

VILLAGE OF BEULAH

ZONING ORDINANCE

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Prepared for:

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**VILLAGE OF BEULAH
ZONING ORDINANCE**

**ORDINANCE NO. 2007-1
AN ORDINANCE PURSUANT TO ACT 110
OF THE PUBLIC ACTS OF 2006, AS AMENDED**

THE VILLAGE OF BEULAH ORDAINS:

ARTICLE I PURPOSE, TITLE AND AUTHORITY

1.1 PURPOSE

It is the purpose of this Ordinance to encourage the use of lands in the Village in accordance with their character and suitability for particular purposes; to insure compatibility between land uses and to preserve property values by establishing standards for physical development; to limit inappropriate overcrowding of land and congestion of population and transportation systems and other public facilities; to facilitate the adequate provision of streets and highways, sewage disposal and water supply systems; and to promote the safety, health, morals, convenience and general welfare of the community. Land development regulations and districts shall be designed to promote and accomplish the objective of the Village of Beulah Master Plan.

1.2 TITLE

This Ordinance shall be known as the "Village of Beulah Zoning Ordinance."

ARTICLE II PURPOSE, TITLE AND AUTHORITY

2.1 RULES APPLYING TO TEXT

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

- Words used in the present tense include the future tense; and the singular includes the plural, unless the context clearly indicates the contrary.
- The word "person" includes an individual, corporation, partnership, firm, association, limited liability company, or other legal entity.
- The word "lot" includes "plot," "tract," or "parcel."
- The term "shall" is always mandatory and not discretionary; the work "may" is permissive.
- The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged or designed to be used or occupied."
- Any word or term not interpreted or defined by the Article shall be used with a meaning of common or standard utilization.

ARTICLE III GENERAL REGULATIONS

3.1 APPLICATION OF REGULATIONS

Except as specified in this Ordinance, no building, structure or premises shall hereafter be used or occupied, and no building, structure or part thereof shall be erected, moved, reconstructed, extended, enlarged or altered except in conformity with the regulations herein specified. Furthermore, no lot shall be divided, no yard or setback reduced, or building height, density or lot coverage increased so as to be in violation of this Ordinance, except where such reduction or increase has been brought about by the expansion or acquisition of a public right-of-way and/or a variance has been approved by the Zoning Board of Appeals.

3.2 PRIOR BUILDING AND/OR LAND USE PERMITS

Any building and/or land use permit issued prior to the adoption of this Ordinance, shall be valid, provided it complies fully with the regulations in effect at the time of issuance of the building and/or land use permit and further provided the construction is meaningfully commenced within one year of the date of issuance of the building or zoning permit. In the event construction is not so commenced within this period, the building, structure, or use for which the permit was issued shall be required to conform to all of the provisions of this Ordinance.

3.3 PERMITTED HEIGHT AND YARD EXCEPTIONS

- A. Permitted Height Exceptions. The following structural appurtenances shall be permitted to exceed the height limitations of the district within which located:
1. Ornamental appurtenances such as church spires, belfries, cupolas, domes, ornamental towers, flagpoles, and monuments.
 2. Mechanical and structural appurtenances such as chimneys, water tanks, ventilators, bulkheads, amateur radio towers, television antennas, satellite dishes one meter (39 inches) or less in diameter, fire and hose towers, and cooling towers but excluding telecommunication towers.
 3. Structural extensions deemed necessary for appropriate building design such as cornices or parapet walls that may extend to a maximum of five (5) feet above the height limitations for the district and shall have no openings.
 4. The foregoing permitted height exceptions may be authorized only when all of the following conditions are satisfied:
 - a. No portion of any building or structure, permitted as an exception to a height limitation, shall be used for human occupancy or the conduct of a business.
 - b. Any permitted structural exception to a height limitation shall be erected only to such height as is necessary to accomplish the purpose it is intended to serve, and no higher.

- c. If the roof area of such structural elements that are allowed to exceed the height limitations, exceed more than 20% of the gross roof area, they shall be considered to be integral parts of the whole structure and shall not be eligible to exceed the height limitations.

B. Permitted Yard Encroachments. Encroachments in required yards shall be limited to the following:

1. Paved terraces, patios, decks, uncovered porches, and ramps for the physically disabled, provided the area is unroofed, the highest elevation of the surface of the improvement does not extend more than 30 inches above the average surrounding finished grade level, and no portion of the improvement extends more than five (5) feet into the required front or rear yard. No encroachments into a required side yard are permitted.
2. Special structural elements such as cornices, eaves, gutters, sills, chimneys, belt courses, and ornamental features and similar features and roof overhangs provided they do not project more than one (1) foot into a required yard.
3. Unenclosed porches, either roofed or unroofed into required front or rear yards provided no part of the structure is closer to a rear or front lot line than eight (8) feet and, further provided, there shall be no more than one such encroachment in any one yard. No encroachments into a required side yard are permitted.
4. Enclosed and unenclosed balconies provided they project no more than five (5) feet into a front or rear yard. No encroachments into a required side yard are permitted.
5. Enclosed porches built at ground level and having solid foundations shall be considered to be an integral part of the building and shall be subject to all of the yard and area dimensional requirements established for principal buildings.
6. Open fire escapes and stairways may project into a rear yard to a maximum of five (5) feet.

3.4 TEMPORARY BUILDINGS

Temporary buildings for uses incidental to construction work, and all debris, shall be removed within fifteen (15) days following completion of the construction.

3.5 TEMPORARY DWELLINGS

No structure shall be used for living purposes that are not considered a standard dwelling as defined by this Ordinance. No garage or other accessory building, basement, trailer, partial structure or other temporary structure shall be used in whole or in part for living purposes in any district, except if approved as a special exception by the Zoning Board of Appeals. Such approval shall be subject to all of the following conditions:

- A. Issuance of such temporary permit shall be for a period not to exceed twelve (12) months.
- B. The permanent dwelling of the resident applicant has become uninhabitable due to damage caused by fire, wind, or other natural disaster.
- C. Due to undue hardship, the applicant is unable to obtain another dwelling unit as a temporary residence.
- D. Adequate provision is made for temporary public or private water supplies and sewage disposal to and from said structure.
- E. The structure is constructed so as to meet the minimum requirements for the health, safety and welfare of the dwelling's occupants and the surrounding neighborhood.

3.6 MOVING OF BUILDINGS

The moving of a building to a different location, even if on the same lot, shall be considered the same as the erection of a new building and all provisions, regulations or requirements relative to the erection of a new building shall be applicable thereto.

3.7 RAZING OF BUILDINGS

No building shall be razed until the Zoning Administrator has issued a Land Use Permit. Permit issuance shall be subject to the razing of the building within a specified timeframe and compliance with all regulations pertaining to the removal of debris, the filling of excavations, and disconnections from existing utilities.

3.8 COLLECTION OR STORAGE OF RUBBISH

It shall be unlawful to store, collect, dispose of, or place building materials, refuse, junk, garbage, inoperable and/or unlicensed vehicles and trailers, lawn or garden waste, vehicle parts, dead animal carcasses, animal waste, or any such materials or substances anywhere in the Village except where specifically permitted by this Ordinance.

3.9 REQUIRED SEWER AND WATER FACILITIES

Every building hereafter erected, altered or moved upon any premises and used in whole or in part for dwellings (year-round or seasonal), recreational, business, commercial or industrial purposes, including churches, schools and other buildings in which persons customarily congregate, shall be provided with a safe and sanitary water supply system and with means for collecting and disposing of all human excreta and of all water-carried domestic, commercial, industrial and other wastes that may adversely affect the public health.

3.10 INTERSECTION VISIBILITY

On any corner lot in any district requiring front and side yards, no fence, wall, screen, hedge, sign or other structure or planting shall obstruct vision over three (3) feet high within the triangular area formed by the intersecting street right-of-way lines and a straight line intersecting them at points which are on said right-of-way lines and thirty (30') feet distant from their point of intersection. Such heights of clear vision areas shall be measured from the elevation of the street centerlines at the point of intersection. No fence, wall, screen, hedge, sign or other structure or planting shall obstruct vision from a driveway over three (3) feet high, measured above the elevation of the street centerline, within ten (10') feet of any front property line.

3.11 FENCES/HEDGES

It shall be unlawful for any person to construct a fence or hedge on a property within the Village, except in compliance with the following regulations. A Zoning Permit is not required.

- A. Fences and hedges located in a front or street side yard shall be no more than four (4) feet in height, as measured vertically from the surface of the natural ground.
- B. Fences located in a rear yard along the lakeside of a use shall be no more than three (3) feet in height, as measured vertically from the surface of the natural ground.
- C. Fences located in a front or street side yard shall be constructed of brick, stone, wood boards, split rails, wrought iron, decorative concrete blocks, decorative chains, decorative rope, or similar material. No chain link fences shall be constructed in a front or street side yard.
- D. Fences located in a rear or interior side yard shall be no more than six (6) feet in height, as measured vertically from the surface of the natural ground; provided, however, that fences and hedges located in an interior side yard shall not extend closer to the front lot line than the front of the principal building or the required front yard setback, whichever point is farther from the front lot line.
- E. Fences located in a rear or interior side yard shall be constructed of brick, stone, wood boards, split rails, wrought iron, decorative concrete blocks, decorative chains, decorative rope, or similar material. Chain link fences shall be permitted in a rear or interior side yard.
- F. Except as otherwise provided herein, all fences and hedges shall be located entirely on the property of the person constructing the fence or hedge.
- G. The portions of all fences facing property other than the property of the fence owner or facing a road right-of-way shall be finished so that, to the extent possible by the design of the fence, the fence posts and the horizontal and/or vertical fence supports are not visible from that other property or from the road right-of-way.

3.12 SHORELINE PROTECTION REGULATIONS

No building shall be constructed within 75 feet of the ordinary high water mark of Crystal Lake. A deck or patio may protrude, at a maximum, twenty (20) feet into the rear yard along the lake-

side setback for the lot, provided the deck or patio shall not exceed thirty (30) inches in height above the natural contour. A balcony may protrude, at a maximum, six (6) feet into the rear yard along the lakeside setback for the lot, provided the balcony shall not be roofed over or enclosed in any way.

3.13 KEEPING OF ANIMALS

It shall be unlawful to keep farm animals and/or wild animals, such as wolf dogs, in the Village. This provision shall not prohibit the keeping of ordinary household pets such as dogs, cats, birds, fish and small rodents or exotic pets such as such as amphibians and reptiles that are unlikely to be injurious to the health, welfare and safety of the public.

3.14 STEET CLOSURE

Whenever any road, street, alley or other public right-of-way, or railroad right-of-way, is vacated by official action of the appropriate agency or governmental body, the zoning district adjoining each side of such right-of-way shall automatically be extended to the center of such vacation, and all areas included in the vacation shall then be subject to all of the regulations of the extended districts.

3.15 KEYHOLING (Private Shoreline Access)

- A. Applicability. When two (2) or more families, as defined in this Ordinance, share or have access to a shoreline parcel on navigable water, this Section shall govern such common usage and/or ownership of the shoreline parcel. The provisions herein shall apply regardless of whether access to the shoreline parcel is gained by easement, common or joint fee ownership, single fee ownership, lease, license, site condominium unit, stock, or membership in a corporation or any other means. All such common use shoreline parcels shall be approved by site plan review pursuant to Article XI, and in accordance with the following additional standards:
1. All private shoreline access parcels shall have a minimum frontage on the water of not less than one hundred feet (100) (measured at the ordinary high water mark) and have an area of at least 15,000 square feet. For each family in excess of two (2) having shoreline parcel privileges, the frontage shall be increased by twenty-five (25) feet, and the area increased by a minimum of 3,500 square feet.
 2. No housing unit, temporary, permanent or for occasional use, shall be located on the access parcel. No camping or other overnight accommodations shall be permitted on the access parcel.
 3. The site plan shall reflect provisions for all watercraft slips, moorings, boat hoists, and other means of anchorage to be developed on the shoreline parcel. No more than two (2) such slips, moorings, boat hoists, and other means of anchorage per one hundred feet shall be allowed.
 4. The site plan shall provide for one (1) off-street space for the parking of automobiles for every residence having usage of the shoreline parcel.

5. The site plan shall reflect the location of all docks to be developed on the shoreline parcel. Docks shall not exceed one (1) per one hundred feet (100') of water frontage and shall otherwise comply with all state and federal statutes and regulations pertaining thereto. The length of the dock shall not exceed 200 feet.
6. Boat launch facilities shall not be permitted.
7. If the shoreline parcel services twelve (12) or more families, sanitary facilities shall be included and tied into public utilities, including public sewer and water. Utilizing natural vegetation, all sanitary facilities shall be screened from surrounding land uses. Sanitary facilities shall be subject to all setback requirements of the District within which located.
8. The Village Council shall have the authority to approve, disapprove, or approve with conditions the site plan based on the following criteria:
 - a. The extent of contemplated injury or nuisance (including noise) to owners of riparian, adjacent, nearby parcels.
 - b. The overall impact on the shoreline land use due to subsequent approvals of similar projects.
9. Vegetative buffers.
 - a. Whenever the shoreline parcel abuts a residentially used parcel, a vegetative buffer strip of at least ten (10) feet in width shall be provided along the property line adjacent to the residential use. However, this vegetative buffer strip shall not block the view of the water from any adjacent property or right-of-way or be closer than 50 feet from the ordinary high water mark.
 - b. The vegetative buffer shall consist of plant materials that maintain their density and screening effect throughout the calendar year, shall be at least four (4) feet, six (6) inches in height at the time of planting, and shall be maintained in a neat and attractive manner.

3.16 LIGHTING

The purpose of this section is to provide reasonable regulations for the location and use of outdoor lighting. Outdoor lighting is permitted in the Village as long as it is designed to be in harmony with Village's historic character.

- A. Lighting requirements. Exterior lighting may be provided in parking areas and along walkways in multifamily residential and commercial developments, and in developments providing lodging. The exterior lighting provided on a site, and the type and height of lighting standards shall be determined at the time of site plan review of the principal use. Whenever exterior lighting is provided, it shall be designed and installed so that all direct rays are confined to the site and adjacent properties and the skyline are protected from glare.

- B. Decorative lighting. Decorative lighting is permitted in commercial developments if adjacent properties and roadways are protected from glare.
- C. Prohibited lighting. The installation or erection of any lighting that simulates, imitates or conflicts with warning signals, emergency signals or traffic signals is prohibited.
- D. Height. The maximum height for a lighting fixture is twenty (20) feet.

3.16.1 NOXIOUS WEEDS

It shall be the duty of all owners of land within the Village to destroy weeds before they reach a seed-bearing stage and to prevent weeds from perpetuating themselves and becoming a detriment to public health. For the purpose of this Ordinance, “weeds” shall include Canada thistle (*Cirsium arvense*), dodders (any species of *Cuscuta*), mustards (charlock, black mustard and Indian mustard, species of *Brassica* or *Sinapis*), wild carrot (*Daucus carota*), bindweed (*Convolvulus arvensis*), perennial sowthistle (*Sonchus arvensis*), hoary alyssum (*Berteroa incana*), ragweed (*ambrosia elatior* 1), poison ivy (*rhus toxicodendron*), and poison sumac (*toxicodendron vernix*).

3.18 ANNEXATION

Any land that may be annexed to the Village of Beulah shall be temporarily classified as R-1 Residential District immediately upon annexation to the Village and shall remain as such until said land is officially rezoned by the Village.

