requesting approval of a request for an insignificant deviation or a minor design modification or change shall submit a written request to the Zoning Administrator identifying the requested changes and stating the reasons for making the request. Action on all changes shall be given in writing, and may be appealed to the Zoning Board of Appeals.

14.4.11 Relief from Personal Responsibility: The Zoning Administrator, officer or employee charged with the enforcement of this Ordinance, while lawfully acting for the Township, shall not thereby render himself or herself liable personally, and he or she is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any lawful act required or permitted in the discharge of his or her official duties. Any suit instituted against the Zoning Administrator or West Benzie Joint Planning Commission, or any officer or employee acting on behalf of the office of the Zoning Administrator, because of a lawful act performed by the employee in the lawful discharge of his or her duties and under the provisions of the Ordinance shall be defended by the County Prosecutor, or other legal representative of the Township, until the final termination of the proceedings. In no case shall the Zoning Administrator or any of his or her subordinates be liable for costs in any action, suit or proceeding that may be instituted in pursuance of the provisions of the Ordinance; and any officer of the Department of Zoning and Planning, acting in good faith and without malice, shall be free from liability for lawful acts performed under any of its provisions or by reason of any act or omission in the lawful performance of his or her official duties in connection herewith.

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#### **14.5 Reserved for Future Use**

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### **PART II – PERMIT APPLICATION, REVIEW AND APPROVAL PROCEDURES**

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#### **Sec. 14.6 General Application and Review Procedures.**

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The general provisions of this Part II of Article XIV shall apply to all applications for development approval and procedures under this Ordinance, unless otherwise stated. Additional procedures specific to review of site plans are found in Part IV of this Article. Procedures specific to Special Land Use applications are found in Article XVI, and procedures specific to Planned Unit Developments are found in Article XVII.

14.6.1 Authority to File Applications: Applications shall be submitted to the Zoning Administrator by the owner, or any other person having a recognized interest in the land for which the development is proposed, or their authorized agent.

A. Applicant is Not Owner: If the applicant is not the owner of the land, or is a contract purchaser of the land, a letter signed by the owner consenting to the submission of the application shall be submitted.

B. Applicant is Not Sole Owner: If the applicant is not the sole owner of the land, a letter signed by the other owners or an association representing the owners consenting to or joining in the application shall be submitted.

14.6.2 Application Submission Schedule: The schedule for the submission of applications shall be established by the Zoning Administrator and made available to the public.

14.6.3 Application Contents: Applications required under this Ordinance shall be submitted on a form approved by the Planning Commission except as noted in Sec. 14.5.9 and made available to the public.

14.6.4 Simultaneous Processing of Applications: Whenever two or more forms of review and approval are required under this Ordinance (e.g., a Special Land Use Permit and a Variance), the applications for those development approvals may, at the option of the Zoning Administrator, be processed simultaneously, so long as all applicable requirements are satisfied for both applications.

14.6.5 Fees:

A. **Determination of Fees**: The Township may charge reasonable fees sufficient to cover the costs of administration of this Ordinance. The Township Board of Trustees may from time to time adopt by resolution a fee schedule to accompany all applications submitted under this Ordinance. Fees shall be based on actual direct costs of inspection and supervision or consultation with qualified professionals (where reasonably necessary), resulting from the enforcement of this Ordinance, including the enforcement of conditions of a permit or approval, and may include the cost of filing approvals with other entities, such as the County Register of Deeds. Such fees may also include but are not limited to all costs associated with conducting a public hearing or inspection, including publishing the newspaper notice and any map, sending required notices to property owners and renters, photocopying, staff time, Planning Commission, Township Board of Trustees and/or Zoning Board of Appeals meeting time, mileage and any costs associated with reviews by qualified professional planners, engineers, scientists, and/or other qualified professionals. The fee schedule and any amendments shall be available at the Township Clerk's office following adoption by the Township Board of Trustees as part of the Township's fee schedule.

B. **Fees to be Paid**: No application shall be processed until the established fee has been paid and a receipt obtained from the Office of the Zoning Administrator; except that the Township Board of Trustees in the resolution establishing zoning fees, may exempt Township projects or the projects of other governmental agencies from all or part of the fees. The Office of Zoning Administrator shall keep accurate records of all fees, which records are public records open for public inspection.

C. **Additional Costs and Fees for Professional Reviews**:

1. If the Planning Commission, Zoning Board of Appeals, or Zoning Administrator determines that the basic zoning fees will not cover the actual costs of application review, or if the Planning Commission, Zoning Board of Appeals, or Zoning Administrator determines that review of the application and/or participation in the review or appeal by a qualified professional engineer, planner, attorney or other qualified professional is necessary, then the applicant shall deposit with the Township Treasurer such additional fees in an amount determined by the Zoning Administrator to equal the estimated amount of additional costs. The additional estimated amount of zoning fees shall be held in escrow in the applicant's name and shall be used solely to pay for

additional costs. If the amount held in escrow becomes less than ten (10) percent of the initial escrow deposit or less than ten (10) percent of the latest additional escrow deposit and review of the application or decision on the appeal is not completed, then the Zoning Administrator may require the applicant to deposit additional fees into escrow in an amount determined by the Planning Commission or Zoning Board of Appeals to be equal to the estimated costs to complete the review or decide the appeal. Failure of the applicant to make any escrow deposit required under this Ordinance shall be deemed to make the application incomplete or the appeal procedurally deficient or defective thereby justifying the denial of the application or the dismissal of the appeal. Any unexpended funds held in escrow shall be returned to the applicant following the final action on the application or the final decision on the appeal. Any actual costs incurred by the Township in excess of the amount held in escrow shall be billed to the applicant and shall be paid by the applicant prior to the issuance of any permit or the release of a final decision on an appeal. Failure of the applicant to make timely payment of any balance due will entitle the Township to place a lien on the subject property.

2. Professional review shall result in a report to the Township indicating the extent of conformance or nonconformance with this Ordinance and identifying any problems which may create a threat to public health, safety or the general welfare. Mitigation measures or alterations to a proposed design may be identified where they would serve to lessen or eliminate identified impacts. The applicant shall receive a copy of any professional review hired by the Township and a copy of the statement of expenses for the professional services rendered.

D. Refund of Fees: Application fees are not refundable except where the Zoning Administrator determines that an application was accepted in error, or the fee paid exceeded the amount due, in which case the amount of the overpayment shall be refunded to the applicant, subject to a ten (10) percent administrative fee.

#### 14.6.6 Pre-Application Conference:

A. General Overview: Except for PUDs (see Article XVII, Section 17.1.14), a pre-application conference is optional prior to submission of any application for development approval under this Ordinance. The purpose of a pre-application conference is to familiarize the applicant and the Township staff with the applicable provisions of this Ordinance required to permit the proposed development, and to inform the applicant about the preparation of the application.

B. Initiation of Pre-Application Conference: Any potential applicant may request a pre-application conference from the Zoning Administrator. Along with the request for the pre-application conference, the applicant may provide to the Zoning Administrator a description of the proposed development, the type of development approval sought, the location of the proposed project, and any other appropriate supporting documents such a concept plan, maps, drawings, models, and any other information the Zoning Administrator deems necessary for the pre-application conference.

C. Meeting: The Zoning Administrator shall schedule a pre-application conference after receipt of a request for a pre-application conference and any appropriate submission

materials. At the pre-application conference the applicant, the Zoning Administrator, and any other Township staff and regional, state, federal or adjacent local government representatives the Zoning Administrator deems appropriate to attend the pre-application conference, shall discuss the proposed development, and based upon the information provided by the applicant, identify in general what Ordinance provisions generally apply to the proposed development.

#### 14.6.7 Reserved for Future Use

#### 14.6.8 Determination of Sufficiency:

A. **Application Must be Complete:** All applications for a Zoning Permit, Temporary Zoning Permit, Certificate of Zoning Compliance, Special Land Use Permit, Planned Unit Development Permit, Condominium Project Permits, plat approval, variance, appeal or other authorization requested under this Ordinance must be complete before the permit issuing authority or approving body or official is required to consider the application.

B. **Determination of Sufficiency:** Within fourteen (14) calendar days following receipt of the application, the Zoning Administrator shall determine if the application is complete, meets all relevant threshold requirements and includes data in sufficient detail to evaluate the application to determine whether it complies with the requirements of this Ordinance. An application not reviewed for sufficiency within fourteen (14) calendar days, shall be considered complete and shall be processed as such.

C. **Determined Insufficient:** If the Zoning Administrator determines the application is not sufficient, written notice shall be provided to the applicant specifying the application's deficiencies. If the applicant fails to correct the deficiencies within sixty (60) days, the application shall be considered withdrawn. When the application is determined sufficient, it shall be reviewed pursuant to the procedures and standards of this Article.