3.19 LANDSCAPING

- A. Applicability. For any new or expanded development, landscaping shall be installed and maintained on lots in the R-1, R-2, R-C, M-F, OC, TC, and GC zoning districts. Landscaping shall, at a minimum, meet the following requirements.
 1. The required front yard, with the exception of the driveway, shall be covered in grass and/or with some other vegetation cover.
 2. There shall be at a minimum, one (1) tree for each 2,500 square feet or fraction thereof, of lot area. All trees required by this provision shall be at a minimum of three (3) feet high when planted. Trees shall not be pruned in such a manner to prevent growth to a height of at least fifteen (15) feet or to reduce existing height below fifteen (15) feet except to remove dead wood.
 3. Whenever a parking lot, trash collection, outdoor storage, merchandising, or service area lies within fifty (50) feet of any residentially zoned parcels, a planting screen of sufficient length to interfere with the view from the adjoining district shall be required, except where the view is blocked by a change in grade or other natural or man-made feature. Where, because of intense shade, the planting screen cannot be expected to thrive, a wooden fence or masonry wall may be substituted. All planting screens required by

this Ordinance shall consist of plants at least 4 feet 6 inches in height when planted, and shall be maintained and pruned so as to provide maximum opacity from the ground to a height of 4 feet 6 inches. Planting material that shall be used in the planting screen include:

Type	Maximum Separation Between Plants
Multiflora rose	2 feet
Forsythia	3 feet
Lilac	3 feet
Privet	1 ½ feet
Arbor vitae	4 feet
Barberry	3 feet
Pfitzer Juniper	4 feet
Scotch pine	5 feet

3.20 CONTIGUOUS LOTS/COMBINATIONS REQUIRED

Where two or more contiguous lots are owned by the same person, no zoning permit shall be issued for a new or expanded structure and no excavation or construction of any kind shall be commenced thereon unless the setback requirements of the District are fully complied with for each individual lot or the applicant files a Notice of Intent to Combine form with the Village Zoning Administrator.

3.21 ANTENNAS

Antennas may be attached to existing structures, including light standards, power poles, water towers, or buildings. Antennas shall extend no higher than ten (10) feet above the structure to which they are attached. Antennas shall be grounded for protection against a direct strike by lightning and shall comply as to electrical connections and wiring and as to structural integrity with all applicable state and local building codes and the applicable standards for towers published by the Electronics Industries Association, as amended from time to time.

3.22 SOLID WASTE COLLECTION ENCLOSURES

Any solid waste container large enough to require a mechanical device to empty shall be located in an enclosure that is screened on three (3) sides by a solid wood fence or masonry wall at least as high as the container. The fourth side of the enclosure may be left open if the container has a lid that is kept locked except when waste is being deposited or removed.

The solid waste container and enclosure shall be located, at a minimum, 50 feet from any adjacent property line. The solid waste container and enclosure shall be so situated that trucks collecting waste from the container shall not conflict with the orderly flow of traffic onto or through the parcel.

ARTICLE IV ESTABLISHMENT OF DISTRICTS

4.1 ZONING DISTRICTS

In order to regulate and restrict the location, erection, alteration and use of buildings, structures and land and to carry out the purposes of this Ordinance, the Village of Beulah is hereby divided into the following zoning districts:

- "R-1" One-Family Dwelling District
- "R-2" One and Two-Family Dwelling District
- "R-C" Residential Conservation District
- "MF" Multi-Family Residential District
- "OC" Office Commercial District
- "TC" Transitional Commercial District
- "GC" General Commercial District
- "DC" Downtown Commercial District
- "P" Public District

4.2 ZONING DISTRICTS MAP

The locations and boundaries of these districts so established are bounded and defined as shown on the map, entitled "Village of Beulah Zoning District Map," which accompanies and is hereby declared to be a part of this Ordinance with the same force and effect as if the districts shown thereon were fully set forth by legal description or metes and bounds herein. A current and up-to-date Village of Beulah Zoning Districts Map, with all notations and amendments noted, shall be kept on file in the office of the Village Clerk, and this map shall be the final authority as to the current zoning status of land, buildings and other structures in the Village, subject to interpretation by the Zoning Board of Appeals.

4.3 INTERPRETATION OF ZONING DISTRICT BOUNDARIES

Where uncertainty exists with respect to the boundaries of any of the districts indicated on the Zoning Districts Map, the following rules shall apply:

- A. Where district boundaries are indicated as approximately coterminous with street or highway centerlines or right-of-way lines, such centerlines or right-of-way lines shall be construed to be said boundaries.
- B. Where district boundaries are indicated as approximately coterminous with platted lot lines, section lines, quarter-section lines, or other survey lines, such lines shall be construed to be said boundaries.

- C. Where district boundaries are indicated as approximately parallel to street or highway centerlines or right-of-way lines, or to section lines, quarter-section lines or other survey lines, such boundaries shall be construed to be parallel thereto and at such distance there from as indicated on the Zoning Districts Map.
- D. Where the boundary of a district follows a railroad line, such boundary shall be deemed to be coterminous with the centerline of the main track or former track of said railroad line.
- E. Where the boundary of a district approximately follows the centerline of any river or stream, the boundary line shall be interpreted as following such centerline of said river or stream.
- F. Where the boundary of a district approximately follows the shoreline of a lake, the boundary shall be construed as following the ordinary high water mark of the lake.
- G. Where the application of these rules leaves a reasonable doubt as to the boundaries of a district, the interpretation of boundaries shall be by the Zoning Board of Appeals.

ARTICLE V DISTRICT REGULATIONS

5.1 R-1 ONE FAMILY RESIDENTIAL DISTRICT

- A. Intent. It is the intent of this District to provide quiet, safe neighborhoods for detached, single-family dwelling units and their ancillary uses. Dwelling units should be designed to be compatible with the historic architectural character of the neighboring single-family dwelling units in terms of building height, materials of construction, roofline slope, porches and windows, and pedestrian and vehicular access locations.
- B. Permitted Principal Uses. Land and buildings within the R-1 District shall be used only for the following purposes, provided the Zoning Administrator finds that the proposed use satisfies all of the District Development Regulations of this Ordinance.
1. One (1) standard single family dwelling unit on each lot unless processed as a condominium subdivision.
 2. Essential services including small neighborhood-scale parks and playground facilities, but excluding telecommunication towers.
 3. Uses customarily incidental and accessory to a permitted principal use including satellite dishes that are one meter or less in diameter and attached to a building, large satellite dishes located in rear yards, amateur radio antennas and television antennas but excluding telecommunication towers.
- C. Uses Permitted with Special Conditions. Land and buildings permitted with special conditions shall be used for the following purposes, provided the Zoning Administrator finds that the following conditions are satisfied and further provided the proposed use satisfies all of the District Development Regulations of this Ordinance.
1. One (1) accessory dwelling unit per lot. Accessory dwelling unit includes detached guesthouses, accessory apartments within the principal dwelling unit, and accessory apartments over detached garages.
 - a. The owner of the lot shall occupy either the principal or accessory dwelling unit.
 - b. The floor area shall not exceed 50% of the floor area of the principal dwelling unit.
 - c. The accessory dwelling unit shall not be less in floor area than 600 square feet.
 - d. The accessory dwelling unit shall have the same architectural style as the principal dwelling unit in terms of building height, materials of construction, and roofline slope.

- e. An accessory dwelling unit within or attached to the principal dwelling shall have an interior entry. An exterior entry to an accessory apartment over a detached garaged shall not be visible from a street.
 - f. One off-street parking space is required for the accessory dwelling unit in addition to the parking required for the principal dwelling. Except as may be available from a publicly maintained alley, no garage or driveway shall be constructed to service only the accessory dwelling.
 - g. Vehicular access to an accessory dwelling shall be the same access used by the principal dwelling, with the exception of the condition listed in 5.1.C.1.f.
2. Home-based businesses such as business and professional offices, telecommuting businesses, subject to the following conditions:
- a. The home-based business shall be clearly secondary and incidental to the use of the premises as a residence. The amount of space used for the home-based business shall not exceed 25% of the area of the principal building.
 - b. All activities shall be conducted within the interior of the principal dwelling unit or in an existing accessory building.
 - c. Home-based businesses shall be owned and operated solely by persons residing in the residence except that one (1) person not in residence on the premises may be employed on the premises.
 - d. No alterations to the exterior of the dwelling, accessory building or yard shall be permitted which alters the residential character of the premises.
 - e. Parking shall be allowed only within improved driveway areas and on the street except that on-street parking shall not be permitted at any time between the hours of 2:00 a.m. and 7:00 am. The business shall generate a demand for no more than four (4) on-street parking spaces at any one time.
 - f. Signage on the premises identifying the business shall consist of nameplate signs and shall be a maximum of two (2) square feet in area.
 - g. No sale or rental of goods stored on the premises shall be permitted, except as may be incidental to the furnishing of a service.

- h. No equipment shall be used in the home-based business that will create electrical interference for surrounding properties.
 - i. The use shall not generate noise, vibration, odor, glare, or airborne particulates, other than those customarily associated with a residence, beyond the property line of the home-based business.
 - j. Instruction in crafts and fine arts are recognized as permitted home-based business if they meet the above conditions.
 - k. The home-based business shall not impact municipal utilities and maintenance demands.
3. Family day care home subject to the following conditions:
- a. The care facilities are for seven (7) children or less.
 - b. The use shall be licensed and operated in accordance with State Law and State Licensing requirements.
 - c. The use shall be contained wholly within the principal building, except for outside play areas.
 - d. Outside play areas and associated play equipment shall be located in a rear or side yard where they will produce the least noise and visual disruptions for neighboring properties. The outside play area shall be enclosed within a fenced area.
 - e. The care provider shall be an owner and occupant of the property upon and within which the use is operated.
4. Adult foster care facilities subject to the following conditions.
- a. The care facilities are for six (6) or less persons.
 - b. The use shall be licensed and operated in accordance with State Law and State Licensing requirements.
 - c. The facility is no closer than 1,500 feet to another existing adult foster care facility.
5. Religious institutions subject to the following conditions:
- a. The building shall be designed and used primarily for worship.
 - b. A landscape buffer yard twenty (20) feet in width shall be provided on any side of a lot that abuts a residential use.
6. Renting of rooms within single-dwellings shall be permitted subject to the

following conditions:

- a. The exterior of the structure shall not be altered from its single-family character and appearance.
 - b. There shall be no separate or additional kitchen facility or facilities for roomers.
 - c. The number of rental rooms shall not exceed three (3).
7. Not more than two (2) detached accessory buildings subject to the following conditions:
- a. Only one garage per parcel is permitted. If the garage is a separate, detached building, then only one (1) other detached accessory building shall be permitted.
 - b. The maximum size for an accessory building shall be 140 square feet (excluding garages and residential units).
 - c. The total sum of square footage for both accessory buildings, where two are permitted, shall not exceed 240 square feet (excluding garages and residential units).
8. Bed and Breakfast- In the R-1, R-2, MF, and the TC districts subject to the following:
- a. The minimum lot size shall be 10,000 square feet.
 - b. Off street parking shall be provided in accordance with Article VIII of this Ordinance and at a location on the lot in keeping the essential character of a residential driveway on a lot within a residential district.
 - c. One non-illuminated sign identifying the establishment not to exceed three (3) square feet in area and not closer to the front lot line than fifteen (15) feet shall be allowed.
 - d. The residence shall be the principal dwelling unit on the property and shall be owner occupied at all times.
 - e. Not more than three (3) sleeping rooms with a maximum of six (6) people in residence may be used for rental purposes.
 - f. The rooms utilized for sleeping shall be part of the primary residential use and not specifically constructed for rental purposes.
 - g. The residence shall have at least two (2) exits to the outdoors.

driveway has access to any street. Where access is available from a publicly maintained alley, no garage doors shall be visible from a street and all vehicular access shall be to and from the alley.

5.2 R-2 ONE AND TWO FAMILY RESIDENTIAL DISTRICT

- A. Intent. This District is intended to create areas having a single-family character and neighborhood while accommodating attached two-family dwelling units, and resorts with conditions. Structures in this District should be designed to be compatible with the architectural character of the R-1 District in terms of building height, materials of construction, roofline slope, porches and windows, and pedestrian and vehicular access locations. Two-family dwelling units should have the appearance of a single-family dwelling unit and have not more than one entry in the front wall of the building.
- B. Permitted Principal Uses. Land and buildings shall be used only for the following purposes, provided the Zoning Administrator finds that the proposed use satisfies all of the District Development Regulations of this Ordinance.
1. All uses permitted in the R-1 One-Family Residential District, Section 5.1.B. as permitted principal uses.
 2. One (1) standard two-family dwelling unit on each lot unless processed as a condominium subdivision.
 3. Uses customarily incidental and accessory to a permitted principal use.
- C. Uses Permitted with Special Conditions. Land and buildings permitted with special conditions shall be used for the following purposes, provided the Planning Commission finds that the following conditions are satisfied and further provided the proposed use satisfies all of the District Development Regulations of this Ordinance.
1. All uses permitted in the R-1 One Family Dwelling District, Section 5.1.C as uses permitted with special conditions, subject to the requirements listed in that section.
- D. Uses Permitted by Special Use Permit. Land and buildings permitted by Special Land Use Permit shall be used only for the following purposes, and shall comply with the District Development Regulations of this Section and are subject to the General Standards and Specific Requirements of Article X of this Ordinance.
1. All uses permitted in the R-1 One Family Dwelling District, Section 5.1.D as uses permitted with a special land use permit.
 2. Resorts and rental cabins.
- E. District Development Regulations. The following regulations shall apply to all uses within the R-2 One and Two Family Residential District.
1. Minimum Lot Area and Width. The total lot area shall be a minimum of 6,000 square feet. Each lot shall have a minimum width of 50 feet meas-

ured at the front setback line. Only lots 80 feet or more in width shall be permitted to be divided into two (2) separate ownerships.

2. Height. Except as otherwise specifically provided in this Ordinance, no structure shall exceed 35 feet in height.
3. Setback Requirements. Except as otherwise specifically provided in this Ordinance, no structure shall be erected within the required setback areas as listed below:
 - a. The minimum front yard setback shall be twelve (12) feet.
 - b. The minimum interior side yard setback shall be five (5) feet.
 - c. The minimum rear yard setback shall be twenty (20) feet.
 - d. The minimum street side yard setback shall be five (5) feet.
4. Open Space. At a minimum, 50% of the lot shall remain as open space, and at a minimum, 30% of this area shall be landscaped. The landscaping shall meet the requirements listed in Article III, Section 3.19.
5. Minimum Dwelling Size. Each dwelling unit shall have a minimum of 800 square feet of floor area.
6. Parking. Off-street parking shall be provided as required by Article VIII of this Ordinance. Parking for a single family residential structure shall be designed so that not more than one (1) two-car garage door is visible from any street and not more than one driveway has access to any street. Where access is available from a publicly maintained alley, no garage doors shall be visible from a street and all vehicular access shall be to and from the alley.
7. Building Design. Two-family dwelling units shall be designed to have the appearance of a single-family dwelling unit with respect to the building height, materials of construction, roofline slope, porches and windows, and pedestrian and vehicular access locations. Two family dwelling units shall have not more than one entry in the front wall of the building.
8. Conversion of a One-Family Dwelling unit to a Two-Family Dwelling unit.
 - a. For the conversion of a one-family dwelling unit to a two-family dwelling unit, the existing single-family dwelling unit shall be at least 20% larger than the average floor area of the neighboring single-family dwelling units within 300 feet of the subject lot.
 - b. The minimum floor area of the principle dwelling shall be 800 square feet excluding basement area. The minimum floor area of the second dwelling shall be 600 square feet.

- c. Access to the second dwelling unit shall be provided from the interior of the building.
- d. The exterior of the building shall not be altered from its single-family character and its floor area and height shall not be increased unless such improvements bring the building into closer conformance with the architectural character of the existing single-family dwellings in the neighborhood. If it can be demonstrated that closer conformance with the architectural character of the neighborhood is achieved, the building envelope may be expanded by not more than 20 percent of the floor area of the existing dwelling.
- e. Off-street parking shall be provided as required by Article VII of this Ordinance. No new garages or driveways shall be constructed for the additional dwelling. Where vehicle access is available from a publicly maintained alley, all driveway access shall be to and from the alley.
- f. The owner of the lot shall occupy one of the dwelling units.
- g. Building plans, including elevation drawings, shall be included with the site plan review application and shall comply fully with the applicable State of Michigan (or County) Building Code.