14.6.9 Preparation of Staff Report: After an application is determined sufficient, and as appropriate, the Zoning Administrator shall refer the application to the appropriate Township staff, and direct the applicant to contact any other review agencies for comment. The Zoning Administrator shall review the application and where a site plan, Special Land Use, Condominium Project, PUD, variance or Ordinance interpretation is involved, prepare a Staff Report. Where a Staff Report is required, it shall be made available to the public five (5) calendar days before the first scheduled public hearing on the application. The Staff Report shall report whether the application complies with all appropriate standards of this Ordinance. Conditions for approval may also be recommended to eliminate any areas of noncompliance or mitigate any adverse effects of the development proposal. A Staff Report shall also be prepared on requests for rezoning or a text change; this report shall be prepared by the Township Planner.

14.6.10 Scheduling of Public Hearing: When an application for development approval is subject to a public hearing (see Section 14.16.1, Table 14-1, Timing of Notice, for when a public hearing is required), the Zoning Administrator shall ensure that the public hearing(s) on the application is scheduled for a regularly scheduled meeting or a meeting specially called for that purpose by the decision-making or advisory body reviewing the application. The public hearing(s) shall be scheduled so there is sufficient time for a Staff Report to be prepared and for the public notification requirements of Section 14.16 to be satisfied.

14.6.11 Decision on Permits: The bodies and officials responsible for review of permit applications under this Ordinance shall approve all applications that conform as submitted with the requirements of this Ordinance; shall approve with conditions all applications that would conform if certain conditions, authorized by this Ordinance were met; and shall deny all applications that do not conform with this Ordinance and would not likely conform even if mitigating conditions were imposed as a condition of approval.

14.6.12 Expiration of Permits:

A. Zoning, Special Land Use, Planned Unit Development or Condominium Project Permits shall expire automatically, if, within one (1) year after the issuance of such permits, significant actual construction has not commenced or use has not commenced where no actual construction is required. Significant means more than one-third of the estimated expense of the development.

B. The permit-issuing authority may extend a permit for a period of up to six (6) months from the date when a permit would otherwise expire if it concludes that:

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

C. Multi-phase PUDs shall conform with the requirements of Section 17.1.12.

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## **Sec. 14.7 Zoning Permits**

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The following provisions shall apply in the issuance of any Zoning Permit in addition to any other requirements for a particular use contained in this Ordinance:

14.7.1 Commencement: No clearing, grading, excavation or filling of land for a building or structure shall be commenced; no erection, addition to, alteration of, or moving of any building or structure shall be undertaken, nor shall any land be changed to a use of a different use type, use category, or use class under this Ordinance, nor to any different use group under the State Construction Code, PA 230 of 1972, except in accordance with and pursuant to one of the following permits or approvals:

1. A Zoning Permit or a Certificate of Zoning Compliance has been secured from the Zoning Administrator.
2. A major or minor Special Land Use Permit has been approved in compliance with the provisions of Article XVI of this Ordinance.
3. A PUD Permit has been approved in compliance with the provisions of Article XVII of this Ordinance.
4. A Condominium Project Permit has been approved in compliance with the provisions of Article XVIII of this Ordinance.

5. A platted Subdivision has been approved in compliance with the provisions of Article XVIII of this Ordinance.

6. Except upon a written order of the Zoning Board of Appeals, no Zoning Permit shall be issued for any building, structure or use of land that would be in violation of any of the provisions of this Ordinance.

14.7.2 Application for Zoning Permit:

A. All applications for a Zoning Permit shall require an accurate scale map showing the following, unless waived by the Zoning Administrator:

1. The location, shape, area, dimensions, and legal descriptions of the parcel, location of easements and centerline of road.
2. The location, dimensions, height and bulk of the existing and/or proposed structures to be erected, altered, or moved on the parcel,
3. All existing and proposed uses of buildings, structures and land.
4. The proposed number of sleeping rooms, dwelling units, occupants, employees, customers, and other users.
5. The yard, open space, driveway or access by easement, and parking space dimensions.
6. The proposed plan and specific off-street parking and unloading spaces, if applicable.
7. Any wetlands or flood plains, critical sand dunes or high risk erosion areas, lakes, streams or other water resources which may be on the property.
8. Any change to the ground contour of the parcel involved.
9. Any other information deemed necessary by the Zoning Administrator to properly administer this Ordinance.
10. Any permits that will be required for the development or use from federal, state or local agencies.

B. A copy of the deed or proof of equitable title shall be required with any application for a Zoning Permit for any new principal or accessory structure on any non-platted parcel in order to assure compliance with dimensional requirements of this Ordinance, to protect easements from encroachment, and to assure conformance with the Land Division Act, Public Act 288 of 1967, as amended. The Zoning Administrator may examine electronic copies of recorded deeds to meet this requirement.

C. Land uses requiring site plan review per Section 14.23 shall submit a site plan in place of the information required above, and all development of the site shall be in accordance with an approved site plan.

14.7.3 Affidavit of Compliance: Each application form for a Special Land Use Permit, Condominium Project, Planned Unit Development Permit, or other development requiring a site plan for which a Zoning Permit is required, shall contain a signed and notarized affidavit stating that the applicant understands, and agrees to comply with the following laws when applicable to the lot, tract or parcel in question. The applicant shall further affirm that said lot, tract or parcel is not currently in violation of the following laws.

- A. The Land Division Act, Public Act 288 of 1967, as amended, being MCL 560.101 et seq., or the Condominium Act, Public Act 591 of 1978 as amended, being MCL 559.101 et seq.
- B. The Benzie-Leelanau District Health Department Sanitary Code.
- C. The Flood Plain regulations of the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, Part 31, as amended.
- D. Michigan Public Health Code, Public Act 368 of 1978, as amended, being MCL 333.12751, et seq.
- E. Farmland and Open Space Preservation provisions of the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, Part 361, as amended, being MCL 399.201, et seq.
- F. Wetlands Protection provisions of the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, Part 303, Section 324.30301 et. seq., as amended.
- G. Inland Lakes and Streams provisions of the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, Part 301, Section 324.30141, et. seq., as amended.
- H. "Miss Dig Law", Act 53, as amended.
- I. Airport Zoning Act, Public Act 23 of 1950, as amended, being MCL 259.431, et seq.
- J. State Construction Code Act, Public Act 230 of 1972, as amended, being MCL 125.1501, et seq.
- K. The Benzie County Drain Commissioner Standard Construction Specifications for open and closed drains, 1956 PA 40, as amended.
- L. The Benzie County Subdivision Control Procedures pursuant to Public Act 288 of 1967, as amended, being MCL 560.101 et seq.
- M. The Benzie County Soil Erosion and Stormwater Control Ordinance, and any applicable regulations of the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, Part 91, Section 324.9141 et. seq., as amended.
- N. Michigan Department of Environmental Quality rules for Land Divisions, as amended.
- O. The High Risk Erosion provisions of the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, Part 323, as amended, being MCL 324.32305, et seq.

- P. The Critical Sand Dune regulations of the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, Part 353, as amended, being MCL 324.35321, et seq.
- Q. Any County Road Commission or Michigan Department of Transportation driveway or access management regulations under Public Act 200 of 1969, as amended, being MCL 247.321.
- R. All county, township or village Ordinances that are applicable to the proposed building, structure or land use, most notably those associated with a public water or public sewer tap-in.
- S. All other State, Federal or local laws, rules, or regulations applicable to the proposed building, structure or use of the property.

14.7.4 Withholding Permit:

A. Section 14.7.3 notwithstanding, the Zoning Administrator may withhold any Zoning Permit, Temporary Zoning Permit, Special Land Use Permit, Condominium Project Permit, PUD Permit, or Certificate of Zoning Compliance pending verification that an applicant has received required township, county, state or federal permits including but not limited to sanitary sewer and water tap-in permits, septic and water well permits, soil erosion and sedimentation control permits, wetlands permits, flood plain, culvert, or driveway permits. Likewise, wherever this Ordinance authorizes permit approval by the Planning Commission, Township Board of Trustees or the Zoning Board of Appeals, Township Board of Trustees or Zoning Board of Appeals shall condition final approval of the requested development activity upon the receipt of any of the above mentioned township, county, state or federal approvals and/or direct the Zoning Administrator not to issue the requested permit until said permits or approvals from other jurisdictions or agencies have been obtained.

B. The Zoning Administrator may refuse to issue a Zoning Permit to a person who is responsible for an unresolved violation of this Ordinance at the requested location, or another location within the jurisdiction of this Ordinance, until such time as the violation is satisfactorily corrected.

14.7.5 Previous Approvals: Nothing in the Ordinance shall require changes in the plans, construction, or designated use of a building for which a lawful permit has been here-to-fore issued or otherwise lawfully authorized, and the construction of which shall have been actively pursued within ninety (90) days after the effective date of this Ordinance; and the entire building shall be completed as authorized within two (2) years after the date of approval of the application.