5.3 RC RESIDENTIAL CONSERVATION DISTRICT

- A. Intent. It is the intent of this District to protect the natural contour and character of the morainic hills and steep wooded slopes south of Crystal Lake and thus prevent soil erosion and the degradation of Crystal Lake's water quality by permitting housing either at very low densities or in higher density clusters, employing Article VII, the Housing Cluster Option, thus minimizing development on steep slopes and the removal of natural vegetation consistent with the Village Master Plan and the Crystal Lake Protection Plan.
- B. Permitted Principal Uses. Land and buildings shall be used only for the following purposes, provided the Zoning Administrator finds that the proposed use satisfies all of the District Development Regulations of this Ordinance.
1. All uses permitted in the R-1 One-Family Residential District, Section 5.1.B. as permitted principal uses.
- C. Uses Permitted with Special Conditions. (Reserved).
- D. Users Permitted by Special Use Permit. (Reserved).
- E. District Development Regulations. The following regulations shall apply to all uses with the RC Residential Conservation District.
1. Minimum Lot Area and Width. The lot area shall be a minimum of one (1) acre and have a minimum width of 150 feet measured at the front setback line.
 2. Maximum Height. Except as otherwise specifically provided in this Ordinance, no structure shall exceed 30 feet in height.
 3. Maximum Building Ground Ratio: Twenty Percent (20%)
 4. Setback Requirements. Except as otherwise specifically provided in this Ordinance, no structure shall be erected within the required setback areas as listed below:
 - a. The minimum front yard setback shall be thirty (30) feet.
 - b. The minimum interior side yard setback shall be ten (10) feet.
 - c. The minimum rear yard setback shall be thirty (30) feet.
 - d. The minimum street side yard setback shall be thirty (30) feet.
 5. Overlay Regulations. Article VI, the Crystal Lake Watershed Overlay Regulations shall apply to this District.

6. Roads. Roads shall be designed and constructed in accordance with the Village's Private Road Ordinance.
7. Lot of Record. A lot of record existing on the effective date of this ordinance that is less than one acre in area may be used for not more than one dwelling or other permitted principal use provided said use conforms to the District Developments Regulations of the R-1 District (Section 5.1.E).

5.4 MF MULTI-FAMILY RESIDENTIAL DISTRICT

- A. Intent. It is the intent of this District to provide residents with opportunities for housing choice. This District is intended to accommodate a variety of attached dwelling types including two-family dwellings, town-homes apartments. Building design is encouraged to complement the architectural character of the Village.
- B. Permitted Principal Uses. Land and buildings within the MF District shall be used only for the following purposes, provided the Zoning Administrator finds that the proposed use satisfies all of the District Development Regulations of this Ordinance.
1. All uses permitted in the R-2 One and Two Family Residential District, Section 5.2.B. as permitted principal uses.
 2. Standard multiple-family dwellings consisting of three (3) or more units per building.
 3. Uses customarily incidental and accessory to a permitted principal use.
- C. Uses Permitted with Special Conditions. Land and buildings permitted with special conditions shall be used for the following purposes, provided the Zoning Administrator finds that the following conditions are satisfied and further provided the proposed use satisfies all of the District Development Regulation of this Ordinance.
1. All uses permitted in the R-2 One and Two Family Dwelling District, Section 5.2.C as uses permitted with special conditions, subject to all the requirements of that section.
 2. Mobile home developments subject to the following conditions:
 - a. Each development shall be licensed by the Michigan Department of Consumer and Industry Services as required by Rule 214k of the General Rules of the Michigan Manufactured Home Commission.
 - b. All public and private utilities shall be installed underground.
 - c. Each development shall have a minimum of one (1) access to a street.
 - d. Two-way streets within a mobile home development shall have a minimum width of 21 feet where no parallel parking is permitted, 31 feet where parallel parking is permitted along one side of the street, and 41 feet where parallel parking is permitted along both sides of the street. The minimum width of a one-way street shall be 13 feet where no parallel parking is permitted, 23 feet where parallel parking is permitted along one side, and 33 feet where parallel parking is permitted along both sides.

- e. Two parking spaces shall be provided for each home site. Required parking shall not be provided within a public street right-of-way.
- f. Mobile homes shall maintain a one hundred (100) foot landscaped setback from any public street and fifty (50) foot minimum landscaped rear and side yards adjacent to any adjoining properties.
- g. Each mobile home shall have skirting consistent with R125.1604, Rule 604 of the Manufactured Home Commission Rules. Skirting shall be installed within ninety (90) days of the date the mobile home is sited.
- h. Home sites shall have a minimum of 1,200 square feet per mobile home unit.
- i. There shall be provided a separate area either fenced and screened or enclosed, within the development for the storage of tenants' camping trailers, boats, snowmobiles, and other similar recreational equipment. Such items shall not be stored in any other area of the development.
- j. Accessory uses may be permitted including utility/laundry buildings, auxiliary storage space for mobile home tenants, and community buildings for use by the tenants of the development as well as recreation areas and playgrounds and one (1) office building exclusively for conducting the business operations of the mobile home development.
- k. A graphic development plan shall be submitted for each mobile home development, which demonstrates conformance with all of the listed conditions.

D. Users Permitted by Special Use Permit. Land and buildings permitted by Special Land Use Permit shall be used only for the following purposes, and shall comply with the District Development Regulations of this Section and are subject to the General Standards and Specific Requirements of Article X of this Ordinance.

- 1. All uses permitted in the R-2 One and Two Family Dwelling District, Section 5.2.D as uses permitted with a special land use permit.
- 2. Dormitories
- 3. Group housing
- 4. Housing for the elderly

E. District Development Regulations. The following regulations shall apply to all uses with the MF Multi-Family District.

1. Minimum Lot Area and Width. The lot shall have a minimum area of 6,000 square feet. Each lot shall have a minimum width of 60 feet measured at the front setback line.
2. Maximum Density Allowed. Density shall not exceed one (1) unit per 1,500 square feet of lot area.
3. Height. Except as otherwise specifically provided in this Ordinance, no structure shall exceed 35 feet in height.
2. Setback Requirements. Except as otherwise specifically provided in this Ordinance, no structure shall be erected within the required setback areas as listed below:
 - a. The minimum front yard setback shall be twelve (12) feet.
 - b. The minimum interior side yard setback shall be twelve (12) feet.
 - c. The minimum rear yard setback shall be twenty (20) feet.
 - d. The minimum street side yard setback shall be twelve (12) feet.
3. Open Space. At a minimum, 35% of the total lot shall remain as open space and shall be landscaped. The landscaping shall comply with the requirements listed in Article III, Section 3.19.
4. Minimum Dwelling Size. Every dwelling unit shall have a minimum of 600 square feet of floor area.
7. Water and Sewer. All mobile home developments shall have adequate water and sewer provisions. Mobile home developments shall either be connected to a public sewer or have a DEQ approved community wastewater system. Water shall be provided by the municipal public water system or an approved community well.

5.5 OC OFFICE COMMERCIAL DISTRICT

- A. Intent. It is the intent of this District to provide opportunities for low intensity office and neighborhood businesses in locations where they might likely occur due to high visibility and higher traffic flows. Uses in this District are intended to be compatible with nearby residential uses. Compatibility means they will generate relatively small volumes of traffic, will be in scale with the neighborhood, have minimal parking demand, and will not create sound, smell, or visual nuisances beyond the boundaries of the property. Structures in this District are encouraged to maintain the uniform building placement that currently exists along US 31.
- B. Permitted Principal Uses. Land and buildings in the OC District shall be used only for the following purposes, provided the Zoning Administrator finds that the proposed use satisfies all of the District Development Regulations of this Ordinance.
1. Business and professional offices such as attorneys, engineers, real estate, and insurance sales.
 2. Financial institutions
 3. Medical clinics
 4. One (1) standard single-family dwelling unit on a lot.
 5. Personal care services such as beauty salons and barber shops, and nail salons.
 6. Religious institutions
 7. Essential public services but excluding telecommunication towers
 8. Uses customarily incidental and accessory to a permitted principal use.
- C. Uses Permitted with Special Conditions. Land and buildings permitted with special conditions shall be used for the following purpose, provided the Zoning Administrator finds that the following conditions are satisfied and further provided that the proposed use satisfies all of the District Development Regulations of this Ordinance.
1. Family Day Care Home and Group Day Care Home subject to the following conditions:
 - a. The use shall be licensed and operated in accordance with State Law and State Licensing rules.
 - b. The use shall be contained wholly within the principal building, except for outside play areas.

- c. Outside play areas and associated play equipment shall be located in a rear or side yard where they will produce the least noise and visual disruptions for neighboring properties. The outside play area shall be enclosed within a fenced area.
 - d. Off-street parking shall comply with the requirements listed in Article VII of this Ordinance.
 2. Adult foster care facilities subject to the following conditions.
 - a. The use shall be licensed and operated in accordance with State Law and State Licensing requirements.
 - b. The facility is no closer than 1,500 feet to another existing adult foster care facility.
 - c. Off-street parking shall comply with the requirements listed in Article VIII of this Ordinance
 3. Accessory residential dwelling unit subject to the following conditions:
 - a. A principal structure has already been established on the lot.
 - b. Only one (1) accessory residential dwelling unit per lot is permitted.
 - c. The accessory residential dwelling unit is incorporated into the principal structure and occupies a maximum of 40% of the structure.
 - d. Off-street parking shall comply with the requirements listed in Article VIII of this Ordinance.
- D. Uses Permitted by Special Use Permit. (Reserved).
- E. District Development Regulations. The following regulations shall apply to all uses with the OC Office Commercial District.
 1. Setback Requirements. Except as otherwise specifically provided in this Ordinance, no structure shall be erected within the required yard setback area as described below.
 - a. The minimum front yard setback shall be twelve (12) feet.
 - b. The minimum rear yard setback shall be twenty (20) feet.
 - c. The minimum interior side yard setback shall be five (5) feet.
 - d. The minimum street side yard setback shall be twelve (12) feet.

2. Parking. All parking lots shall be landscaped to minimize their visual impact from the road right-of-way.
3. Height Requirements. Except as otherwise specifically provided in this Ordinance, no structure shall exceed 35 feet in height.
4. Outdoor Storage. No outdoor storage of supplies, materials, equipment or merchandise shall be permitted.
- \5. Conducted Within a Building. All activities shall be conducted within the interior of the principal or accessory building.
6. Open Space. At a minimum, 30% of the total lot area shall remain as open space and shall be landscaped. The landscaping shall comply with Article III, Section 3.19.
7. Building Design. New buildings and expansions to existing buildings shall be designed to have or retain an entryway facing a public road right-of-way. Buildings shall be designed to encourage pedestrian activity and to be of similar size, scale, and character with adjacent buildings. When a building faces two (2) or more public road rights-of-way, the building entryway shall face the road with the highest traffic volume.

5.6 TC TRANSITIONAL COMMERCIAL DISTRICT

- A. Intent. The intent of this District is to provide opportunities for businesses to occupy portions of existing residential structures in locations designated by the 1997 Future Land Use Plan. This District allows for a mixture of residential uses, low intensity offices, limited retail, and service establishments while emphasizing the preservation of the existing residential buildings. The existing residential units are a key element in preserving the Village's character. Any new structure should be designed to be compatible with these existing dwelling units in terms of building height, materials of construction, roofline slope, porches, and windows. All uses should generate relatively small volumes of traffic and have minimal parking demand that can be accommodated on the street or within improved driveway areas. Vehicular access to lots in this District is intended to be from alleys or side streets.
- B. Permitted Principal Uses. Land and buildings in the TC District shall be used only for the following purposes, provided the Zoning Administrator finds that the proposed use satisfies all of the District Development Regulations of this Ordinance.
1. All permitted uses listed under Section 5.1.B, R-1 One Family Residential District.
 2. All permitted uses listed under Section 5.5.B, OC Office Commercial District.
 3. Essential public services but excluding telecommunication towers.
 4. Uses customarily incidental and accessory to a permitted principal use.
- C. Uses Permitted with Special Conditions. Land and buildings permitted with special conditions shall be used for the following purposes, provided the Zoning Administrator finds that the following conditions are satisfied and further provided that the proposed use satisfies all of the District Development Regulations of this Ordinance.
1. All uses permitted with special conditions listed under 5.1.C, One Family Residential District.
 2. All uses permitted with special conditions listed under 5.5.C, OC Office Commercial District.
- D. Uses Permitted by Special Use Permit. (Reserved).
- E. District Development Regulations. The following regulations shall apply to all uses with the TC Transitional Commercial District.
1. Setback Requirements. Except as otherwise specifically provided in this Ordinance, no structure shall be erected within the required setback area as listed below.

- a. The minimum front yard setback shall be twelve (12) feet.
 - b. The minimum rear yard setback shall be twelve (12) feet.
 - c. The minimum interior side yard setback shall be five (5) feet.
 - d. The minimum street side yard setback shall be twelve (12) feet.
 - e. Street wall exception. Where existing buildings within 300 feet on either side of a proposed building establish a street wall, new buildings shall maintain and continue the average setback of the existing buildings.
2. Building Design. New buildings and expansions to existing buildings shall be designed to have or retain an entryway facing a public road right-of-way. Buildings shall be designed to encourage pedestrian activity and to be of similar size, scale, and character with adjacent buildings. When a building faces two (2) or more public road rights-of-way, the building entryway shall face the road with the highest traffic volume.
 3. Existing Buildings. Any remodeling, improvement, or expansion of an existing dwelling unit shall be done in an architectural style consistent with the existing dwelling unit.
 4. Vehicular Access. No vehicle access shall cross an established pedestrian pathway, such as a sidewalk, except in cases where all feasible access to the property would be denied. New driveway accesses shall be from an alleyway or from a connection with an adjacent property lot. If no alleyway exists or a connection with an adjacent property lot is not possible, then access to a public road is permitted.
 5. Parking. Parking shall not be located between a building and street line. Side yard parking shall not occupy more than 25% of the width of the primary street frontage.
 6. Height Requirements. Except as otherwise specifically provided in this Ordinance, no structure shall exceed 35 feet in height.
 7. Outdoor Storage. No outdoor storage of supplies, materials, equipment or merchandise shall be permitted.
 8. Conducted Within a Building. All activities shall be conducted within the interior of the principal or accessory building.
 9. Open Space. At a minimum, 30% of the total lot area shall remain as open space and shall be landscaped. The landscaping shall comply with Article III, Section 3.19.

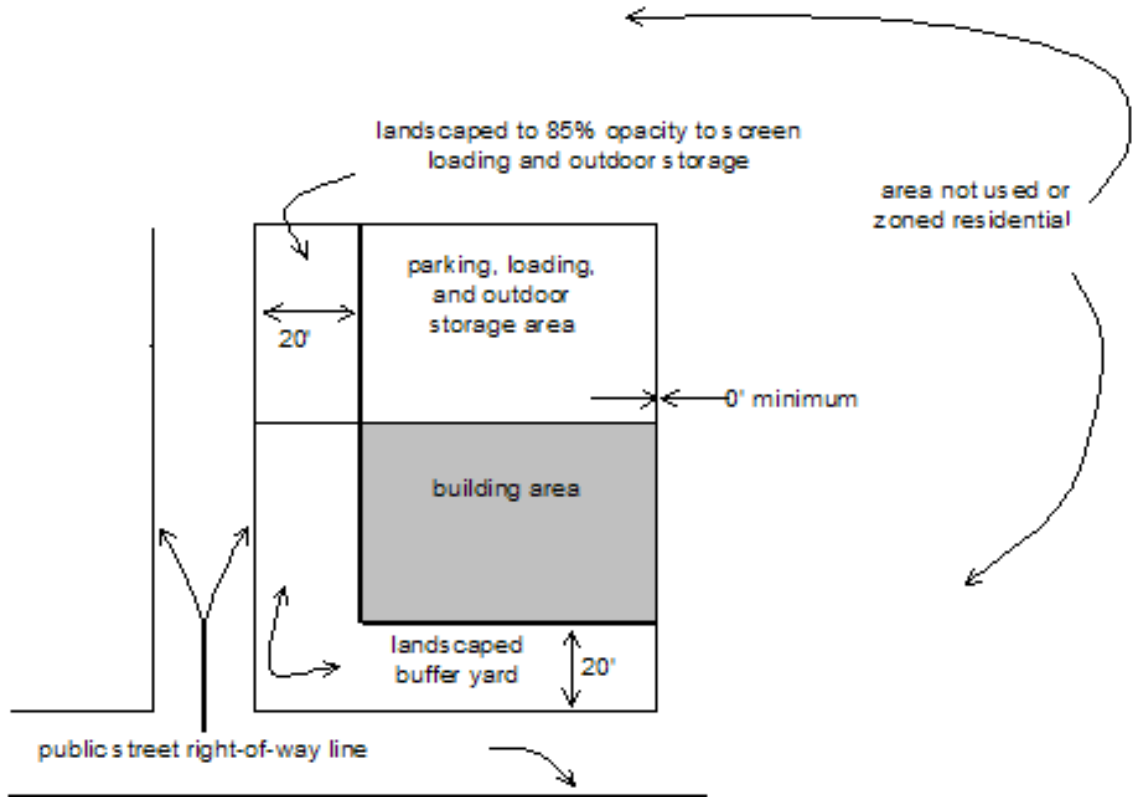
5.7 GC GENERAL COMMERCIAL DISTRICT

- A. Intent. It is the intent of this District to provide for a wide range of retail goods and service establishments primarily along US 31. These uses are intended to serve the convenience needs of local residents and passing motorists. They are intended to have coordinated access, preferably with few, if any, new accesses to allow for the efficient flow of traffic and minimal traffic conflicts. When these uses are immediately adjacent to residential uses, they are intended to exercise extraordinary measures to insure compatibility with such uses. This District also allows low intensity industrial uses subject to the approval of a Special Use Permit.
- B. Permitted Principal Uses. Land and buildings in the GC District shall be used only for the following purposes, provided the Zoning Administrator finds that the proposed use satisfies all of the District Development Regulations of this Ordinance. Sector Numbers refer to the North American Industry Classification System, 1997; Office of Management and Budget; in effect on the effective date of this Ordinance. A complete list of uses can be obtained in the Village Clerk's office.
1. All non-residential uses permitted in the OC Office Commercial District Section 5.5.B. as permitted principal uses.
 2. Accommodations and food services (Sector 72)
 3. Arts, entertainment, and recreation (Sector 71)
 4. Educational services (Sector 61)
 5. Health care and social assistance (Sector 62)
 6. Information services (Sector 51) such as newspaper, software, book and music publishers.
 7. Management of companies and enterprises (Sector 55)
 8. Personal care services such as kennels, auto repair establishments, and car washes (Sector 81).
 9. Professional, scientific, and technical services such as veterinary services, tax preparation, engineering and design services (Sector 54).
 10. Public administration services (Sector 92)
 11. Real estate rental and leasing (Section 53)
 12. Religious institutions
 13. Retail trade establishments that sell merchandise directly to the consumer (Sectors 44-45), but excluding drive-thru businesses, and outdoor sales.