14.7.6 Inspections: The Zoning Administrator shall inspect sites on which new permanent buildings will be erected prior to issuance of a Zoning Permit and at such other time as is necessary to ensure conformance with this Ordinance.

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**Sec. 14.8 Temporary Zoning Permits**

The Zoning Administrator is authorized to issue a Land Use Permit for the following temporary uses upon a finding that a temporary use meets the criteria set forth below.

1. Carnival, circus, or fair for a period not to exceed fourteen (14) days.
2. Open lot-sale of Christmas trees, for a period not to exceed thirty (30) days.
3. Real estate sales offices in Model Homes for a maximum period of one (1) year. (See Section 15.4)
4. Contractor's office and contractor's equipment sheds, in any district, for a period of one (1) year, provided that such structures be placed on the property to which it is appurtenant.
5. Temporary dwelling units, for a maximum period of two (2) years, only for the purpose of constructing a building which conforms to the requirement of this Ordinance provided that the foundation and complete framing of the conforming building is completed within one year and the entire conforming building is completed within (2) years.

Temporary Zoning Permits for temporary buildings, structures and uses shall conform with the following requirements:

14.8.1 Application: Temporary Zoning Permits for those uses specifically authorized may be approved, modified, conditioned, or denied by the Zoning Administrator based on the standards established in Section 14.9.3 and subject to such conditions as are reasonably necessary to minimize adverse impacts on abutting property, and protect the public health, safety and general welfare. The Zoning Administrator may refer the application for a Temporary Zoning Permit to the Planning Commission for a decision. The Planning Commission shall apply the procedures and standards in this Section, the same as the Zoning Administrator.

14.8.2 Permits: A written temporary Zoning Permit shall be issued for all temporary buildings, structures and uses that comply with this Ordinance and shall contain the following information:

- A. The applicant's name.
- B. The location and effective dates of the temporary building, structure or use.
- C. Conditions specified by which the permit was issued, such as:
  1. Use and placement of signs.
  2. Provision for security and safety measures.
  3. Control of nuisance factors.
  4. Elements of a performance guarantee.
  5. Signature of the Zoning Administrator on the permit.

14.8.3 Conditions of Approval: A permit for a proposed temporary use shall be issued by the Zoning Administrator only if each of the following criteria is met:

- A. The proposed use is clearly of a temporary nature.
- B. The temporary use shall not endanger the public health, safety or welfare of the Township, or adjacent residents.
- C. Structures of temporary uses shall be provided, if required, with safe, sanitary and effective systems for water supply and disposal of wastes, approved by the Health Department.
- D. The proposed temporary use shall meet all lot, yard setback and other requirements of this Ordinance,
- E. The proposed temporary use is not a major Special Land Use of the respective zoning district.
- F. The nature and intensity of the temporary use and the size and placement of any temporary building or structure shall be planned so that the temporary use, building or structure will be compatible with existing development on abutting property.
- G. Except for a garage sale, the temporary use shall not be located within an accessory building or structure.
- H. The parcel shall be of sufficient size to adequately accommodate the temporary use, building or structure.
- I. The location of the temporary use or structure shall be such that adverse effects on surrounding properties will be minimal, particular regarding the traffic generated by the temporary use or structure.
- J. Off-street parking areas are of adequate size for the particular temporary use, building or structure, are safely located and the entrance and exit drives are laid out so as to prevent traffic hazards and nuisances.
- K. Signs shall conform to the provisions of this Ordinance (see Article XIX).
- L. Any lighting or noise shall be directed and controlled so as to not create a nuisance to neighboring property owners.
- M. All the criteria specific to a particular temporary use as provided in Section \_\_\_\_ are met.
- N. The Zoning Administrator may impose conditions with the issuance of the permit which are designed to insure compliance with the requirements of this Ordinance and other applicable federal, state, or local laws, regulations, ordinances or codes.

14.8.4 Renewable Temporary Zoning Permits: Temporary Zoning Permits which are renewable may be renewed in the same manner as issuance of the original permit,

except the application for renewal shall be filed at least fifteen (15) days prior to the expiration date of the current permit, and applications for renewal or extension of a permit for less than fifteen (15) days may be applied for no later than three (3) days prior to the expiration date of the current permit. Fees may be assessed in accordance with the Township Fee Schedule.

**14.8.5 Performance Guarantee for a Temporary Use:** The Zoning Administrator may require a performance guarantee in the form of cash, check or savings certificate or irrevocable bank letter of credit be deposited with the Township Treasurer in an amount equal to the estimated cost of removing any temporary structure for which a Temporary Zoning Permit is authorized under this Section for use in the event it is not removed by an applicant at the end of an authorized period. The applicant shall similarly sign an affidavit holding the Township harmless against any claim for damages if the Township were to subsequently use the performance guarantee to remove the temporary structure after its authorized period had expired. The performance guarantee shall be returned when all the terms and conditions of the temporary Zoning Permit have been met (See Sec. 14.13) and the temporary use or structure has been removed.

**14.8.6 Permit Revocation:** A temporary Zoning Permit may be revoked at any time for any of the following reasons:

- A. Nonconformance with the requirements of this Section and/or a permit issued thereunder;
- B. Evidence that the Temporary Zoning Permit was obtained by misrepresentation or fraud;
- C. That one (1) or more of the conditions of the Temporary Zoning Permit have not been met; and
- D. That the temporary use is in violation of any statute, Ordinance, law, or regulation.

**14.8.7 Cessation of Temporary Use Upon Revocation:** Upon expiration or revocation of a temporary Zoning Permit for a temporary use, building or structure, the temporary use shall cease and all temporary structures, dwellings or buildings shall be removed from the parcel of land. Any use or structure established under a temporary use permit shall not give rise to any vested rights of use or property except for a limited lawful use during the term of and in accordance with the temporary permit.

**14.8.8 Appeal:** An appeal of a decision by the Zoning Administrator relative to approval or denial of a temporary Zoning Permit for a temporary use or renewal thereof may be taken to the Zoning Board of Appeals.

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## **Sec. 14.9 Certificate of Zoning Compliance**

No land shall be occupied or used and no building shall be used or changed in use for which a Special Land Use Permit, PUD Permit, Condominium Project Permit, or other use for which major site plan approval was granted, until a Certificate of Zoning

Compliance shall have been issued by the Zoning Administrator stating that the building and its intended use complies with the provisions of this Ordinance.

14.9.1 Notification for Inspection Prior to Occupancy: The holder of every Special Land Use Permit, PUD Permit, Condominium Project Permit, or other use for which major site plan approval was granted, shall notify the Zoning Administrator within 24 hours after completion of the work authorized by such permit for a final inspection and issuance of a Certificate of Zoning Compliance.

14.9.2 Certificates for Existing Buildings: Certificates of Zoning Compliance may be issued upon request for existing buildings, structures, or parts thereof, or existing uses of land if, after inspection, such uses of land are in conformity with the provisions of this Ordinance. Where the certificate is issued for building, or use not in conformity with this Ordinance, the certificate shall specify the degree of nonconformity including but not limited to use type, use intensity, structures, and dimensions.

14.9.3 Certificates for New or Changed Uses:

A. Application for Certificates of Zoning Compliance shall be in writing to the Zoning Administrator on a forms furnished for that purpose, and such certificates shall be issued within five (5) days after receipt of such application if it is found that the building or structure, or part thereof, or the use of land is in accordance with the provisions of this Ordinance or any permit or permit condition issued or approved under this Ordinance.

B. If such certificate is refused for cause, the applicant therefore shall be mailed a notice of such refusal and cause thereof, within the aforesaid five (5) day period.

C. Except upon a written order of the Zoning Board of Appeals, a Certificate of Zoning Compliance shall not be issued for any building, structure or use of land that would be in violation of any of the provisions of this Ordinance.

## **Sec. 14.10 Zoning Approval Runs With the Land and Status of Prior Uses**

The approval to engage in any land use activity or to construct a building or structure that has received a Zoning Permit, Certificate of Zoning Compliance, Special Land Use Permit, PUD Permit, Condominium Project Permit or other permit issued under the authority of this Ordinance, or any variance granted by the Zoning Board of Appeals, runs with the land, and not with the owner, just like a nonconforming use right. Thus, any person who builds or uses land based on a valid permit or approval granted under the terms of this Ordinance, and later dies, should rest assured that the rights, limitations and conditions granted in that permit automatically transfer to the new owner(s) of the land, provided there were no unresolved violations applicable to the land that were unresolved by the previous owner prior to his/her death. By the same token, any person may sell property, to another person, who will enjoy the same rights, privileges and restrictions as the seller, provided that the seller, prior to the sale, used the property in conformance with a lawful permit and the land use was not in violation of the Ordinance prior to the sale.

**Sec. 14.11 Conditional Approvals and Recording Conditions with Register of Deeds**

A. Site plans for Special Land Uses, Planned Unit Developments, Condominium Projects, variances or other discretionary decisions may be approved with reasonable conditions.