14. Uses customarily incidental and accessory to a permitted principal use.
- C. Uses Permitted with Special Conditions. Land and buildings permitted with special conditions shall be used for the following purposes, provided the Zoning Administrator shall find that the following conditions are satisfied and further provided the proposed use satisfies all of the District Development Regulations.
1. Drive-thru businesses, such as banks, restaurants, and dry cleaning establishments, subject to the following conditions:
 - a. Service lanes shall be designed for a one-way traffic flow only.
 - b. Sufficient vehicle stacking space shall be provided so that motor vehicles will not interfere with circulation on sidewalks and streets.
 - c. The drive-in function shall be physically separated from customer parking areas. The physical separation shall be achieved through structures, curbs, islands, or other permanent structures.
 2. Outdoor display and sales of merchandise subject to the following conditions:
 - a. Outdoor sales shall be accessory to a principal use on the same lot.
 - b. The outdoor display of merchandise for sale shall not be in any required setback area.
 3. Antennas
 - a. Antennas are permitted as an accessory use to a principal use. The principal use shall be established on the lot prior to the placement of an antenna.
- D. Users Permitted by Special Use Permit. Land and buildings permitted by Special Land Use Permit shall be used only for the following purposes, and shall comply with the District Development Regulations of this Section and are subject to the General Standards and Specific Requirements of Article X of this Ordinance.
1. Telecommunication towers
 2. Any light manufacturing use, warehousing, and wholesaling
- E. District Development Regulations. The following regulations shall apply to all uses within the GC General Commercial District.

1. Setback Requirements. Except as otherwise specifically provided in this Ordinance, no structure shall be erected within the required setback areas as listed below.
 - a. The minimum front yard setback shall be twenty-five (25) feet.
 - b. The minimum interior side yard setback shall be five (5) feet.
 - c. The minimum rear yard setback shall be a minimum of five (5) of feet.
 - d. The minimum street side yard setback shall be twelve (12) feet.
 - e. Residential setback. When a parcel abuts a R-1, R-2, R-C, or MF parcel, the minimum setback shall be thirty (30) feet from that parcel.
2. Access. No new driveway access shall be permitted to U.S. 31 if there are alternative accesses available. Parking lot connections to adjacent lots shall be considered as alternative accesses. Even if access is available to a street, parking lots on adjacent lots shall be connected unless topography or existing buildings dictate otherwise.
3. Parking. All parking lots shall be landscaped to minimize their visual impact from US 31.
4. Height. Except as otherwise specifically provided in this Ordinance, no structure shall exceed 35 feet in height.
5. Buffer Yard Required. Where a GC use is located adjacent to or across the street from a residentially used or zoned parcel or is located on a public street, a landscaped buffer yard at least 20 feet in width shall be provided adjacent to the common property line or the street. No structures or parking shall be permitted within the buffer yard. The buffer yard shall provide for the year-around screening of parking and loading areas and the outdoor storage of materials and equipment utilizing combinations of landscaping, berming, decorative walls and fencing. Fencing alone shall not be considered to be acceptable screening in any buffer yard.
6. Minimum Lot Area/Open Space. Each lot shall have a minimum square footage of 27,000 square feet. At a minimum, 30% of the lot area shall be landscaped. The landscaping shall meet the requirements listed in Article III, Section 3.19.

GC District Buffer



5.8 DC DOWNTOWN COMMERCIAL DISTRICT

- A. Intent. The intent of this District is to regulate land uses within the downtown area and accommodate a compact mixture of retail and personal service, office, public administration, arts and entertainment and eating and drinking establishments and parking in an integrated fashion which reflect historical development patterns and encourage pedestrian activity. It is also the intent to encourage residential and other compatible uses on the upper stories of buildings with retail and service uses at the street level. Structures shall be designed to complement the historic architectural character of the area in terms of building height, construction materials, roofline slopes, and placement. Development in this District is intended to be designed to promote shared parking and is not intended to meet the parking space requirements as established by Article VIII, Off-Street Parking Requirements. This District is solely for development in the downtown area, as exemplified by the Downtown Boundary shown on the Future Land Use Map. Only properties within this boundary are intended to be zoned DC.
- B. Permitted Principal Uses. Land and buildings in the DC District shall be used only for the following purposes, provided the Zoning Administrator finds that the proposed use satisfies all of the District Development Regulations of this Ordinance.
1. Uses as permitted in the 5.7.B. GC General Commercial District, but excluding drive-thrus and outdoor storage.
 2. Uses customarily incidental and accessory to a permitted principal use.
- C. Uses Permitted with Special Conditions. Land and buildings permitted with special conditions shall be used for the following purposes, provided the Zoning Administrator finds that the following conditions are satisfied and further provided the proposed use satisfies all of the District Development Regulations.
1. Living quarters above a principal structure subject to the following conditions:
 - a. The principal use is a business.
 - b. The living quarters shall be designed to be compatible with the architectural style and character of the principal business in terms of materials of construction and roofline slope.
 - c. At a minimum, one (1) parking space per unit shall be provided on the site.
 2. Standard multiple-family dwelling units containing two (2) or more units per building.
 - a. The building shall be designed to be compatible with the architectural style and character of the downtown area.

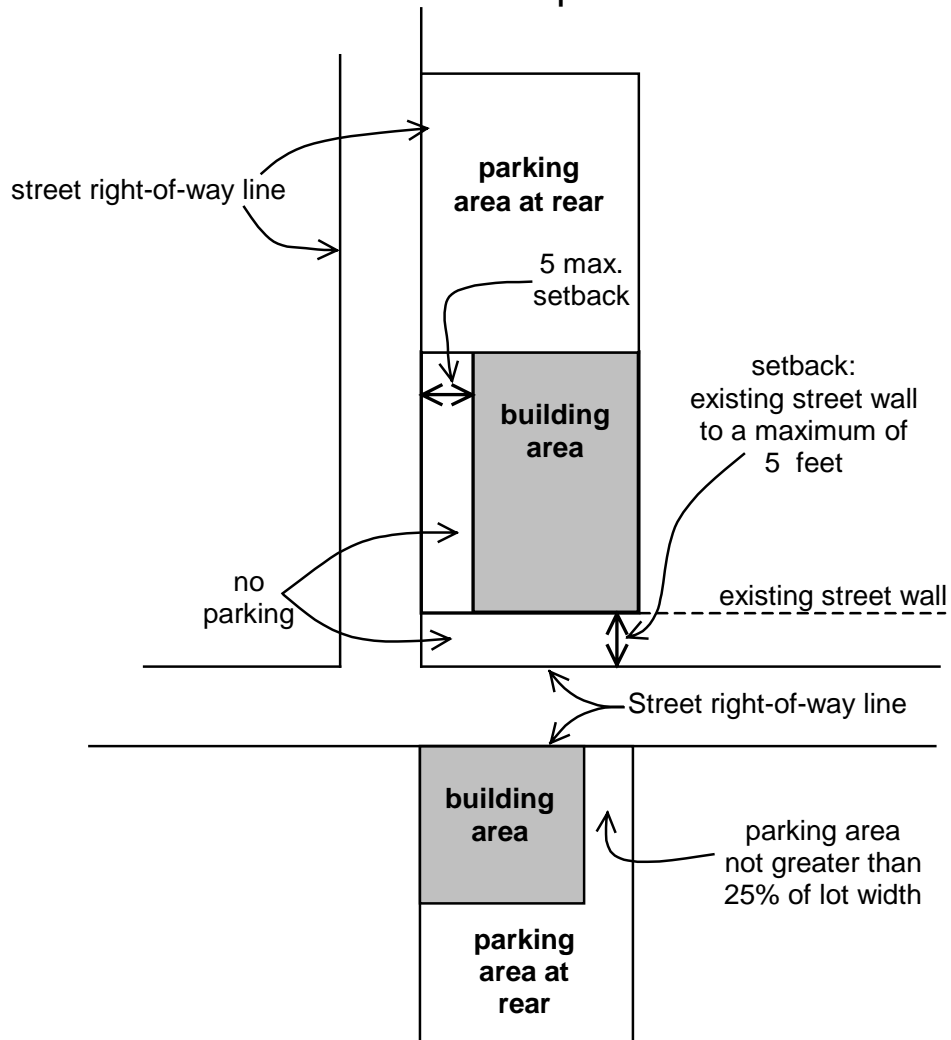
- b. At a minimum, one (1) parking space per unit shall be provided on the site. Parking shall be located at the rear of the building and shall comply fully with the provisions listed in 5.8.E.2 Shared parking is encouraged.

D. Uses Permitted by Special Use Permit. (Reserved).

E. District Development Regulations. The following regulations shall apply to all uses with the DC Downtown Commercial District

1. Building Placement. New buildings and additions to existing building shall maintain and continue the “street wall” created by adjacent buildings. In keeping with this street wall effect, no building shall be placed more than five (5) feet from the street right-of-way line. Front building facades shall be generally parallel to the street.
2. Access. No vehicle access is permitted to cross an established pedestrian pathway, such as a sidewalk, except in cases where all feasible access to the property would be denied.
3. Parking. Wherever possible, parking shall be located at the rear of buildings. Parking shall not be located between a building and the street line. Parking in front of buildings shall be limited to on-street parking. Side yard parking shall occupy no more that 25% of the width of the primary street frontage. Parking space requirements shall not be applicable to this District, with the exception of the requirements as described in 5.8.C.
4. Height. Except as otherwise specifically provided in this Ordinance, no structure shall exceed 35 feet in height.
5. Building Design. New buildings and expansions to existing buildings shall be designed to have or retain the primary entry on the front street. They shall be designed to have windows and doors at street level to encourage pedestrian activity and to be of similar size, scale and character with adjacent buildings.
6. Outdoor Storage. No outdoor storage of supplies, materials, equipment or merchandise, other than for temporary sidewalk sales, shall be permitted.
7. Accessory Buildings. Accessory buildings shall be located in the rear yard.

DC District Requirements



5.9 PUBLIC DISTRICT

- A. Intent. It is the intent of this District to regulate publicly owned land and uses. This District is also intended to protect natural resources and open space for both active and passive uses.
- B. Permitted Principal Uses. Land and buildings within the P Public District shall be used only for the following purposes, provided the Zoning Administrator finds that

the proposed use satisfies all of the District Development Regulations of this Ordinance.

1. Athletic fields
 2. Cemeteries
 3. Cultural facilities including public libraries
 4. Essential services, but excluding telecommunication towers
 5. Municipal administration uses and facilities such as Village offices, police administration, and public works.
 6. Parks and Playgrounds
 7. Public beaches
 8. Public open space
 9. Public parking lots
 10. Public sewage treatment facilities
 11. Recreation facilities
 12. Recycling collection facilities
 13. Public, parochial, and private elementary and secondary schools
 14. Uses customarily incidental and accessory to a permitted public use.
- C. Uses Permitted with Special Conditions. (Reserved)
- D. Users Permitted by Special Use Permit. Land and buildings permitted by Special Land Use Permit shall be used only for the following purposes, and shall comply with the District Development Regulations of this Section and are subject to the General Standards and Specific Requirements of Article X of this Ordinance.
1. Telecommunication Towers.
- E. District Development Regulations. The following regulations shall apply to all uses within the P Public District.
1. Height. Except as otherwise specifically provided in this Ordinance, no structure shall exceed 35 feet.

2. Setback Requirements. Except as otherwise specifically provided in this Ordinance, no structure shall be erected within the required setback area as listed below.
 - a. The minimum front yard setback shall be twelve (12) feet.
 - b. The minimum rear yard setback shall be twelve (12) feet.
 - c. The minimum interior side yard setback shall be five (5) feet.
 - d. The minimum street side yard setback shall be twelve (12) feet.

ARTICLE VI - CRYSTAL LAKE WATERSHED OVERLAY REGULATIONS

6.1 PURPOSE

The purpose of this Section is to protect the environmental quality of Crystal Lake, the Crystal Lake shoreline, Cold Creek and its tributaries, and the Crystal Lake watershed through appropriate land use and design regulations. The protection of the Crystal Lake watershed is deemed a public purpose in order to preserve important environmental, historical, residential, recreational, cultural, scenic, and economic attributes of the region.

More specifically, the purpose of this Section is to protect the public health, safety, and welfare; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird, and other wildlife habitat; to protect buildings and lands from accelerated erosion; to protect wetlands; to control building sites, placement of structures, and land uses; to conserve shore cover; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.

6.2 WATERSHED OVERLAY REGULATIONS

All areas regulated by this Ordinance that are in the Crystal Lake watershed, according to the Crystal Lake Watershed Overlay Map, shall meet all of the requirements of this Section. The Crystal Lake Watershed Overlay Map shall illustrate the boundaries of the watershed. It shall be on file with the Village Clerk and the Zoning Administrator at all times. Any interpretations of the boundaries of this map shall be the responsibility of the Zoning Administrator, whose decision may be appealed to the Zoning Board of Appeals.

In cases where a parcel is partially inside and partially outside of the overlay boundary, only those portions located within the overlay boundary are required to comply with the regulations of this Section.

6.3 USES PERMITTED

All uses permitted by right or by conditional use permit in the underlying zoning district shall be permitted in the Crystal Lake Watershed Overlay.

6.4 LAND DENSITY AND INTENSITY REGULATIONS

The land density and intensity regulations of the underlying zoning districts shall be met unless this Section specifically states otherwise.

6.5 APPLICABILITY AND APPROVAL PROCESS

This Section shall apply to all properties, which are within the Crystal Lake Watershed that are within 75 feet of Crystal Lake, Cold Creek or any of its tributaries; or contain slopes in excess of 12%; or contain a ridgeline as defined herein. No grading, excavation, tree removal, filling, or construction of any kind shall be permitted until a Site Plan has been approved and a Zoning Permit has been issued by the Zoning Administrator.

6.6 DESIGN STANDARDS

The purpose of the design standards of this Section are to slow the rate of stormwater runoff, to reduce erosion and sedimentation, to protect water quality, to keep nutrients from entering lakes and streams, to maintain water temperatures at natural levels, to preserve fish and wildlife habitat, and to preserve aesthetic and scenic values of the watershed environment.