B. The conditions may include conditions necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet the following requirements:

1. Be designed to protect natural resources, the health, safety, and welfare, as well as the social and economic well-being of those who will use the land use or activity under consideration, residents, and landowners adjacent to the proposed land use or activity, and the community as a whole.
2. Be related to the valid exercise of the police power, and to the proposed use or activity.
3. Be necessary to meet the intent and purpose of the zoning requirements; be related to the standards established in this Ordinance for the land use or activity under consideration; and be necessary to insure compliance with those standards.
4. Be in compliance with the conditions of any permits and approvals issued for the project by other jurisdictions or agencies.

14.11.1 Recording Conditions with the Register of Deeds. At the direction of the body or official making the final decision to approve or approve with conditions a planned unit development, Special Land Use, variance or other discretionary approval authorized by this Ordinance, or as otherwise may be specified by this Ordinance, or at the discretion of the Zoning Administrator, an approval or approval with conditions may be recorded with the County Register of Deeds. The following requirements shall be met with each recording:

A. The applicant shall record an affidavit which has received the approval of the Township Attorney with the County Register of Deeds containing the full legal description of the project site, containing the approved site plan, the specific terms of any permit, any documents that pertain to permanent preservation of open space, the date of final Township approval, and declaring that all improvements will be carried out in accordance with the approved site plan or variance unless an amendment thereto is adopted by the Township. In addition, all deed restrictions and easements associated with the property shall be duly filed with the Register of Deeds of the Township in which the property is located and copies of all recorded documents shall be presented to the Zoning Administrator. These documents shall be binding upon the landowners, their successors and assigns, and shall constitute the development regulations for the land. The applicant shall submit proof to the Zoning Administrator that these

documents have been recorded with the County Register of Deeds within ninety (90) calendar days of project approval or the approval shall be rendered invalid. Once the proper documents have been recorded with the County Register of Deeds, the applicant may proceed, consistent with the approved Site Plan and Permit, to develop the land.

B. A copy of any agreement between joint users of parking areas shall be filed with the application for a Zoning Permit and recorded with the Register of Deeds. The agreement shall include a guarantee for continued use of the parking facility by each party. A copy of all recorded documents shall be presented to the Zoning Administrator.

C. All documents to be recorded with the County Register of Deeds at the initiative of the Township, shall be first reviewed and approved as to form and content by the County Prosecuting Attorney or other legal representative of the Township retained for that purpose.

#### **Sec. 14.12 Performance Guarantees and Performance Bonding For Compliance**

In authorizing any Zoning Permit, Temporary Zoning Permit, Special Land Use Permit, Planned Unit Development Permit, Condominium Project, platted Subdivision, site plan approval or variance, the body or official which approves the respective request, as designated by this Ordinance, may require that a performance guarantee (See Sec. 14.9.5) or bond be furnished: (1) to insure compliance with the requirements, specifications and conditions imposed with the grant of such approval, permit or variance; and (2) to provide sufficient resources for the Township to complete required improvements or conditions in the event the permit holder does not; or (3) to insure the discontinuance of a temporary use by a stipulated time.

14.12.1 Improvements Covered: Improvements that shall be covered by the performance guarantee or bond include, but are not necessarily limited to: streets and other roadways, utilities, fencing, screening, landscaping, common open space improvements, lighting, drainage and sidewalks. The term "improvements" should not be construed to mean the project itself, but rather those features associated with the project which are deemed necessary to protect the health, safety and welfare of the Township's resources and future users or inhabitants of the proposed project. The term "improvements" does not include improvements for which a performance guarantee has been deposited pursuant to the Land Division Act, Public Act 288 of 1967, as amended. The performance guarantee shall meet the following requirements:

A. Form: The performance guarantee shall be in the form of cash, certified check, irrevocable bank letter of credit, surety bond, or similar instrument acceptable to the Township Treasurer, which names the property owner as the obligor and the Township as the obligee.

B. Time when Required: The performance guarantee or bond shall be submitted at the time of issuance of the permit authorizing the activity of the project. If appropriate, based on the type of performance guarantee submitted, the Township shall deposit

the funds in an interest bearing account in a financial institution with which the Township regularly conducts business.

C. Amount and Type: The amount and type of the performance guarantee shall be determined by the body or official making the decision to approve the request, or if they have not done so, by the Zoning Administrator. The amount of the performance guarantee or bond should be sufficient to cover the estimated cost of the improvements or conditions. The performance guarantee shall be reasonable, appropriate, and commensurate with the scope of the project. Additional guidelines for establishing the amount of a performance guarantee or bond may be prescribed by resolution of the Township Board of Trustees.

14.12.2 Return of Performance Guarantee or Bond: The Zoning Administrator, upon the written request of the obligor, and pursuant to the procedure in the next subsection, shall rebate portions of the performance guarantee upon determination that the improvements for which the rebate has been requested have been satisfactorily completed. The portion of the performance guarantee to be rebated shall be in proportion to the work completed on the applicable improvement or condition and may be written as an element of the conditions surrounding the approval of the project.

14.12.3 Withholding and Partial Withholding of Performance Bond: As required improvements are completed, or when all of the required improvements have been completed, the obligor shall send written notice to the Zoning Administrator of completion of said improvements. Thereupon, the Zoning Administrator shall inspect all of the improvements and shall transmit recommendation to the Planning Commission or Township Board of Trustees indicating either approval, partial approval, or rejection of the improvements or conditions with a statement of the reasons for any rejections. If partial approval is indicated, the cost of the improvement or condition rejected shall be set forth.

A. The Planning Commission shall either approve, partially approve or reject the improvements or conditions with the recommendation of the Zoning Administrator's written statement and shall notify the obligor in writing of the action of the Planning commission within thirty (30) days after receipt of the notice from the obligor of the completion of the improvements. Where partial approval is granted, the obligor shall be released from liability pursuant to relevant portions of the performance guarantee or bond, except for that portion adequately sufficient to secure provision of the improvements not yet approved.

B. Should installation of improvements begin and fail to meet full completion based on the approved Site Plan, or if the project area is reduced in size and improvements are only partially completed or conditions only partially met, the Township may complete the necessary improvements or conditions itself or by contract to an independent developer, and assess all costs of completing the improvements or conditions against the performance guarantee or bond. Any unused balance remaining would be returned to the applicant, any excess expense would be recorded as a lien on the property.

14.12.4 Record of Performance Guarantees: A record of authorized performance guarantees shall be maintained by the Zoning Administrator.

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**Sec. 14.13 *Reserved for Future Use***

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**Sec. 14.14 *Reserved for Future Use***

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**PART III – NOTICE AND HEARING PROCEDURES**

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**Sec. 14.15 Public Notice**

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All applications for development approval requiring public hearings shall comply with the notice provisions of the Michigan Zoning Enabling Act (MZEA). If there are any conflicts between the notice requirements of this ordinance and the MZEA, the provisions of the MZEA shall control, except that the provisions of this ordinance may require greater notice than that required by the MZEA.

14.15.1 Content, Timing and Other Notice Requirements.

A. Content: All notices for public hearings, whether done by publication or mail (written notice) shall:

1. Identify application: Identify the application and the name, address, and telephone number of the applicant or the applicant's agent.
2. Date, time and place of public hearing: Indicate the date, time and place of the public hearing(s).
3. Location: Describe the land involved by street address or by legal description and nearest cross street, and area (size).
4. Describe nature and scope of application: Describe the nature, scope and purpose of the application or proposal.
5. Notify public where they may be heard: Include a statement stating that the public may appear at the public hearing in person or by counsel, be heard and submit evidence and written comments with respect to the application.
6. Written comments: Include a statement describing when and where written comments will be received prior to the public hearing.

B. Published Notice: When the provisions of this Ordinance require that notice be published, the Zoning Administrator shall be responsible for preparing the content of the notice and publishing the notice in a newspaper of general circulation that has been selected by the Township. The content and form of the published notice shall be consistent with the requirements of the MZEA.

C. Written (Mailed) Notice

1. General: When the provisions of this Ordinance require that written or mailed notice be provided, the Zoning Administrator shall be responsible for preparing

and mailing the written notice. Notice shall be mailed to all persons required to notice under the MZEA.

2. Notice by mail/affidavit: Notice shall be deemed mailed by its deposit in the United States mail, first class, properly addressed, postage paid. The Zoning Administrator shall prepare a list of property owners and registrants to whom notice was mailed.

D. Timing of Notice: The timing of the notice shall be as provided in the MZEA.

#### 14.15.2 Registration to Receive Notice by Mail:

A. General: Any neighborhood organization, public utility company, railroad or any other person may register with the Township Clerk to receive written notice of all applications for development approval pursuant to Section 14.16.1.C., Written (Mailed) Notice, or written notice of all applications for development approval within the zoning district in which they are located. The Township Clerk shall provide copies of these requests to the Office of the Zoning Administrator which shall be responsible for providing this notification. Fees may be assessed in accordance with Public Act 267 of 1967, as amended.