All properties regulated by this Ordinance including new buildings and uses and additions or extensions to existing buildings and uses, shall meet the design standards of this Section.

A. Setbacks from Crystal Lake and Cold Creek

1. All buildings shall be set back at least seventy-five (75) feet from the ordinary high-water mark of Crystal Lake and Cold Creek.
2. No structures shall be constructed within seventy-five (75) feet of the ordinary high-water mark of Crystal Lake and Cold Creek. Within this required setback area, a maximum of 400 square feet of land shall be covered by impervious surfaces, including sidewalks, streets, driveways, parking areas, and patios, for each 100 linear feet of lake frontage.
3. No unsightly, offensive, or potentially polluting material, including but not limited to lawn clippings, leaves, garbage, trash, refuse, or toxic materials, shall be dumped or stored within seventy-five (75) feet of the ordinary high-water mark of Crystal Lake or Cold Creek.

B. Vegetative Buffer: Existing natural vegetation located within seventy-five (75) feet of the ordinary high water mark of Crystal Lake and Cold Creek shall be maintained as a vegetative buffer except as regulated by the following:

1. Removal of vegetation from the required natural vegetative buffer for sight-line or access enhancement shall be limited to no more than twenty-five (25) percent of the length of this buffer, provided that cutting of this twenty-five (25) percent shall not create a clear-cut opening greater than twenty-five (25) feet wide for every one hundred (100) feet of shoreline.
2. Natural shrubbery and trees that are removed shall be replaced with other naturally occurring vegetation that is equally effective in retarding runoff, preventing erosion, and preserving natural beauty. A mowed lawn is not an acceptable vegetative buffer adjacent to the shoreline.
3. Plant materials native to Northern Michigan shall be used when new vegetation is planted.
4. Existing soil and organic matter shall not be altered or disturbed within the natural vegetative buffer.
5. These provisions shall not apply to the removal of dead, diseased, or dying trees at the discretion of the landowner.

C. Development on Sites With Steep Slopes in the RC District: Development on sites in the RC District with slopes greater than twelve (12) percent shall meet the design requirements of this Section.

1. Permitted Number of Dwellings: The number of residential dwellings permitted shall be based on the existing slope conditions of the site. The maximum number of units allowed shall be the sum of the dwellings permitted in each slope category by applying the following densities:

Maximum Density	Existing Slope Category
1.00 Units per Acre	0 to 17 Percent
0.75 Units per Acre	18 to 24 Percent
0.50 Unit per Acre	25+ Percent

2. Lot Coverage: The amount of land allowed to be covered by impervious surfaces shall be based on the existing slope of the site. Lot coverage shall be defined as the percentage of the lot (excluding rights-of-way and wetlands) that is covered by impervious surfaces, including buildings, structures, and paving. In the case of Housing Cluster Options and Condominiums, each individual lot need not meet the requirements of this Section, provided that the total project does meet the requirements of this Section. The maximum lot coverage allowed shall be as follows based on slope conditions:

Lot Coverage	Existing Slope Category
30 Percent	0 to 17 Percent
20 Percent	18 to 24 Percent
10 Percent	25+ Percent

3. Natural Vegetative Cover: As much of the existing vegetation, including bushes, shrubs, natural ground cover, and trees, shall be retained on the site as possible. Lawn areas shall not qualify as natural vegetative cover as required by this Section. The required amount of vegetative area to remain undisturbed shall be based on the existing slope on the site and shall be clearly indicated on the proposed site plan. The natural vegetated areas shall be located along lot lines, natural drainage courses, wetlands, and steep slopes. In the case of Housing Cluster Options and Condominiums, each individual lot need not meet the requirements of this Section, provided that the total project does meet the requirements of this Section.

Percentage of Lot to Remain in Natural Vegetative Cover	Existing Slope Category
30 Percent	0 to 17 Percent
40 Percent	18 to 24 Percent
50 Percent	25+ Percent

4. Development on Slopes of Twenty-Five (25) Percent or Greater: Development on slopes of twenty-five (25) percent or greater shall be prohibited unless strict interpretation of the ordinance would create practical difficulties or unnecessary hardship so as to preclude or significantly impair the development of the site. If the property owner believes that practical difficulties exist, he or she may request a variance from the Zoning Board of Appeals prior to any development on slopes of twenty-five (25) percent or greater. In granting a variance request, the Zoning Board of Appeals shall find as follows:
 - a. That granting the variance meets the requirements for a variance as established by P.A 110 of 2006.
 - b. That the development will disturb the least amount of natural earth and vegetation and will therefore minimize soil erosion and sedimentation.
 - c. That the peak rate of stormwater runoff after development will not exceed the peak rate of stormwater runoff prior to development.
 - d. That all of the design requirements of this Section are met.
5. Determination of Slope: The determination of slope shall be made by the Applicant and approved by the Zoning Administrator and/or the Village's consulting Engineer. The determination shall be issued in writing. If there is disagreement as to the determination of slope, the applicant may appeal the decision of the Zoning Administrator to the Zoning Board of Appeals in writing not more than 15 days following the written decision by the Zoning Administrator.

In making an appeal, the applicant shall present topographic mapping or a survey prepared and sealed by a licensed architect, a registered civil engineer, or a licensed surveyor. Based on the evidence presented by the Zoning Administrator and/or the Village's Consulting Engineer and the applicant, the Zoning Board of Appeals shall make a slope determination and shall record its decision on the proposed site plan.

- D. Development on Ridgelines in the RC District: A "ridgeline" shall be defined as a line at which a critical slope area breaks to a slope of less than eight (8) percent for a distance of a least twenty (20) feet. A "critical slope area" shall be defined as all slopes facing Crystal Lake that have a significant portion of their grade being twelve (12) percent or greater for a distance of at least one hundred (100) feet.
 1. All principal buildings shall be set back a minimum of fifty (50) feet from all ridgelines.
 2. No principal or accessory buildings or structures located within one hundred (100) feet of a ridgeline shall exceed a height of eighteen (18) feet.

3. All accessory structures, such as but not limited to signs, sheds, garages, and satellite dishes, shall be set back at least thirty (30) feet from all ridge-lines.
4. Existing natural vegetation located within twenty (20) feet on either side of the ridgeline shall be maintained as a vegetative buffer except as regulated by the following:
 - a. Removal of vegetation in the natural vegetative buffer shall be limited to no more than twenty-five (25) percent of the length of this buffer, provided that cutting of this twenty-five (25) percent shall not create a clear-cut opening greater than twenty-five (25) feet wide for every one hundred (100) feet of ridge line.
 - b. Natural shrubbery and trees that are removed, shall be replaced with other naturally occurring vegetation that is equally effective in retarding runoff, preventing erosion, and preserving natural beauty. A mowed lawn is not an acceptable vegetation buffer adjacent to a ridgeline.
 - c. Plant materials native to Northern Michigan shall be required when new vegetation is planted.
 - d. Existing soil and organic matter shall not be altered or disturbed within the natural vegetative buffer.
- E. Private Roads: All private roads located in the Watershed Overlay District shall meet the requirements of the Village's Private Road Ordinance.
- F. Storm Water Management: Prior to issuance of a zoning permit, a Soil Erosion and Sedimentation Control Permit shall be issued by the Benzie County Soil Erosion Control Officer in accordance with Part 91 of P.A. 451, as amended. Storm water management shall be designed and constructed in accordance with Michigan's Best Management Practices.
- G. General Design Standards: For all developments where this Ordinance applies, the following general design standards shall be followed:
 1. Natural vegetation shall be maintained. If the removal of vegetation is required, reestablishment of a compatible native plant material shall be required.
 2. Existing mature trees shall be incorporated into the project design.
 3. Natural drainage courses shall be protected from grading activity.
 4. Groundwater flow patterns shall not be interrupted.

5. Slopes created by the grading of the site shall not exceed a slope ratio of one (1) foot of vertical slope to three (3) feet of horizontal distance.
6. Buildings shall be clustered as much as possible to retain open space and surrounding tree cover and to minimize changes in topography.
7. Screening along roadways shall make the maximum use of berming and landscaping but shall not interfere with sight distances.

H. Construction Guidelines: For developments where this Ordinance applies, the following construction guidelines shall be followed:

1. Natural vegetation shall be retained and protected.
2. Where inadequate vegetation exists, temporary or permanent vegetation shall be established.
3. All exposed slopes and graded areas shall be landscaped with ground cover, shrubs, and trees as soon as possible.
4. The smallest practical area of land shall be exposed at any one time during development.
5. When land is exposed during development, the exposure shall be kept to the shortest practical period of time and, if possible, shall be scheduled during seasons of minimum precipitation.
6. The permanent final vegetation and all structures shall be installed as soon as practical.
7. Trees are susceptible to all development in their immediate vicinity. Unless extreme measures are taken during construction to protect them, their life span will inevitably be shortened. The developer shall demonstrate how trees will be protected during construction and the measures to be employed should trees be proposed to be relocated.
8. For relocating trees, the root ball shall be approximately ten (10) to twelve (12) inches in diameter for every inch of the tree's diameter. Adequate drainage and backfill shall be necessary to complete the relocation. Root protection during construction is essential in saving mature trees. Required techniques include either a geotextile aeration mat to allow structures to have adequate ventilation, while protecting the roots from excessive compaction and/or steel-reinforced concrete paving patterned with voids to be filled with gravel or grass that allow drainage, while protecting the tree from root compaction in highly trafficked areas.

ARTICLE VII- HOUSING CLUSTER OPTION

7.1 PURPOSE AND INTENT

Purpose and Intent. This overlay option may be employed as a vehicle to vary the strict requirements of the RC District, and the applicable Crystal Lake Watershed Overlay Regulations, thus allowing for variations in density, lot area, lot width, setback, building height, and housing types. It is the intent of this Option to provide incentives in the form of density bonuses and greater flexibility in the design and arrangement of housing units provided large areas of the site are preserved in their existing natural wooded and topographic state, thus reducing soil erosion and the potentially adverse impacts on the water quality of Crystal Lake that may result from soil erosion and the improper management of storm water.

7.2 QUALIFYING CONDITIONS

Qualifying Conditions. In order to qualify for Housing Cluster Option consideration, all of the following conditions shall be satisfied:

- A. **Recognizable and Substantial Benefits.** The Housing Cluster Option shall result in recognizable and substantial benefits to the ultimate users of the project and to the Village, where such benefits would otherwise be unlikely to be achieved under the regulations of the underlying Residential Conservation District. The following benefits shall accrue from the Housing Cluster Option Plan:
 - 1. The long-term protection and preservation of open space and valuable natural resources, in particular, steep slopes, woodlands, shorelines, lakes, and wetlands.
 - 2. The siting of structures and roads so as to leave substantial areas free from grading and development of any kind, especially where they correlate with steep slopes that are susceptible to soil erosion.
- B. **Minimum Site Area.** The minimum site area necessary to be considered for the Housing Cluster Option shall be three (3) acres.
- C. **Unified Control of Property.** The proposed development shall be under single ownership or control such that there is a single person or entity having responsibility for completing the project in conformity with this Ordinance and the conditions of the Housing Cluster Option approval.
- D. **Utilities.** The Housing Cluster Option shall be serviced by public sewer and water systems, if available, or DEQ/Health Department approved community cluster systems.

7.3 VARIATIONS PERMITTED

The following standards represent the maximum and minimum development standards allowed in the RC District as part of a Housing Cluster Option, provided the requirements, standards, objectives and procedures of this Section are satisfied. All of the requirements of the Crystal Lake Watershed Overlay Regulations that are not specifically varied below, in subparagraphs of this paragraph, shall continue to apply.

- A. **Maximum Density.** Density shall be based on slope categories. The maximum number of dwelling units permitted shall be the sum of the number of dwellings allowable per existing slope category, rounded to the nearest whole number, as follows:

<u>Existing Slope Category</u>	<u>Maximum Density Per Category</u>
0 to 17 Percent	2.00 Units per Acre
18 to 24 Percent	1.50 Units Per Acre
25 + Percent	1.00 Units Per Acre

Since the intent of this section is to avoid the development of, and thereby minimize the disruption of, steep wooded slopes, the number of dwelling units permitted by this density calculation shall be clustered so as to substantially occupy the least slope category.

- B. **Minimum Lot Area.** The maximum number of units permitted shall be based on the density calculation in 7.3 (A), 1. In order to facilitate clustering, lot areas may be reduced provided they shall not be less than the following:
- Five thousand (5,000) square feet for detached single-family dwellings, whether a subdivision or condominium subdivision.
 - Three thousand (3,000) square feet for attached single-family dwellings.
 - No minimum lot area is required for multiple-family dwellings.
- C. **Minimum Lot Width.** Fifty (50) feet measured at the required front setback line.
- D. **Minimum Setbacks.** All setbacks may be varied except that a minimum setback of twenty (20) feet shall be required from all property boundaries.
- E. **Maximum Structure Height.** Thirty-five (35) feet.
- F. **Variations in Housing Type.** In addition to detached single-family dwellings, the following dwelling types shall be permitted as principal uses in a Housing Cluster Plan:
- Attached single-family dwellings including duplexes, and town houses.
 - Attached multiple-family dwellings including apartments and condominiums.

7.4 APPLICATION PROCEDURES

An application for a Housing Cluster Option shall be made on forms provided by the Zoning Administrator. The application shall be submitted by the owner of an interest in land for which Housing Cluster Option approval is sought, or by the owner's authorized agent. Housing Cluster Option applications shall be submitted in accordance with the following procedures and requirements, which provide for review and action by the Village Council.

- A. **Optional Pre-Application Conference.** Prior to the submission of a formal Housing Cluster Option application for consideration of a Preliminary Development Plan, the applicant may request a meeting with the Village President and the Zoning Administrator, together with such consultants and local officials and staff as either the Village or the applicant deem appropriate. The purposes of the meeting will be to inform Village officials of the applicant's intent, to determine whether the minimum eligibility requirements of a Housing Cluster Option are satisfied, and to provide the applicant with information regarding land development policies, procedures, standards, and the ordinance requirements of the Village as they might apply to the proposed project. Statements made in the course of a pre-application conference shall not constitute legally binding commitments on the part of either party. At the pre-application conference (or conferences), the applicant may present a general sketch plan, which provides an overview of the proposed project.

- B. **Preliminary Development Plan: Application, Public Hearing And Action.**
 1. Application. The applicant shall submit twelve (12) copies of the Preliminary Development Plan, written narrative, support documentation, and the application to the Zoning Administrator. The Preliminary Development Plan shall meet the submittal requirements of Section 7.5 of this Ordinance. The Preliminary Development Plan Application shall be submitted to the Zoning Administrator at least twenty-one (21) days prior to the date of the public hearing. The Zoning Administrator shall review the materials to determine whether they are complete. When complete, the Zoning Administrator shall forward copies to the Village Clerk and the Village Council.

 2. Public Hearing. Once the application is deemed by the Zoning Administrator to be complete, the Village Council shall conduct at least one public hearing on the application. One notice of the public hearing shall be published in a newspaper of general circulation in the Village and sent by mail or personal delivery to the owners of property for which approval is being considered, to all persons to whom real property is assessed with three hundred (300) feet of the boundary of the property, and to the occupants of all structures within 300 feet. Such notice shall be given not less than five (5) and not more than fifteen (15) days before the date the application will be considered by the Village Council. If the name of an occupant is unknown, the term "occupant" may be use in making notification. Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses or or-

ganizations, one occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses, or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure. The applicant shall provide the mailing labels. Notices shall contain the following:

- The place and time of the public hearing.
 - A description of the nature of the request.
 - A description of the property, which is the subject of the request. The description shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
 - When and where written comments will be received concerning the request.
3. Review and Action. The Village Council shall review the Preliminary Development Plan application and public hearing comments, and shall approve, deny, or approve with conditions the Preliminary Development Plan. The decision shall be incorporated in a statement of conclusions relative to the Preliminary Development Plan. The Council shall prepare a report stating its conclusions on the Preliminary Development Plan, the basis for its decision, the decision, and any conditions relating to an affirmative decision.
4. Approval Standards. A Housing Cluster Option shall not be approved by the Village Council unless it conforms with the following standards:
- a. All elements of the Plan shall be harmoniously and efficiently organized in relation to existing topography and the character of adjoining property.
 - b. The Plan shall be developed so as not to impede the normal and orderly development or improvement of surrounding property.
 - c. The landscape and natural landforms shall be preserved as specified by this Article VII of this Ordinance. Furthermore, there shall be a minimum disruption of steep wooded slopes and the number of dwelling units permitted shall be clustered to substantially occupy the least slope category.
 - d. The Plan shall fully comply with the requirements and standards of the County Drain Commissioner and the County Soil Erosion Control Officer regarding grading, storm water management, and soil erosion control.
 - e. The design of the Housing Cluster Option shall provide visual and sound privacy for all dwelling units within and surrounding the development, including appropriate perimeter setbacks and screening. Fences, walls, and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of the Plan's occupants.