B. Requirements for Eligibility: To be eligible for registration, the requesting party must provide the Township Clerk information in the form required by the Township Clerk to ensure notification can be made. All persons that have been registered must re-register bi-annually to remain registered and continue to receive notification pursuant to this Section.

#### 14.15.3 Deferral of Review of Application:

A. Submission of Request: An applicant may request that a decision-making or advisory bodies' consideration of an application at public hearing be deferred by submitting a written request for deferral to the Zoning Administrator.

B. Zoning Administrator Review: The Zoning Administrator shall consider deferral requests of less than thirty (30) days, and shall grant such requests for good cause. The date of the public hearing at which the application will be heard shall be set at the time the deferral is granted by the Zoning Administrator.

C. Decision-Making or Advisory Body Review: The decision-making or advisory body reviewing the application shall consider deferral requests of more than thirty (30) days, and shall grant such requests for good cause. The date of the public hearing at which the application will be heard shall be set at the time the deferral is granted by the decision-making body or advisory board.

D. Applicant to Pay Costs of Deferral: The applicant shall pay all the direct costs of additional notice, staff time and per diem expenses associated with a deferral of review of an application.

#### 14.15.4 Withdrawal of Application:

A. Submission of Application: Any request for withdrawal of an application shall be submitted in writing to the Zoning Administrator.

B. Prior to Notice of Public Hearing: The Zoning Administrator shall approve a request for withdrawal of an application if it has been submitted prior to the time of notice of a public hearing.

C. The Planning commission may allow an applicant to withdraw an application at the request of the applicant.

14.15.5 Notification of Decision: Notification of a decision on an application for development approval shall be provided by the Zoning Administrator to the applicant by mail within fourteen (14) days after the decision. A copy of the decision shall also be made available to the public at the offices of the Zoning Administrator, during normal business hours.

14.15.6 Reconsideration of Applications:

A. General: Whenever any application for development approval is disapproved, a similar application for all or a part of the same land shall not be considered for a period of one (1) year after the date of disapproval unless a Waiver of Time Limit is approved by the decision-making body pursuant to the requirements of Section 14.16.6.B, Waiver of Time Limit. Only one request for Waiver of Time Limit may be submitted by the applicant during the one-year period.

B. Waiver of Time Limit: The Waiver of Time Limit shall be approved only upon a finding by two-thirds of the membership of the decision-making body that:

1. Substantial Change in Circumstances: There is a substantial change in circumstances relevant to the issues or facts considered during review of the application that might reasonably affect the decision-making body's application of the relevant review standards to the development proposed in the application;
- or
2. New or additional information: New or additional information is available that was not available at the time of the review that might reasonably affect the decision-making body's application of the relevant review standards to the development proposed; or
3. New application materially different: A new application is proposed to be submitted that is materially different from the prior application; or
4. Material mistake of fact: The final decision on the application was based on a material mistake or omission of fact that if known, would likely have resulted in a different determination.

14.15.7 Examination and Copying of Application/Other Documents: At any time upon reasonable request and during normal business hours, any person may examine an application, the Staff Report and materials submitted in support of or in opposition to an application in the office of the Zoning Administrator, subject to recognized exceptions under the Freedom of Information Act or other state or federal law. Copies of such materials shall be made available at a reasonable cost.

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## **Sec 14.16 Public Hearings**

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All public hearings including but not limited to amendments to the text and Zone District Map (rezoning); Planned Unit Development Permits; Condominium Project Permits, Special Land

Use Permits; and Variances, held pursuant to this Ordinance shall comply with the following procedures.

A. Conduct of Public Hearing

1. Burden of Proof or Persuasion: The burden of demonstrating that an application complies with applicable review and approval standards of this Ordinance is on the applicant, not the Township.
2. Rights of All Persons: Any person may appear at a public hearing and submit evidence, either individually or as a representative of a person or an organization. Each person who appears at a public hearing shall be identified, state an address, and if appearing on behalf of a person or organization, state the name and mailing address of the person or organization being represented.
3. Exclusion of Testimony: The Planning commission, the Zoning Board of Appeals, or the Township Board of Trustees may place reasonable and equitable limitations on the presentation of evidence and arguments including, as they believe necessary in a particular instance, excluding testimony or evidence that it finds to be irrelevant, immaterial or unduly repetitious.
4. Offers of Testimony: In the event any testimony or evidence is excluded as irrelevant, immaterial or unduly repetitious, the person offering such testimony or evidence shall have an opportunity at that meeting to offer such testimony or evidence for the record. Such offer shall be made at the public hearing.
5. Continuance of Public Hearing
  - a. General: The body conducting the public hearing may, on its own motion or at the request of any person, continue the public hearing to a fixed date, time and place and may keep the public presentation portion of the public hearing open to take additional testimony up to the point a final decision is made. An applicant shall have the right to request and be granted one continuance; however, all subsequent continuances shall be granted at the discretion of the body conducting the public hearing only upon good cause shown.
  - b. Notice: A public hearing for which proper notice was given may be continued to a later date without again complying with the notice requirements of this Section, provided that the continuance is set for a date within thirty (30) days, and the date, time and place of the continued hearing is announced at the time of the continuance and there is continued compliance with the Open Meetings Act (Public Act 267 of 1976, as amended).

B. General Procedures and Findings at Public Hearing

1. Time: The body conducting the hearing shall act in accord with any time limits established in this Ordinance. Action shall be taken as promptly as possible in consideration of the interests of the applicant, the citizens of the Township and the Township, and shall include a statement of a recommendation or decision of approval or disapproval (whichever is appropriate).
2. Form of Decisions: The form of all decisions shall include at least the following elements:
  - a. Summary of information: A summary of the information presented before the decision-making body.

- b. Summary of evidence in record: A summary of all documentary evidence submitted into the record.
- c. Statement of findings: A statement of findings or other factors considered, whichever is appropriate, and a statement of the basis upon which such facts were applied with respect to the relevant review standards, if required by state law.
- d. Recommendation or decision: A statement of a recommendation or decision of approval, approval with conditions or disapproval (whichever is appropriate).

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**14.17 Reserved for Future Use**

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**14.18 Reserved for Future Use**

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**PART IV – SITE PLAN REVIEW**

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**Sec. 14.19 Site Plan Review – Purpose and Intent**

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It is the purpose of this Part IV of Article XIV to require site plan review for certain buildings, structures and uses that can be reasonably expected to have a significant impact on natural resources, traffic patterns, and the character of development in an area, or the capacity of public infrastructure and services.

The requirements contained in this Part IV are intended to reduce the hazards to life and property due to fire, flooding, soil erosion, poor surface water drainage, inadequate private sewage disposal systems, pollution, dust, fumes, noise vibrations, noxious odors and other hazards; and to promote and facilitate the adequate provision of a system of roads, streets and parking, sewage disposal, drainage, public education, recreation and other public requirements, and to promote the harmonious relationship of land uses through proper design.

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**Sec. 14.20 Jurisdiction**

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Either a major or a minor site plan is required to be submitted for review as specified in this Article for all of the following land uses:

1. All residential developments requiring a Zoning Permit other than individual single-family homes, duplexes, and accessory buildings associated with them, other than those located in a watershed overlay district.
2. All nonresidential developments requiring a Zoning Permit;
3. Any use by right with conditions specified as requiring site plan review;
4. All platted subdivisions and Condominium Projects involving more than two dwelling units,
5. All special land uses;
6. All PUDs;
7. All expansions or enlargements to nonconforming uses or nonconforming structures that results in a need for ten (10) or more additional parking spaces, per the standards of this Ordinance, and

8. Any other land use requests referred to the Planning commission by the Zoning Administrator.

14.20.1 The Planning commission shall approve, deny or approve with conditions site plans for Special Land Uses (see Article XVI), PUDs (see Article XVII) and Condominium Projects (see Article XVIII) as part of the review and approval process for those uses; except that site plans for Hardship PUDs and platted subdivisions shall be acted upon by the Township Board of Trustees. Where site plans are reviewed by the Zoning Administrator, the Zoning Administrator shall take action to approve, approve with conditions, or deny the site plan, except where the final decision is made by the Planning commission or Township Board of Trustees.

14.20.2 Major and Minor Site Plans:

A. All site plans associated with a platted subdivision, a Condominium Project, an application for a Special Land Use Permit, or a PUD Permit, and all other site plans for new land uses or expansions or changes of use of existing land uses requiring more than ten (10) new parking spaces or a principal structure of more than five-thousand (5,000) square feet, or more than two (2) acres in affected area for nonresidential land uses, shall be classified as major site plans.

B. All other site plans are classified as minor site plans unless the Zoning Administrator determines that the proposed project may have a significant impact on natural resources, traffic patterns or future development in the vicinity, in which case the site plan shall be processed as a major site plan.

14.20.3 Minor Site Plans:

A. The Zoning Administrator shall review and approve the following site plans without their submission to the Planning commission; except that where the applicant, the Planning commission, or the Zoning Administrator so requests; then the site plan shall be reviewed by the Planning commission before final action by the Zoning Administrator:

1. Accessory uses incidental to a conforming existing use where said use does not require any variance and where said site plan conforms with all the requirements of this Ordinance.
2. Expansion and/or addition to an existing conforming use where said site plan conforms with all the requirements of this Ordinance.
3. Accessory storage buildings in all Zoning Districts.
4. Increases in off-street parking areas, parking buildings and/or structures, increases in loading/unloading spaces, and landscape improvements as required by this Ordinance.
5. For those Special Land Uses so specifically identified in this Ordinance.
6. Amendments to approved site plans.
7. Final site plans.
8. Any other site plan review not delegated for review by the Planning commission.

B. The Zoning Administrator shall apply all applicable standards and procedures of this Ordinance in approving, conditionally approving or denying minor site plans.

14.20.4 Relationship to Variances: If it is evident that in order for a site plan to be approved, one or more variances must be obtained, the Zoning Administrator shall so inform the applicant

and explain the procedural steps and implications of initiating a variance request. The applicant shall make the decision as to when or whether to proceed with a variance request.

**Sec. 14.21 Site Plan Review Procedures**

14.21.1 Application: The owner or his/her designated agent shall file an application requesting site plan review with the Zoning Administrator on a special form designated for the purpose. The owner and/or applicant shall include his/her full name, address, telephone number, fax number, e-mail address and his/her signature on the application. All site plans shall comply with the terms of the Soil Erosion and Sedimentation Control Act MCL 324.9101 et seq, and “as built” plans or construction drawings shall be filed with the Planning commission immediately after construction is completed that demonstrates compliance with this Act.

A. Complete Application: An application that does not fully comply with the submittal requirements of this Ordinance in the opinion of the Zoning Administrator, shall be returned to the applicant. The Zoning Administrator shall make a determination of whether an application is complete within fourteen (14) calendar days of submittal of the application.

B. An application for a major site plan determined to be complete by the Zoning Administrator shall be scheduled for review by the Planning commission.

C. An application for a minor site plan determined to be complete by the Zoning Administrator shall be processed in a timely fashion by the Zoning Administrator as provided in this Article.

14.21.2 Site Plan: Each application for Site Plan Review shall contain the required quantity plan view line drawings as set forth in Table 14-1, and shall include all of the following information unless specific waivers are granted by the Zoning Administrator for the number of copies in Table 14-1 or those items specified in Table 14-2. Waivers of specific required information may be granted upon a written finding that no good public purpose will be achieved by requiring conformance with the standards sought by the applicant to be waived; that public health, safety and general welfare will not be unnecessarily compromised by a waiver; and that the purpose and intent of the site plan review requirements specifically and the Ordinance generally will still be achieved. All waivers shall be recorded in a log maintained by the Zoning Administrator listing the applicant, application number, the standard requested to be waived, and the decision of the Zoning Administrator.

**Table 14-1  
Required Copies of Site Plans**

Type of Project	# of Copies (unless fewer are required by the Zoning Administrator)	
Conservation PUD with less than 15 lots or dwelling units	12	
Major Site Plan	22	
Minor Site Plan	12	

**Table 14-2**  
**Site Plan Submittal Requirements and Elements that May be Waived**  
**by the Zoning Administrator**

<b>Requirements for Site Plan Completeness</b>	<b>Portion of Site Plan Eligible for Waiver by Zoning Administrator</b>
	<b>Major Site Plans Minor Site Plans Conservation PUDs</b>
A. A scale drawing at no smaller than 1" =50' (1" = 20' for land under five (5) acres) with the scale proportional to the size of the project showing maximum detail on one (1) or more sheets of paper measuring not more than twenty-four (24) by thirty-six (36) inches may be submitted.	none scale may be changed
B. Property dimensions, total acreage of the site, legal description of the property, plat name, lot numbers, property lines including angles, dimensions, and reference to a section corner, quarter corner, or point on a recorded plat, as well as existing or proposed deed restrictions or previous zoning approval limiting the property and in the case of a condominium development, the proposed master deed.	none
C. All existing natural features including vegetation, streams, lakes, ponds, etc. on site and within five-hundred (500) feet. The location of stands of trees and individual trees, apart from the stands of trees having a caliper of twelve (12) inches or greater, four feet above existing grade, with an indication as to which will be retained and which will be removed or altered by earth changes. Also, all other significant vegetation to be retained and the location of all proposed landscaping, buffer strips, greenbelts, berms, fences or walls shall be shown.	none  all  none
D. Existing and proposed public rights-of-way and/or private easements.	none none none
E. Water courses and water bodies including surface drainage ways.	none none none
F. Location, width and name of abutting streets and proposed streets, drives, sidewalks, and easements serving the development, and the location of all roads and driveways within 200 feet of the parcel.	none none none
G. Location, shape and ground footprint of proposed buildings and intended uses thereof, as well as building dimensions, floor area, finished floor elevation, building height and lot coverage.	none finished floor elevation
H. Location, dimensions and design of off-street parking areas, including type of surface materials, maneuvering lanes, service lanes, off-street loading spaces and other service areas within the development.	none all

I. Location of water supply and the location and design of waste water systems and solid waste disposal facilities (including trash receptacles and dumpsters). All utility lines must be indicated along with the location and specifications of any proposed above or below ground storage facilities for any chemicals, salts, flammable materials, or hazardous materials, as well as any containment structures or clear zones required by government authorities.	None
J. Proposed grades of any site retention and detention facilities, and site drainage pattern at a minimum of two (2) foot intervals. Show benchmark location and location of site retained water with calculations. Written documentation prepared by a registered civil engineer indicating that the peak rate of stormwater runoff after development will not exceed the peak rate of stormwater runoff occurring before development (for a storm with a twenty-five (25) year frequency and twenty-four (24) hour duration.	none site drainage pattern at a minimum of two (2) foot intervals
K. Proposed location of proposed uses of common open spaces and recreational facilities, including all pedestrian or bicycle trails, if applicable.	none
L. Proposed location of accessory buildings and use, including free-standing signs and on-site lighting.	free-standing signs
M. A location map at a smaller scale indicated the relationship of the site to the surround land use.	all
N. North arrow, scale, descriptive legend, name and address of applicant, name and address of the licensed professional surveyor, engineer, landscape architect or architect involved in development of the site plan, the professional seal of the preparer, and date prepared or last amended. The property owners and applicants' names, addresses and phone numbers shall also be indicated.	none name and address of surveyor, engineer, landscape architect or professional planner involved in development of the site plan, the professional seal of the preparer, only if no professional was involved in the development of the site plan
O. Distance of proposed structures from rear, side, and front lot lines.	none
P. The zoning of the site and of all adjacent property and the location of any building or structure with a base area larger than ten (10) square feet on adjacent property within two-hundred (200) feet of the parcel boundary.	none the location of any building or structure with a base area larger than ten (10) square feet on adjacent property within two-hundred (200) feet of the parcel boundary
Q. The location of all proposed outside storage and the manner in which it is to be screened and accessed.	none
R. Dimensions and number of proposed lots or condominium units.	none
S. Any variances to be requested.	none
T. All areas within the 100-year flood plain, regulated wetlands, sand dunes, or high-risk erosion areas on to the site.	none
U. A completed Environmental Permits Checklist.	none

V. For projects requiring an Impact Assessment pursuant to Section 14.5.3, a completed Impact Assessment Work Sheet on a special form designed for the purpose and as adopted or periodically updated by the Planning commission shall accompany the Site Plan.	none
W. For projects requiring a Traffic Impact Assessment pursuant to Section _____, a completed Traffic Impact Assessment shall accompany the Site Plan.	none
X. Any other information required by the Zoning Administrator to establish compliance with the Ordinance.	All
Y. All site plans shall comply with the terms of the Soil Erosion and Sedimentation Control Act MCL 324.9109 et seq, and "as-built-plans" or construction drawings shall be filed with the Planning commission immediately after construction is completed that demonstrates compliance with this Act.	All
Z. Stormwater drainage d plans addressing a 100 year storm design base including: flows onto the site from adjacent sites and roads, storm water impact on the site (soils, impervious surfages, potential impervious surface, retention ponds, detention ponds, and related temporary as well as permanent management facilities as appropriate), and the storm water outfall, or flow control into adjacent drainage courses, ditches and the like. On sites having limited area as is existing built-up community areas with small lots, the Planning commission may permit controlled exception to the 100 year storm base for good and sufficient reasons.	All

14.21.3 Impact Assessment Submittal Requirements: With each application for a major site plan, and for all PUD, subdivision plat and Condominium Project applications, a written impact assessment shall be submitted which includes the following information:

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

H. If public sewers are not available to the site the applicant shall submit a current approval from the District Health Department or the Department of Environmental Quality indicating approval of plans for sewage treatment.