- f. The configuration of buildings, driveways, and other improvements shall permit emergency access on all sides of buildings by some practical means satisfactory to the Fire Marshall. Every structure or dwelling unit shall have access to an approved street, walkway or other area dedicated to common use.
 - g. Loading and unloading areas and outside storage areas, including areas for the storage of trash, shall not be visible from residences or streets.
 - h. Signage, lighting, landscaping and building materials shall reflect an integrated development. Exterior lighting shall be arranged so that it is deflected away from adjacent properties and streets.
 - i. The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets and pedestrian or bicycle pathways in the area. All private streets and roads shall conform to the requirements of the Village of Beulah Private Road Ordinance, as amended.
 - j. The proposed Plan shall comply with the requirements of the County Health Department and, where applicable, the County Road Commission.
 - k. All utilities serving a Housing Cluster Option, including electric, telephone, and cable television lines, natural gas and propane gas lines shall be placed underground.
5. Conditions. The Village Council may attach conditions to the approval of a Preliminary Development Plan when such conditions:
- a. Are necessary to insure that public services and facilities affected by the Plan will be capable of accommodating the increased service and facility loads caused by the project.
 - b. Will protect the natural environment and conserve natural resources and energy.
 - c. Will insure compatibility with the adjacent uses of land.
 - d. Will promote the use of land in a socially and economically desirable manner.
6. Record of Approval. The Zoning Administrator shall maintain a complete record of the approved Preliminary Development Plan and the approval process including the application, the written and graphic Preliminary Development Plan, the minutes of the Village Council meetings, public notices, mailing lists, and the conditions imposed by the Village Council. If subsequently approved, the application, plans, and proceedings of the Final Development Plan shall be incorporated and maintained as part of this record of approval.

7. Phasing. Where a project is proposed for construction in phases, it shall be so designed that each phase, when completed, shall be capable of standing on its own in terms of the presence of services, facilities, and open space, and shall contain the necessary components to insure protection of natural resources and the health, safety and welfare of the users of the Housing Cluster Option and residents of the surrounding area.
8. Extensions. A Final Development Plan application shall be approved and construction commenced for at least one phase of the Housing Cluster Option within two (2) years following Preliminary Development Plan approval or within two (2) years of any other necessary governmental approval required for commencement of the project. Upon written application prior to expiration, the Village Council may grant an extension for up to one additional year if there is good reason to believe that the applicant will commence substantial construction toward completion of a phase of the Plan within the approved timeframe. The applicant shall demonstrate to the satisfaction of the Village Council, that the project is feasible and marketable prior to receiving an extension.
9. Failure to Perform/Revocation. If an application for a Final Development Plan is not commenced within two (2) years following approval of a Preliminary Development Plan, construction has not commenced meaningfully toward completion, and a written extension prior to expiration has not been requested, the Zoning Administrator shall notify the applicant in writing of the expiration and revocation of the Preliminary Development Plan. The Village Council shall have the authority to revoke the Preliminary Development Plan in accordance with the following procedures:
 - a. Public Hearing. The Village Council shall conduct a public hearing in accordance with the notification and permit procedures of this Section.
 - b. Revocation. If, after taking testimony and reviewing the record, the Village Council determines that the applicant is unlikely to commence a project in accordance with the approved Preliminary Development Plan, the Council shall have the authority to revoke the Preliminary Development Plan. In the event the Council decides to revoke the application, it shall inform the applicant in writing and provide the applicant with the reasons for such revocation.

C. Final Development Plan/Site Plan Review

1. Application and Review. An application for a Final Development Plan shall be reviewed by the Village Council in accordance with the procedures established for Site Plan Review, Article XI, of this Ordinance.
2. Substantial Compliance Required. The Final Development Plan shall be in substantial compliance with the approved Preliminary Development Plan. Substantial compliance shall mean the following:

- a. The number of residential living units has not increased or decreased by more than five percent from that approved in the Preliminary Development Plan;
 - b. The floor area of non-residential uses has neither been increased by more the five percent nor has the gross floor area of any individual building been increased by more than ten percent from that approved in the Preliminary Development Plan;
 - c. There has been no increase in the number of stories in any building;
 - d. Open space has not been decreased or altered to change its original design or intended use; and
 - e. All conditions attached to the Preliminary Development Plan by the Village Council have been incorporated into the Final Development Plan.
3. Failure to Comply. If the Final Development Plan is not in substantial compliance with the approved Preliminary Development Plan, the Zoning Administrator shall not forward the Final Development Plan to the Village Council for consideration.
4. Simultaneous Submittals. Applicants may combine the Preliminary Development Plan and Final Development Plan approvals for review by the Village Council by submitting all information required for both stages simultaneously.

7.5 SUBMITTAL REQUIREMENTS

- A. **Submittal Requirements for a Preliminary Development Plan.** The Preliminary Development Plan shall include the following information:
- 1. Existing Conditions. The mapping and description of existing conditions including:
 - a. A legal description and the ownership of the property.
 - b. The number of acres broken down into buildable areas, unbuildable areas (i.e. ponds, lakes, streams, wetlands) and areas of public road right-of-way.
 - c. Mapping and descriptions of existing conditions including site topography, slope conditions by slope category, drainage patterns, unbuildable areas, floodplains, woodlands and other vegetated areas, existing land use and structures, existing zoning and such other information as may be relevant to the review of the plan.

- d. Mapping and written descriptions of existing conditions surrounding and within two hundred (200) feet of the site including existing land use, historical and archaeological features, structures, roads, existing zoning, utilities, topography, and natural features that may have a relationship with the subject property.
 - e. The description and mapping of soils conditions and their suitability if DEQ/Health Department approved community cluster systems are to be employed.
2. Preliminary Development Plan. A Preliminary Development Plan graphic for the entire site plus a written narrative illustrating:
- a. The location, number, density and height of residential units, the location and number of parking spaces, the location and dimensions of driveways, and the location and dimensions of other structures.
 - b. Approximate road and utility locations and sizes;
 - c. Generalized grading and drainage plans showing major cuts and fills and how and where drainage will be accommodated including the sizing and calculation of retention and detention areas;
 - d. The number of acres and the location of areas that are to remain undisturbed and permanently maintained in a natural state and preserved as open or recreational space and/or for natural feature, historical and archaeological and wildlife habitat preservation;
 - e. A description of the uses to be made of common open space, its proposed ownership and the instruments to be employed to irrevocably convey and maintain such open space;
 - f. Typical drawings and sketches which illustrate the proposed character of the development and the concepts and relationships of buildings to each other, to roads, to parking and to common open space areas and the proposed architectural style;
 - g. Generalized landscaping plans;
 - h. Generalized plans for signage and lighting including the location, size and character of signs and the type and character of lighting proposed;
 - i. A description of the requested variations from underlying zoning district standards and the rationale for approval of said variations;
 - j. A plan for the timing and phasing of development;

- k. A statement of the covenants or other restrictions proposed for the regulation and governance of the development;
- l. A description of other governmental approvals that are required or pending and the status of these approvals; and
- m. A general summary of the expected impacts of the Housing Cluster Option and the measures proposed to mitigate such impacts including traffic, environmental, and other impacts.
- n. Waivers. The Zoning Administrator may waive some of the submittal requirements of this Section if he or she finds that they do not apply.

B. Submittal Requirements For a Final Development Plan. A Final Development Plan, representing one phase of a Preliminary Development Plan, shall include all of the information required by Article XI, Site Plan Review, of this Ordinance. No grading, excavation, tree removal, filling, or construction of any kind shall be permitted until a Site Plan has been approved and a Zoning Permit has been issued by the Zoning Administrator.

7.6 FEES

There shall be an advance payment of fees at the time of filing of the Preliminary Development and Final Development Plans. The amount of such fees shall be as established by the Village Council by ordinance or resolution. Such fees may include the estimated costs of all consultants and attorneys contracted by the Village to review the Housing Cluster Option and insure conformance with this Ordinance.

ARTICLE VIII OFF STREET PARKING REQUIREMENTS

8.1. OFF-STREET PARKING REQUIREMENTS

- A. Off-Street Parking Regulations.
1. When units or measurements determining number of required parking spaces result in the requirement of a fractional space, the fraction shall be considered one (1) required parking space.
 2. In all zoning districts, except in the Downtown Commercial District, off-street parking shall be provided in amounts not less than specified for the various uses.
 3. Requirements for a use not mentioned shall be the same for that use which is most similar to the use not listed, as determined by the Zoning Administrator.
 4. Additional parking shall be provided and maintained in proper ratio to any increase in floor area or building use capacity.
 5. Where benches, pews, or other similar seating facilities are used as seats, each twenty (20) inches of such seating facilities shall be counted as one (1) seat.
 6. In the case of mixed uses in the same building, the total requirements for off-street parking and loading shall be the sum of the requirements for each individual use computed separately.
 7. It shall be unlawful to use any of the off-street parking established to meet the requirements of this Ordinance for any purpose other than the parking of licensed vehicles.
 8. No commercial repair work, servicing, or selling of any kind shall be conducted on any parking area. Required parking spaces shall be used only for the parking of vehicles used to service the establishment to which it is accessory and by its patrons.
 9. No advertising sign shall be erected on required parking areas except that not more than one (1) directional sign at each point of ingress or egress may be erected which may also bear the name of the enterprise the lot is intended to serve. Such signs shall not exceed two (2) square feet in area and shall not project beyond the property line of the premises.
 10. The joint use of parking facilities by two (2) or more uses is recommended, and may be approved by the Village Council, when the following can be satisfied.

- a. **Computing Capacities:** In computing capacities of any joint use, the total space requirement is the sum of the individual requirements that will occur at the same time. If the parking demand for individual uses occur at distinctly different times, the total of such off-street parking facilities required for joint or collective use may be reduced below the sum total of the individual space requirements.
 - b. **Record of Agreement:** A copy of an agreement between joint users shall be filed with the application for a zoning permit and recorded with the Register of Deeds for Benzie County. The agreement shall include a recorded easement for continued use of the parking facility for each party of the joint use.
11. The number of required off-street parking spaces in all districts for every residential, recreational, institutional, cultural, business, and industrial use shall be provided in accordance with the following minimum requirements:

B. Off-Street Parking Space Requirements.

USE	PARKING SPACE PER UNIT OF MEASUREMENT AS FOLLOWS:	
RESIDENTIAL		
One and two family	2	Per each dwelling unit
Accessory dwelling unit	2	Per each accessory dwelling unit
Multiple family and attached single family	2	Per each dwelling unit
Multiple family in the DC zone	1	Per each dwelling unit
Mobile home developments	2	Per each mobile home unit
INSTITUTIONAL		
Day care center	1	Per each four (4) persons based on licensed capacity, plus amount required for accessory uses
	6	off-street queuing spaces
Churches	1	Per each three (3) seats based on maximum seating capacity in the main place of assembly therein.
Convalescent homes, adult foster care, nursing homes, children's homes	1	Per each two (2) beds
Elementary and junior high schools	1	Per classroom, plus the requirements of the auditorium or assembly hall therein
High schools, colleges and trade schools	1	Per 2 employees plus
	1	Per each eight (8) students, based on maximum occupancy load established by local, county, state, fire, health, or building codes, plus requirements of the auditorium or assembly hall therein.
Hospitals	2	Per each bed (bassinets shall not be counted

USE	PARKING SPACE PER UNIT OF MEASUREMENT AS FOLLOWS:	
		as beds)
Libraries and museums	1	Per each 400 square feet of usable floor area
Private clubs and lodges	1	Per each three (3) individual members allowed within the maximum occupancy load as established by local, county, state, fire, health, or building codes
Private tennis club, swim club, golf club or other similar uses	1	Per each two (2) member families or individuals, plus the listed parking requirements for any accessory use.
Senior independent living units	1	Per each living unit
Senior assisted care units, homes for the elderly, retirement community housing, etc.	1	Per 3 residents
Auditoriums, stadiums and assembly halls	1	Per each three (3) seats based on maximum seating capacity in the main place of assembly therein
COMMERCIAL		
Animal hospitals and kennels	1	Per each 400 square feet of gross floor area
Barber shops	2	Per each barber
Beauty shops	3	Per each beauty operator
Bed and breakfast	1	Per rented room, provided on site, plus
	2	For operator's dwelling unit
Bowling lanes	5	Per bowling lane plus amount required for accessory uses
Convenience stores	1	Per 500 square feet of usable floor area
Dance halls, exhibition halls, pool halls, billiard parlors, and assembly halls without fixed seats	1	Per each two (2) persons allowed within the maximum occupancy load as established by local, county, state, fire, health, or building codes
Furniture, appliances, and household equipment repair shops, hardware stores, and other similar uses	1	Per each 800 square feet of gross floor area
Laundromats, coin operated dry cleaning establishment	1	Per three (3) washing or dry cleaning machines
Marinas	1.5	Per boat slip
	1	Per each four (4) boat storage spaces
Miniature or "Par 3" golf courses	3	Per each hole plus amount required for accessory uses
Mortuary establishments, funeral homes, undertaking parlors	1	Per each 500 square feet of gross floor area
Motels, hotels and tourist home	3	Per two guest rooms plus the amount required for each accessory use including restaurants, lounges and gift shops

USE	PARKING SPACE PER UNIT OF MEASUREMENT AS FOLLOWS:	
Personal service establishment (not otherwise provided for herein)	1	Per each 300 square feet of usable floor area
Restaurants and other establishments (other than drive-thru restaurants) in which is conducted the sale and consumption on the premises of food, beverages, or refreshments	1	Per each two (2) persons allowed within the maximum occupancy load as established by local, county, state, fire, health, or building codes.
Restaurants (drive-thru) or similar drive-thru uses for the sale of food, beverages, or refreshments	1	Per each 50 square feet of gross floor area plus,
	2	drive-thru short term waiting spaces plus,
	12	stacking spaces for drive-thru service which do not conflict with the use of required spaces plus,
	2	longer spaces designated for recreational vehicles, buses, and semi-trucks
Retail stores	1	1 space for each 200 square feet of gross floor area
Roadside stands	6	Per establishment
Theaters with:	1 to 3 screens or stages	1 per each 4 seats
	4 to 6 screens or stages	1 per each 5 seats
Vehicle repair shops, collision or bump shops, and other similar uses	1	Per each 800 square feet gross floor area, plus
	3	Per each stall or service area
Vehicle salesrooms, machinery sales and other similar uses	1	Per each 200 square feet usable floor area, plus amount required for accessory uses
Vehicle service stations	3	Per each service stall, plus
	1	Per each service vehicle, plus amount required for convenience store, vehicle wash, or other applicable accessory use
Vehicle wash establishments	1	Per employee during peak shifts plus,
	12	stacking spaces per bay for a semi- or fully automatic car wash plus,
	2	stacking spaces per bay for a self-serve car wash
Wholesale stores	1	Per 200 square feet of gross floor area
OFFICES		
Banks (drive-thru)	4 stacking spaces	Per each drive-thru window which do not conflict with the use of required parking spaces plus requirements for a bank
Banks (other than drive-thru banks) and post offices	1	Per each employee or service window plus
	1	Per each 300 square feet of gross floor area

USE	PARKING SPACE PER UNIT OF MEASUREMENT AS FOLLOWS:	
Business and professional offices	1	Per each 250 square feet of gross floor area
Medical clinic and dental clinic	3	Per each examining room
INDUSTRIAL		
Industrial or manufacturing establishments and research establishments	1	Per each 300 square feet of gross floor area, plus amount required for accessory uses and offices, with a minimum of five (5) spaces
Warehouses and storage buildings	1	Per each 2,000 square feet gross floor area, with a minimum of four (4) spaces

C. Off-Street Parking Design Standards. The following design standards shall apply:

1. Parking areas with a capacity of four (4) or more vehicles shall be surfaced with a material that shall provide a durable, smooth, and dustless surface and shall be graded and provided with drainage facilities to accommodate surface runoff on site.
2. Each parking space shall be provided access by means of a maneuvering aisle. Backing directly into a street or highway shall be prohibited. Parking spaces shall be clearly marked and have the following minimum dimensions depending on the parking pattern:

	Stall Width	Aisle Width	Stall Length	Bay ¹⁾ Width	Bay ²⁾ Width
a. Parallel Parking	9 feet	12 feet	23 feet	30 feet	21 feet
b. 90-Degree Parking	10 feet	24 feet	19 feet	60 feet	42 feet
c. 60-Degree Parking	10 feet	18 feet	19 feet	54 feet	36 feet
d. 45-Degree Parking	10 feet	13 feet	19 feet	50 feet	32 feet
e. 30-Degree Parking	10 feet	11 feet	19 feet	48 feet	30 feet

¹⁾With 2 parking stalls and aisle

²⁾With one parking stall and aisle

8.2 OFF-STREET LOADING REQUIREMENTS

A. Off-Street Loading Regulations.

1. On the same premises with every building or part thereof, erected and occupied for manufacturing, storage, warehouse, goods display, department store, wholesale, market, hotel, hospital, laundry, dry cleaning, or others similarly involving the receipt or distribution of vehicles, material, or merchandise there shall be provided and maintained on the lot adequate space for standing, loading, and unloading services in order to avoid undue interference with street or parking areas.
2. Such loading and unloading space, unless completely and adequately provided for within a building, shall be a minimum area of ten (10) feet by

fifty (50) feet, with fourteen (14) foot height clearance, and shall be provided according to the following schedule:

- a. Off-street loading spaces shall be screened from view of residential areas and public streets and highways.
- b. Off-Street Loading Space Requirements.