I. The method to be used to control any increase in effluent discharge to the air or any increase in noise level emanating from the site. Consideration of any nuisance that would be created within the site or external to the site whether by reason of dust, noise, fumes, vibration, smoke or lights.

J. An indication of how the proposed use conforms with existing and potential development patterns and any adverse effects.

K. Description of measures to control soil erosion, sedimentation and stormwater runoff during grading and construction operations and until a permanent ground cover is established.

L. Type, direction and intensity of outside lighting.

M. General description of deed restrictions, if any.

N. Name(s) and address(es) of person(s) responsible for preparation of the impact statement.

O. The "environmental provisions" of Article XXII shall be addressed when applicable.

14.21.4 Three-Dimensional Depiction of Buildings on a Site: The Planning commission may require the applicant to do one of the following as a condition to final approval of a site plan:

A. Develop a scale model of the proposed project including the area within one hundred (100) feet of the site;

B. Develop a drawing using three-dimensional software that depicts a solid form of the proposed buildings within one hundred (100) feet of the site;

C. Place property corner stakes and building corner stakes prior to an on-site review of the proposed project;

D. Erect a temporary frame structure or poles on the corners of proposed buildings that shows the proposed height of buildings when buildings are proposed in excess of twenty-eight feet, mean height.

14.21.5 Site Plan Review Fee: A fee shall be charged to the applicant for site plan review based on a schedule developed by the Township Board of Trustees.

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## **Sec. 14.22 Standards for Site Plan Review**

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14.22.1 General Site Plan Review Standards: In reviewing a major or a minor Site Plan, the reviewing authority shall consider the following standards, as applicable. Additional standards provided in this ordinance for Conditional Uses, Special Land Uses, Condominium Projects and PUDs also apply and shall be reviewed as part of the site plan review process. The Zoning Administrator shall prepare a checklist of the following standards to ensure each is reviewed and compliance is determined prior to approval.

- A. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.
- B. Ingress and egress to the property and proposed structures thereon shall provide motor vehicle and pedestrian safety and convenience, efficient traffic flow and control, and easy access in cases of fire, catastrophe or emergency.
- C. Every structure or dwelling unit shall have access to a public or approved private street, walkway, or other areas dedicated to common use.
- D. Appropriate measures shall be taken to ensure that dewatering on a site will not adversely affect neighboring properties or the County storm drainage system.
- E. Provisions shall be made for the construction of storm sewer facilities including grading, gutters, piping and treatment of turf to handle storm water, prevent erosion and the formation of dust. Surface water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicle or pedestrian traffic or create puddles in paved areas.
- F. That as many natural features of the landscape shall be retained as possible where they furnish a barrier or buffer between the project and adjoining properties used for dissimilar purposes and, where they assist in preserving the general appearance of the neighborhood or help control erosion or the discharge of storm waters.
- G. That any adverse effects of the proposed development and activities emanating therefrom upon adjoining residents or owners shall be minimized by appropriate screening, fencing, or landscaping.
- H. That existing stands of trees and large individual trees be preserved to the extent feasible.
- I. Off-street parking and loading areas where required, shall be satisfactory in size, shape and design and not present noise, glare, odor or other nuisance effects on adjoining properties and properties in the proposed development above a level enjoyed by existing similar uses in the area, or in that zone.
- J. The type, dimensions and character of open spaces, landscaping, screening and buffering shall enhance the design, character, use and value of the property and abutting lands and waters. Any exterior lighting shall be designed to prevent unnecessary illumination of the night sky and shall be shielded from adjacent properties.
- K. Signs, if any, and their proposed size, shape, height and lighting relative to glare, traffic safety, and economic effect, shall be aesthetically pleasing, compatible and in harmony with signs, structures and uses of adjoining properties.
- L. Garbage storage and disposal and recycling bins shall be designed to ensure no vermin or rodent infestation and easy access to facilities which are screened from view from the street or abutting properties when not in use.

- M. The applicant shall demonstrate that reasonable precautions will be made to prevent hazardous substances from entering the soil or water with special attention to the following:
1. Sites at which hazardous substances are stored, used or generated shall be designed to prevent spills and discharges to the air, surface of the ground, groundwater, lakes, streams, rivers, or wetlands.
  2. Secondary containment for above ground areas where hazardous substances are stored or used shall be provided. Secondary containment shall be sufficient to store the substances for the maximum anticipated period of time necessary for the recovery of any released substances.
  3. General purpose floor drains shall only be allowed if they are approved by the responsible agency for connection to a public sewer system, an on-site closed holding tank (not a septic system), or regulated through a State of Michigan groundwater discharge permit.
  4. State and federal rules for record keeping, emergency response, transport and disposal of hazardous substances shall be met. No discharges to groundwater, including direct and indirect discharges, shall be allowed without required permits and approvals.
  5. Underground storage tank installation, operation, maintenance, closure, and removal shall be in accordance with the requirements of the State Police Fire Marshal Division and the Michigan Department of Environmental Quality.
  6. Bulk storage facilities for pesticides and fertilizers shall be in compliance with requirements of the Michigan Department of Agriculture.

N. Stormwater drainage plans addressing a 100 year storm design base including: flows onto the site from adjacent sites and roads, storm water impact on the site (soils, impervious surfaces, potential impervious surfaces, retention ponds, detention ponds, and related temporary as well as permanent management facilities as appropriate), and the storm water outfall, or flow control into adjacent drainage courses, ditches and the like. On sites having limited area as in existing built-up community areas with small lots, the Planning commission may permit controlled exceptions to the 100 year storm base for good and sufficient reasons.

All storm water drainage plans shall approved and sealed by a Michigan Registered Professional Civil Engineer. The Planning commission may waive this requirement, defer the requirement, or request a fully engineered storm drainage plan. After completion of construction, an "as-built" drawing and plan of the development, sealed by a Registered Professional Civil Engineer, shall be filed with the Planning commission showing erosion control plans, the standards of this Ordinance, and any conditions of permit approval.

14.22.2 Other Regulations: Before granting approval of any application, the appropriate reviewing authority shall be reasonably sure that the proposed development fully complies with all the following, as are relevant and may condition approval of the site plan on conformance with any of the following:

- A. All applicable State laws administered by the Michigan Department of Transportation, Department of Environmental Quality, Department of Natural Resources, and/or Department of Agriculture;
- B. Township and local Ordinances;

- C. The adopted published rules, standards or policies of the West Benzie Joint Planning Commission;
- D. The published rules, standards or policies of the Benzie County Drain Commissioner;
- E. The published rules, standards or policies of the Benzie County Board of County Road Commissioners;
- F. The published rules, standards or policies of the Benzie-Leelanau District Health Department;
- G. The fire safety and emergency vehicle access requirements of the Michigan Building Code and/or any local Fire Code having jurisdiction;
- H. The published rules, standards or policies of the Benzonia or Platte Township Boards of Trustees.
- I. Any approval shall include the filing of copies of any permits required under any local, state or federal law, the compliance of which shall be made a condition of the approval of a site plan.

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#### **Sec. 14.23 Site Plan Approval**

A site plan shall be approved if it contains the information required by the Zoning Ordinance and is in compliance with the standards required in the Zoning Ordinance, and with other applicable Ordinances, and state and federal statutes.

- A. An approval of a site plan for a Special Land Use, Condominium Project or Planned Unit Development does not constitute the final approval of a Special Land Use Permit, Condominium Project Permit or PUD Permit. Standards for review and approval of a Special Land Use Permit are described in Article XVI. Standards for review and approval of a Condominium Project are in Article XVIII. Standards for review and approval of a PUD are in Article XVII.
- B. Site plans may be approved with reasonable conditions.

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#### **Sec. 14.24 Appeal to Zoning Board of Appeals**

Any applicant for Site Plan Review that feels aggrieved by the decision of the Zoning Administrator or the Planning commission may appeal the decision to the Zoning Board of Appeals within twenty-one (21) calendar days of receipt of the decision. The Zoning Board of Appeals shall review the decision of the Zoning Administrator or Planning commission to ensure that it is consistent with the standards contained in this Ordinance and rules established by agencies responsible for site plan review. The Zoning Board of Appeals shall give written justification for their decision. The Zoning Board of Appeals may not grant a variance to any element of a site plan unless an application for a variance has been filed therefor.

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**Sec. 14.25 Amendment to Site Plan**

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No changes shall be made to an approved site plan prior to, during or after construction except upon mutual agreement between the applicant and the Township and by application to the Zoning Administrator pursuant to the requirements of this Article.