Gross Floor Area in Square Feet	Loading and Unloading Spaces Required in Terms of Square Feet of Gross Floor Area	
0-2,000	0	
2,000-20,000	1	
20,000-and above	1	plus one space for each 20,000 square feet in excess of 20,000 square feet.

ARTICLE IX - SIGN REGULATIONS

9.1 DESCRIPTION AND PURPOSE

To permit and regulate the use of signs in all districts.

9.2 DEFINITIONS RELATING TO SIGNAGE

Sign Area: The entire area within a circle, triangle, or parallelogram enclosing the extreme limits of writing, representation, emblem, or any figure or similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate such sign from the background against which it is placed; excluding the necessary supports or up-rights on which such sign is placed. Where a sign has two or more faces, the area of all faces shall be included in determining the area of the sign, except that where two (2) such faces are placed back to back. The area of the sign shall be taken as the area of one face if the two faces are equal area, or as the area of larger face if the two faces are of unequal area.

Where a sign consists solely of lettering or other sign elements printed or mounted on a wall of a building without any distinguishing border, panel or background, any blank area which is more than 10% of the area of sign as otherwise computed shall be disregarded. All of the lettering and other sign elements printed or mounted upon a wall of a building without any distinguishing border, panel or background and pertaining to the same enterprise shall be treated as a single sign for purposes of area computation.

Floor Space: The area exclusively occupied by an occupant measured from the inside surface of the walls bounding the exclusively occupied area and excluding any portion of building halls, sanitary facilities, and other common or service areas.

On-Premises Sign: A sign that advertises only goods, services, facilities, events or attractions available on the premises where located, or identifies the owner or occupant or directs traffic on the premises. All other signs are off-premises signs.

Premises: A lot as otherwise used in this Ordinance.

Sign: A name identification, image, description, display or illustration which is affixed to, painted, or represented directly or indirectly upon a building, structure, or piece of land, and which directs attention to an object, product, place, activity, facility, service, event, attraction, person, institution, organization or business and which is visible from any street, right-of-way, sidewalk, alley, park or other public property. Customary displays of merchandise or objects and material without lettering placed behind a store window are not signs or parts of signs. Grave-stones and grave markers are not signs.

9.3 USE REGULATIONS

The following signs shall be permitted for the identification of premises, for providing information relative to the functions of the premises, or for advertising, within the particular limitations for each district noted. A sign permitted issued by the Zoning Administration is required prior to the placement of a sign.

- A. Residential Districts R-1, R-2, RC and MF. One sign identifying each subdivision having an area not exceeding 20 square feet and a height not exceeding 8 feet, is permitted. During development of a subdivision or other property for a period not exceeding two (2) years, one (1) sign, naming the subdivision or other property, developer, contractors, and subcontractors, engineers, architects, brokers, and financial institutions involved, and advertising the development, having an area not exceeding 50 square feet and a height not exceeding 12 feet, is permitted in this subdivision. Signs permitted by this section are exempt from the setback requirements as listed in the applicable section of Article V, District Regulations.
- B. Office Commercial District, OC and Transitional Commercial District, TC. On premises signs are permitted an area not exceeding four (4) square feet for each ten (10) feet or fraction of street frontage. No sign shall have an area exceeding 20 square feet. Where any premises have more than one (1) occupant, the permitted area shall be divided among them in the same proportion as floor space is occupied by them. Where the premises have more than two (2) occupants and have a name distinct from that of any occupant, as in an office building, an additional two (2) square feet of sign area for each ten (10) feet or fraction of street frontage, with a maximum of 30 square feet is permitted only for signs advertising the premises. Signs shall be subject to the height and setback rules applicable to buildings in their respective districts.
- C. General Commercial District, GC. On premises signs are permitted having an area not exceeding six (6) square feet for each ten (10) feet or fraction of frontage or 60 square feet for each acre or fraction of area of the premises, whichever is larger. No sign shall have an area exceeding 60 square feet. Where any premises have more than one occupant, the permitted area shall be divided among them in the same proportion as floor space and outdoor sales space is occupied by them. Where the premises have more than two (2) occupants and have a name distinct from that of any occupant, as in a shopping center, an additional two (2) square feet of sign area for each ten (10) feet or fraction of street frontage, with a maximum of 100 square footage, is permitted only for signs advertising the premises. Signs shall be subject to the height and setback rules applicable to buildings in the GC district.
- D. Downtown Commercial District, DC. On premises signs are permitted having an area not exceeding two (2) square feet for each foot of street frontage for occupants of the ground floor, with a maximum of 50 square feet for each sign, and one (1) square foot for each 100 square feet of floor space occupied for occupants of other floors with a maximum of 32 square feet. Where any premises have more than one (1) ground floor occupant, the permitted area shall be divided among them in the same proportion as floor space is occupied by them. Where any prem-

ises have more than one (1) occupant on floors other than the ground floor, the permitted area shall be divided among them in the same proportion as the floor space is occupied by them. Where the premises have more than two (2) occupants and a name distinct from that of any occupant, as in an arcade or office building, an additional one (1) square foot for each foot of street frontage, with a maximum of 32 square feet is permitted for signs advertising only the name of the premises. Where an occupant has an entrance on an alley, an additional ten (10) square feet is permitted for signs visible in such alley. No setback shall be required, but there shall be a maximum sign height of 10 feet. Freestanding signs are not permitted in the DC zoning district.

- E. Public District, P. Signs posted by public authorities identifying activities lawfully conducted on public property or providing direction relative thereto. There are no restrictions as to size, location or height.

9.4 TEMPORARY SIGNS AND BANNERS

Temporary signs and banners shall be authorized by the Zoning Administrator for not more than two (2) months at a time by written permit which shall show the size, shape, content, height, type of construction, and location of such signs and the period during which authorized, upon a finding by the Zoning Administrator, on the basis or written information furnished by the applicant, that the proposed sign or signs are necessary for the direction of the public and not contrary to the spirit and purpose of this Ordinance.

9.5 OBSOLETE SIGNS

It is unlawful to maintain for more than thirty (30) days any sign which has become obsolete because of discontinuance of the business, service or activity which it advertises, removal from the location to which it directs, or for any other reasons. The fact that an obsolete sign is non-conforming shall not be construed as modifying any of the requirements of this section.

9.6 MISCELLANEOUS SIGN RULES

- A. It shall be unlawful to erect or maintain any sign on any property, public or private, without the consent of the owner or occupant thereof.
- B. Its shall be unlawful to erect or maintain any sign, except a cloth flag moved only by natural wind, which moves or has any moving or animated parts or image, whether movement is caused by machinery, electricity, wind, or otherwise, including swinging signs. It shall be unlawful to erect or maintain any illuminated sign where the light source moves or is not of constant intensity and color, or any string of lights except from the day after Thanksgiving of each year until the following January 2.
- C. It shall be unlawful to erect or maintain any sign on, over or above the public land or right-of-way if any part of such signs extends more than four (4) feet over such public land or right-of-way, is less than nine (9) feet above ground level, or has an area exceeding eight (8) square feet, except a sign printed on a marquee or awning,

but this section does not apply to signs posted by duly constituted public authorities in the performance of their public duties.

- D. It shall be unlawful for a business in any district to have a Changeable Copy sign as defined by then ordinance.

9.7 NONCONFORMING SIGNS

It is the intent to eliminate nonconforming signs except as otherwise specifically set forth in this section as rapidly as the police power of the Village permits. Any lawfully erected sign which is made unlawful by this Ordinance may continue to be maintained (ie being painted or having minor repairs). No nonconforming sign:

- A. Shall be changed to another nonconforming sign.
- B. Shall have any changes made in the words or symbols used or the message displayed on the sign unless the sign is an off-premises advertising sign, or a bulletin board, or substantially similar type of sign, specifically designed for periodic change of message.
- C. Shall be structurally altered so as to prolong the life of the sign or so as to change the shape, size, type or design of the sign.
- D. Shall be re-established after the activity, business or usage to which it relates has been discontinued for ninety (90) days or longer.
- E. Shall be reestablished after damages or destruction if the estimated expense of reconstruction exceeds fifty (50%) percent of the reproduction cost.

9.8 EXEMPTIONS FROM SIGN REGULATIONS

- A. Signs having an area of not more than two (2) square feet, the message of which is limited to conveying street numbers, the names of the premises, the name of the owner of the premises, and the name of the occupant of the premises.
- B. Signs having an area of not more than six (6) square feet and the message is limited to warning of danger, prohibition or regulation of the use of property or traffic or parking thereon, or advertising the premises for sale or rent.
- C. The flag or any state or nation respectfully displayed.
- D. Signs located on the rolling stock of common carriers or on motor vehicles or trailers bearing current licenses plates which are traveling or lawfully parked upon public highways, or lawfully parked upon any other premises for a period not exceeding four (4) hours or for a longer period where the primary purpose of such parking is not the display of any sign and where the number of vehicles bearing a sign or signs of any one (1) advertiser does not exceed one (1) plus one (1) more for each 25,000 square feet of area of the premises.

- E. Church or institutional bulletin boards having an area not exceeding 32 square feet.
- F. On-premises signs located inside an enclosed building and visible through a window or windows thereof where the area of such signs does not exceed 20% of the area of the window or windows.
- G. On any election day, signs advocating or opposing a candidate for public office or a position on an issue to be determined at the election located at least 100 and not more than 200 feet from any entrance to a building in which a polling place is located.
- H. Signs visible only from the premises on which located or visible off the premises only through a window or windows from which they are set back at least ten (10) feet.
- J. Labels identifying the source, brand name, or manufacturer of merchandise exhibited for sale.
- K. Signs indicating only the date of erection of a building and having an area not exceeding six (6) square feet.
- L. Signs posted by duly constituted public authorities in pursuance of their public duties are exempt from regulation under this Ordinance.
- M. Real estate signs not exceeding six (6) square feet.

ARTICLE X SPECIAL LAND USES

10.1 PURPOSE AND PROCEDURES

- A. Intent and Purpose. In order to provide controllable and reasonable flexibility, this Article permits detailed review of certain specified types of land use activities which, because of their particular and unique characteristics, require special consideration in relation to the welfare of adjacent properties and to the community as a whole. Land and structure uses possessing these characteristics may be authorized within certain zoning districts by the issuance of a special land use permit. By such a procedure, safeguards upon each use which are deemed necessary for the protection of the public welfare may be reviewed and the standards set forth within the Ordinance shall be considered and determined by the Village Council.
- B. Permit Procedures. An Application for a special land use permit for any use of land or structure permitted under this Article shall be submitted and processed in accordance with the following procedures:
1. Submission of Application: Any application shall be submitted to the Zoning Administrator on a special form for that purpose at least 31 days prior to the date of the public hearing. Each application shall be accompanied by the payment of a fee as established by the Village Council to cover the costs of processing the application. No part of any fee shall be refundable.
 2. Data Required: Every application shall be accompanied by the following information:
 - a. The application form, supplied by the Zoning Administrator, filled out in full by the applicant, including a statement of supporting evidence showing compliance with the requirements of this Section.
 - b. A site plan drawn to scale in accordance with the requirements of Article XI of this Ordinance (preferably 1" = 50') for the total property. The site plan shall show springs, lakes and ponds, flood plain elevations, water courses and topography at two (2) foot contour intervals, the location of all abutting streets, the location of all existing and proposed structures and their uses, and the location and extent of all above ground development, both existing and proposed.
 - c. A written impact assessment to include the following information:
 - 1) A written illustrative description of the environmental characteristics of the site prior to development, i.e., topography, soils, vegetative cover, drainage, streams, creeks or ponds, surrounding land use.
 - 2) Types of uses and other man-made facilities.

- 3) The number of people to be housed and/or employed, the number of visitors or patrons and vehicular and pedestrian traffic.
- 4) Phasing of the project including ultimate development proposals.
- 5) Natural features which will be retained, removed and/or modified including vegetation, drainage, steep slopes, streams, wetlands, woodlands, wildlife and water. The description of the areas to be changed shall include the effect on the site and adjacent properties. An aerial photo may be used to delineate the areas of change.
- 6) The method to be used to serve the development with water and sanitary sewer facilities.
- 7) The method to be used to control drainage on the site and from the site. This shall include soil erosion control during periods of construction.
- 8) 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.
- 9) An indication of how the proposed use conforms with existing and potential development patterns and any adverse effects.
- 10) Names(s) and address(es) of person(s) responsible for preparation of this statement.
- 11) Description of measures to control soil erosion and sedimentation during grading and construction operations and until a permanent ground cover is established. Recommendations for such measures may be obtained from the County Soil Conservation Service.
- 12) Type, direction, and intensity of outside lighting.
- 13) General description of deed restrictions, if any.

The Zoning Administrator shall have the authority to waive any of the above information that does not have application to the project.

3. Village Council Review and Hearing: The application, along with all required information shall be transmitted to the Village Council for review. After adequate review and study of any application, the Village Council shall publish in a newspaper having general circulation in the Village, one (1) notice that a request for special land use permit approval has been received.

a. The content of the notice shall:

- 1) Describe the nature of the special land use permit request.
- 2) Indicate the property that is the subject of the special land use permit request. The description shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
- 3) State when and where the special land use permit request will be considered.
- 4) Indicate when and where written comments will be received concerning the request.
- 5) Indicate that a public hearing on the special land use request will be held.

b. The notice shall be given not less than fifteen (15) days before the date the application will be considered and the public hearing held.

c. The notice shall be delivered personally or by mail to:

- 1) The owners of property for which approval is being considered.
- 2) All persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question. The applicant shall provide the mailing labels.
- 3) The occupants of all structures within three hundred (300) feet of the boundary of the property in question. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one (1) occupant of a structure; except that, if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organization, one (1) occupant of each unit or spatial area shall receive notice. The applicant shall provide the mailing labels.