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**Sec. 14.26 Conformity to Approved Site Plan**

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Property which is the subject of site plan approval must be developed in strict compliance with the approved site plan and any amendments thereto, which have received the approval of the Planning commission. If construction and development does not conform with such approved plan, the permit holder or land owner shall be notified of a violation of this Ordinance and if the circumstances warrant, issued a stop work or cease operations order per the requirements of this Ordinance.

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**Sec. 14.27 As Built Site Plans**

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Once a project for which a site plan was approved is completed, two (2) sets of "as built" site plans showing the exact building footprints, driveways, parking areas, landscaping, utilities, sidewalks, bike paths and trails shall be signed by the licensed professional who prepared them and delivered to the Zoning Administrator within one (1) month of completion of the project (for each phase of a project if multi-phased). The Zoning Administrator may waive this requirement, except where major utilities, new streets and/or large buildings are involved.

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**14.28 Reserved for Future Use**

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**14.29 Reserved for Future Use**

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**PART V – COMPLAINTS, PERMIT SUSPENSION, REVOCATION  
AND VIOLATION PROCEDURES**

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**Sec. 14.30 Complaints, Permit Suspension, Revocation and Violation Procedures**

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14.30.1 Complaints Regarding Violations: Whenever the Zoning Administrator becomes aware of or receives a complaint alleging a violation of this Ordinance, the Zoning Administrator shall investigate the complaint, take whatever action is warranted and inform the complainant what actions have been or will be taken. Any and all building or land use activities considered possible violations of the provisions of this Ordinance observed or communicated to the County Sheriff's Department or to any Township officials shall be reported to the Zoning Administrator.

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

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

- A. A complaint form shall be assigned a number.
- B. A preliminary visit shall be made at the site to identify the alleged violation.
- C. If a violation is identified, the landowner and/or contractor shall be informed, in writing, of the nature of the violation, informed of the action necessary to correct the violation and the date when the compliance is to be completed. The owner or contractor shall also be informed of their right to appeal the decision of the Zoning Administrator. This action may be taken in person or by certified mail.
- D. Where the violation is one of unlawful construction, reconstruction, or removal, a "Stop Work" notice form shall be attached to the site or delivered to the contractor or owner. The owner or owner's agent shall also be informed of their right to appeal the decision of the Zoning Administrator.
- E. The site of the alleged violation shall be re-inspected on the date when the owner or contractor was informed compliance was to be completed.
- F. If compliance has not been completed, and an appeal of the decision of the Zoning Administrator has not been filed, the County Prosecutor shall be informed, to determine further action.
- G. Notwithstanding the foregoing, in cases when delay would seriously threaten the effective enforcement of this Ordinance, if the violation continues, the violation is one of unlawful construction, reconstruction, alteration, removal or usage, or poses a danger to the public health, safety or welfare, the Zoning Administrator may seek enforcement without prior written notice by requesting the County Prosecutor to invoke any one of the remedies authorized in this Ordinance.

14.30.4 Suspension of a Permit: Any permit issued shall become invalid if the authorized work is not initiated within one (1) year of receipt of a permit, or is suspended or abandoned for a period of six (6) months after the time of commencing the work unless the development proposed shall have passed its first building inspection.

14.30.5 Permit Revocation

- A. A Zoning, Special Land Use, Planned Unit Development or Condominium Project Permit may be revoked by the permit-issuing authority in case of any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based, or in case of failure or neglect to develop or maintain the property in accordance with the plans submitted, the requirements of this chapter, or any additional requirement lawfully imposed by the permit-issuing authority or Zoning Board of Appeals. Upon permit revocation, all further construction activities and usage shall cease upon the site, other than for the purpose of correcting the violation. The Zoning Administrator may issue a stop work order to halt all construction activities and usage pending a decision on revocation of said permit.

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

14.30.6 Penalties and Remedies

- A. Any person, firm, corporation or other legal entity of any kind, or anyone acting on behalf of said person, firm, corporation or legal entity, who violates any provision of this Ordinance shall, upon a determination of responsibility therefore, be subject to a civil fine, costs and sanctions as provided for in the Benzonia and Platte Township Municipal Civil Infractions Ordinance and Chapter 87 of Act No. 236 of the Public Acts of 1961 and Act 3 of the Public Acts of 1895, as amended. Each day that a violation of this Ordinance is continued or permitted to exist without compliance shall constitute a separate offense punishable upon conviction in the manner prescribed in this Section.
- B. The Zoning Administrator for Benzonia and/or Platte Township, together with deputized officers of the Benzonia County Sheriff’s Department are hereby designated as Authorized Local officials for the issuance of municipal civil infraction citations and/or municipal civil infraction violation notices.

**\*\*AMENDED BY BENZONIA TOWNSHIP BOARD AND PLATTE TWP. BOARD EFFECTIVE ON MAY 14, 2014.**

**PART VI – OTHER REVIEW PROCEDURES**

**Sec. 14.31 Other Review Procedures**

Unless there is another procedure provided by this ordinance for review and approval of the following land uses, the procedures in this Part VI of this Article shall apply.

14.31.1 Permit Procedure

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

- A. Data required: Every application shall be accompanied by the following information and data:

1. The application form filled out in full by the applicant, including a statement of supporting evidence showing compliance with the requirements of Section 14.20.
2. Site plan in accord with this Article.
3. A written impact assessment.
- 4 Preliminary plans and outline specifications of the proposed development.

B. Major and Minor Projects:

1. All developments involving a structure greater than five thousand (5,000) square feet, whether being newly constructed or changing the use of, or the development of an area larger than two (2) acres and all PUDs and Condominium Project's, are considered Major projects which require, action by the Planning commission. All other projects are, either Minor Projects or minor amendments to existing site plans, subject to review and approval by the Zoning Administrator.
2. Upon receipt of an application, the Zoning Administrator shall publish in a newspaper having a general circulation in the Township, as required by the Michigan Zoning Enabling Act.

14.31.2 Special Land Use Permit: Requirements.

Before approving a Special Land Use Permit application the Zoning Administrator or Planning commission shall apply the following standards, and shall find adequate evidence that each use on the proposed location will:

- A. Be compatible with adjacent land use, the natural environment and the capacities of public services and facilities affected by the land use.
- B. Be designed to protect natural resources, the health, safety, and welfare and the social and economic well being of those who will use the land use or activity under consideration, and residents and landowners immediately adjacent to the proposed land use or activity.
- C. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
- D. Meet the intent and purpose of this Zoning Ordinance.
- E. Be requested by an applicant who may legally apply for the site plan review and has submitted all required information.
- F. Be a development, exclusive of Planned Unit Developments, which conforms to all regulations of the zoning district in which it is located.
- G. Meet the requirements for fire protection, water supply and sewage disposal or treatment.

- H. Meet the standards of other governmental agencies, where applicable, and that the approval of these agencies has been obtained or is assured.
- I. Designed such that natural resources will be preserved to a maximum feasible extent and that areas to be left undisturbed during construction shall be so indicated on the site plan and at the site per se.
- J. Respect floodways and flood plains on or in the vicinity of the subject property.
- K. Be constructed where soil conditions are suitable for excavation and site preparation.
- L. Not cause soil erosion, sedimentation or ground water pollution problems.
- M. Be designed to handle anticipated storm water runoff and will not cause runoff onto neighboring property or overloading of water courses in the area.
- N. Not destroy the character of the property or the surrounding area, and will not adversely affect the adjacent or neighboring properties.
- O. Not disrupt air drainage systems necessary for agricultural uses.
- P. Be designed such that phases of development are in a logical sequence, so that any one phase will not depend upon a subsequent phase for adequate access, public utility services, drainage or erosion control.
- Q. Be designed such that the, plan provides for the proper expansion of existing infrastructure and will not create excessive additional requirements at public cost for public facilities and services.
- R. Provide for landscaping, fences or walls, if required in pursuance of the objectives of this Ordinance.
- S. Provide that parking layout will not adversely affect the flow of traffic within the site, or to and from the adjacent streets.
- T. Provide that vehicular and pedestrian traffic within, the site, and in relation to streets and sidewalks serving the site, shall be safe and convenient.
- U. Provide that outdoor storage of garbage and refuse is contained, screened from view and located so as not to be a nuisance to the subject property or neighboring properties.
- V. Not be hazardous or disturbing to existing or future uses in the same general vicinity and will be a substantial improvement to the property.
- W. Not involve uses, activities, processes, materials, and equipment or conditions of operation that will be detrimental to any persons, property, or the general welfare by fumes, glare, odors, noise, dust, smoke, vibration, light encroachment, or waste.

14.31.3 Written Decision.

Any decision made by the West Benzie Joint Planning Commission, Zoning Administrator, or Zoning Board of Appeals regarding an appeal or variance or issuance or revocation of a Special Land Use, Planned Unit Development, or Condominium Subdivision permit shall be reduced to writing and served upon the applicant or appellant.