- 4) The Village Council may deny, approve, or approve with conditions, a request for special land use permit. The decision on a special land use permit consideration shall be incorporated in a statement containing the conclusions that specified the basis for the decision, and any conditions imposed. Only upon approval by the Village Council may a special land use permit be issued by the Zoning Administrator.
- d. Permit Expiration: A special land use permit issued under this Section shall be valid if substantial construction has commenced and there are no physical or operational changes which alter the permitted use. If substantial construction on the permitted use has not commenced toward completion by the end of one year, the Zoning Administrator shall notify the applicant in writing of the expiration and revocation of said permit. Prior to its expiration, the applicant may request in writing an extension by the Village Council for the period of one year. Such extension may be granted when the Village Council finds that there is good reason to believe the applicant will in fact commence substantial construction toward completion by the end of the second year.
 - e. Revocation Authority and Procedures: When an existing permitted special use is found to be in violation of the conditions under which it was approved, the Village Council shall have the authority to revoke the special land use permit in accordance with the following procedures:
 - 1) Notice. The Zoning Administrator shall give notice by registered mail to bring the special use into compliance with the requirements and conditions of the special land use permit within 60 days of the date of notification. In the event the violation is not corrected within the 60-day period, the Zoning Administrator shall refer the matter to the Village Council for action.
 - 2) Public Hearing. The Village Council shall conduct a public hearing in accordance with the notification and permit procedures of this Article.
 - 3) Revocation. If, after taking testimony and reviewing the record, the Village Council determines that the special land use is failing to comply with the conditions of permit issuance, the Village Council shall have the authority to revoke the permit and order the termination of the special use. In the event the Village Council decides to terminate, it shall order termination of the use in writing and provide the owner with the reasons for such order and the time schedule for compliance. In the event the order of the Village Council

cil is not complied with, the matter shall be referred to the Village Attorney for enforcement actions.

- f. Reapplication: No application for a special land use permit which has been denied wholly or in part by the Village Council shall be resubmitted until the expiration of one (1) year or more from the date of such denial, except on the grounds of newly discovered evidence, or proof of changed conditions, or the Village Attorney specifies in writing that it is his professional opinion that an error has been made warranting reconsideration.

10.2 BASIS FOR DETERMINATIONS

Before approving or disapproving a special land use permit application, the Village Council shall establish that the following general standards, as well as the specific standards outlined in each application Section of the Article, shall be satisfied.

- A. General Standards. The Village Council shall review each application for the purpose of determining that each proposed use meets the following standards, and in addition, shall find adequate evidence that each use on the proposed location will:
 - 1. Be designed, constructed, operated and maintained so as to be harmonious, compatible, and appropriate in appearance with the existing or intended character of the general vicinity and that such a use will not change the essential character of the area in which it is proposed.
 - 2. Not be hazardous or disturbing to existing or future uses in the same general vicinity and will be a substantial improvement to property in the immediate vicinity and to the community as a whole.
 - 3. Be served adequately by essential facilities and services, such as highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities, or schools.
 - 4. Not create excessive additional requirements at public cost for public facilities and services.
 - 5. 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 or odors.
- B. Specific Requirements. In reviewing an impact assessment and site plan, the Village Council shall consider the following standards as the specific standards outlined in the following sections:
 - 1. That the applicant may legally apply for site plan review.
 - 2. That all required information has been provided.

3. That the proposed development conforms to all regulations of the zoning district in which it is located.
4. That the plan meets the requirements of the Village for fire and police protection, water supply, sewage disposal or treatment, storm drainage and other public facilities and services.
5. That the plan meets the standards of other government agencies where applicable, and that the approval of these agencies has been obtained or is assured.
6. That natural resources will be preserved to a maximum feasible extent, and those areas to be left undisturbed during construction shall be so indicated on the site plan and at the site per se.
7. That the soil conditions are suitable for excavation and site preparation, and that organic, wet or other soils which are not suitable for development will either be undisturbed or modified in an acceptable manner.
8. That the proposed development will not cause soil erosion or sedimentation problems either during or after construction.
9. That the drainage plan for the proposed development is adequate to handle anticipated storm water runoff, and will not cause undue runoff onto neighboring property or the overloading of water courses in the area.
10. That grading or filling will not destroy the character of the property or the surrounding area, and will not adversely affect the adjacent or neighboring properties.
11. 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, and drainage or erosion control.
12. That the plan provides for the proper expansion of existing facilities such as public streets, drainage systems and water and sewage facilities.
13. That landscaping, fences or walls may be required by the Village Council in pursuance of the objectives of this Ordinance.
14. That parking layout will not adversely affect the flow of traffic within the site, or to and from the adjacent streets.
15. That vehicular and pedestrian traffic within the site, and in relation to streets and sidewalks serving the site, shall be safe and convenient.
16. 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.

C. Conditions and Safeguards. The Village Council may impose such additional conditions and safeguards deemed necessary for the general welfare, for the protection of individual property rights, and for insuring that the intent and objectives of this Ordinance will be observed. The breach of any condition, safeguard or requirement shall automatically invalidate the permit granted. The conditions shall be recorded in the record of approval action. The conditions imposed shall meet all of the following requirements:

1. Be designed to protect natural resources, the health, safety, and welfare, as well as the social and economic wellbeing of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
2. Be related to the valid exercise of the police power and purpose which are affected by the proposed use or activity.
3. Be necessary to meet the intent and purpose of the zoning requirements, be related to the standards established in the zoning ordinance or the land use or activity under consideration, and be necessary to insure compliance with those standards.

D. Performance Guarantee. To ensure compliance with the Zoning Ordinance and any condition imposed: the Planning Commission may require that a cash deposit, certified check, or unconditional irrevocable bank letter or credit, or surety bond acceptable to the Village covering the estimated cost of improvements associated with a project for which site plan approval is sought, be deposited with the Village Clerk to ensure faithful completion of the improvements, and also be subject to the following:

The performance guarantee shall be deposited at the time of the issuance of the building permit authorizing the activity of the project. The Village may not require the deposit of the performance guarantee prior to the time when the County is prepared to issue the permit. The Village shall establish procedures whereby a rebate of any cash deposits in reasonable proportion to the ratio of work completed on the required improvements will be made as work progresses. This does not relieve the applicant from satisfying all applicable maintenance warranties and/or guarantees necessary to ensure the proper functioning of the public improvements.

This section shall be not applicable to improvements for which a cash deposit, certified check, irrevocable bank letter of credit, or surety bond has been deposited pursuant to the Subdivision Control Act, Act 288 of the Public Acts of 1967, as amended.

As used in this section, “improvements” mean those features and actions associated with a project which are considered necessary by the body or official granting zoning approval to protect natural resources, or the health, safety, and welfare of the residents of the Village and future users or inhabitants of the proposed project

or project area, including roadways, lighting, utilities, sidewalks, screening, landscaping, and surface drainage.

10.3 SPECIAL LAND USES

The Village Council shall have the authority to grant a special land use permit for the following uses:

- A. Reserved for future use
- B. Commercial Daycare, Group Daycare, Nursery School. In the R-1, R-2, MF and TC Districts subject to the following conditions:
 - 1. The use shall be licensed and operated in accordance with State Law and Licensing Rules.
 - 2. The use shall be contained wholly within the principal building except for outside play areas.
 - 3. Outside play areas and play equipment associated therewith shall be located in a rear or side yard where they will produce the least noise and visual disruptions for neighboring properties.
 - 4. The use is not allowed in an apartment.
 - 5. The use is limited to an established and recognized work or shift period and shall not be operated on a 24 hour basis unless approved by the Village Council.
 - 6. “Approved Child Care Provider” identification is prominently displayed in a street side window so as to be clearly identifiable from the public street, or as otherwise required from the Village Council.
- C. Dormitories, Group Housing, Housing for the Elderly. In the M-F District subject to the following conditions:
 - 1. The proposed site shall be located to have at least one (1) property line on a public improved street. Primary access to the site shall be from this street.
 - 2. The minimum yard setback shall be twenty-five (25) feet from all property lines.
 - 3. The Village Council may require fences or other methods of secure enclosure that it deems appropriate for the type of facility being considered.
 - 4. In addition to the requirements listed in Article III, Section 3.19 of this Ordinance, the side and rear property lines shall be landscaped to mitigate any impacts from the use.

5. All loading areas shall be screened from public streets and residential areas to an opacity of 80%.
 6. Primary access shall not be routed through residential areas.
 7. The facility is no closer than 1,500 feet to another existing dormitory, group housing facility, and housing for the elderly facility.
- D. Educational Institutions. In the R-1, R-2, MF, and TC Districts subject to the following conditions:
1. The proposed site shall be located to have at least one (1) property line a public improved street. Primary access to the site shall be from this street.
 2. The minimum yard setback shall be twenty-five (25) feet from all property lines.
- E. Light Manufacturing, Warehousing, Wholesaling. In the GC District subject to the following conditions:
1. Loading Docks, Trash and Mechanical Equipment. Loading docks, trash receptacles and mechanical equipment shall not be visible from residential areas or state or federal highways.
 2. Noise. Noise emanating from a use in this District shall not result in the loss of the peaceful enjoyment of adjacent properties by people of ordinary and reasonable hearing and sensibilities.
 3. Fumes and Gases. The use shall emit no toxic or corrosive fumes or gases which may be deleterious to the public health, safety or general welfare; except for those produced by internal combustion engines under designed operating conditions.
 4. Odor. The use shall emit no smoke, odorous gases or other odorous matter in such quantities as to be offensive at or beyond the boundary of the lot.
 5. Dust and Particulate Matter. The use shall not discharge into the air dust or other particulate matter.
 6. Heat and Glare. The use shall produce no heat or glare which is humanly perceptible at or beyond the lot boundaries.
 7. Vibration. The use shall produce no physical vibrations that are perceptible beyond the lot boundaries.
 8. Explosive Material. The use shall not involve the production or storage of any material designed for use as an explosive nor shall it use such material in production.

9. Buffer Yard Required. Where an light manufacturing use warehouse, or wholesaling use is located adjacent to or across the street from a residentially used or zoned parcel or is located on a public street, a landscaped buffer yard at least 20 feet in width shall be provided adjacent to the common property line and/or street. No structures or parking shall be permitted within the buffer yard. The residential buffer yard shall provide for the year-around screening of loading areas and the outdoor storage of materials and equipment utilizing combinations of landscaping, berming, decorative walls and fencing to a height of six feet and an opacity of 80%. Fencing alone shall not be considered to be acceptable screening in any buffer yard and shall not be used in a required front or street side yard.
10. Outdoor Storage of Products, Supplies, Materials and Equipment. Products, supplies, materials and equipment shall be located and screened so as not to be visible from streets or residential areas.
11. Fire Code Requirements. All uses and structures shall meet the fire code requirements of the County.
12. Application. New uses shall be required to comply fully with all of the above performance requirements. The expansion of existing uses shall be required to comply with performance requirements 3 through 10 and 13 above. Only to the extent that existing buildings and uses are expanded (that portion actually expanded), shall they be required to comply with performance requirements 1, 2, 11, and 12 above. Refer to Article XII of this Ordinance for Nonconformities.

F. Resorts, Rental Cabins. In the R1, R2 and MF Districts subject to the following conditions:

1. One non-illuminated sign identifying the establishment not to exceed three (3) square feet in area and not closer to the front lot line than fifteen (15) feet shall be allowed.
2. The maximum number of structures on a property used for cohabitation purposes shall be two (2), including the primary structure.
3. The maximum number of renters on a parcel shall be limited to eight (8).
4. The rental sleeping rooms shall have a minimum size of one hundred (100) square feet for each two (2) occupants with an additional thirty (30) square feet for each occupant to a maximum of four (4) occupants per room.
5. Rental of snowmobiles, ATV's or similar vehicles, boats and other marine equipment, in conjunction with the operation of the establishment shall be prohibited.
6. Parking facilities shall be no closer than twenty (20 feet) to any property line.

7. At a minimum, 50% of the lot shall remain as open space, at a minimum, 30% of this area shall be landscaped. The landscaping shall meet the requirements listed in Article III, Section 3.19.
8. A special use permit shall not be granted if the essential character of a lot or structure within a residential district, in terms of use, traffic generation, or appearance will be changed substantially by the occurrence of a resort or rental cabin (s).

G. Telecommunications Towers. In the GC and P Districts subject to the following conditions:

1. Towers shall be required to meet the performance requirements of the district and shall be screened in accordance with such requirements to a height of fifteen (15) feet above the ground.
2. Towers shall be set back a distance equal to the height of the tower from all property lines.
3. Towers shall not be located within parking lots or other areas where they will interfere with the operation of a business on the property.
4. Towers shall not be located within a yard that abuts U.S. 31 unless the tower is a camouflaged tower.
5. No tower shall be constructed as a speculative tower. Prior to construction, each tower shall have at least one contracted carrier and evidence shall be provided of such contract at the time of application.
6. Collocation of antennas is required. Each tower shall be designed and built to accommodate at least two antennas. Before any tower is considered, the proposer shall demonstrate in writing that there are no other collocation options available in the area.
7. The base of the tower shall be enclosed with a six (6) foot high security fence.
8. Towers shall not have signs, banners or other forms of commercial advertisement attached or otherwise affixed to the tower or the security fence.
9. To reduce visual obtrusiveness, towers shall maintain either a galvanized or concrete appearance unless constructed as a camouflaged tower.
10. If a tower ceases to operate for a period of six months, the tower shall be deemed abandoned and shall be removed upon written notice by the Zoning Administrator within one year of abandonment.

11. All towers shall meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this ordinance shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.
12. Where a feasible alternative exists, towers, alternative tower structures and supporting structures shall not utilize a power source which generates noise able to be heard by a person of normal aural acuity at adjoining property lines or public property; however, this section shall not be construed as limiting the use of temporary generators or similar devices used to create power during periods of interruption of the primary power source.
13. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.
14. Antenna and metal towers shall be grounded for protection against a direct strike by lightning and shall comply as to electrical connections and wiring and as to structural integrity with all applicable state and local building codes and the applicable standards for towers published by the Electronic Industries Association, as amended from time to time.
15. The maximum height of a tower shall be 199 feet.

ARTICLE XI SITE PLAN REVIEW

11.1 INTENT

Site plan review is intended to ensure that developments are designed to integrate well with adjacent developments, minimize nuisance impacts on adjoining parcels, insure safe and functional traffic access and parking, and minimize impacts on sensitive environmental resources.

11.2 SITE PLANS REQUIRED; EXEMPTIONS

- A. Site Plans Required. No building shall be erected or structurally altered, no change in use shall be permitted and no grading, or excavation shall be commenced on any lot until a site plan that meets all of the requirements of this Article has been approved by the Village Council. All requests shall be accompanied by ten (10) copies of a site plan complying with the requirements of this Article.

- B. Exemptions. The Village Council may exempt the following from site plan review when it determines that the submission of a site plan would serve no useful purpose and the proposed use complies fully with ordinance requirements. A Land Use Permit as stated in Section 14.1.B still may be required for the following (see applicable section).
 - 1. One and two-family dwellings except ones employing the Housing Cluster Option.
 - 2. Accessory structures.
 - 3. Any enlargement of a principal building by less than 10 per cent of its existing gross floor area provided such enlargement will not result in a requirement for additional parking.
 - 4. A change in principal use where such change would not result in an increase in impervious surface, additional off-street parking, access or other external site characteristics or a violation of this Ordinance.
 - 5. Parks and playgrounds.
 - 6. Home-based businesses.

11.3 SITE PLAN REVIEW

- A. Procedure for all site plans.
 - 1. Pre-application conference. Before submitting an application, an applicant may meet with the Zoning Administrator to review the proposed project.
 - 2. Application. An applicant shall apply for site plan consideration not less than 21 calendar days before the date on which such site plan shall be reviewed by the Village Council. All site plans shall be submitted to the

Zoning Administrator for review according to the standards and requirements of this Ordinance.

3. Official review. The Zoning Administrator shall circulate site plans to the agency officials for comments as to the proposed development's conformance to all applicable standards and requirements and whether approval of the site plan is recommended.
4. Approval; referral. Once the Zoning Administrator deems the site plan to be complete, the site plan shall be referred to the Village Council for review with a recommendation to approve, deny or modify the site plan. If modifications are recommended, the applicant shall be notified in advance of the Village Council meeting so that adjustments can be made prior to such meeting. A site plan shall be deemed approved only upon the signature of the Zoning Administrator.
5. Time limits. Twenty-one days are allowed for departmental review of all site plans. If, for any reason, the Zoning Administrator cannot process the plan within these time limits, he or she shall so notify the applicant and shall set a date for finalizing the review.

- B. Village Council Review. Once a site plan is forwarded to the Village Council, the Council shall review the site plan according to the standards and requirements of this Article. The Village Council shall approve or deny the site plan (not the use) according to the standards and requirements of this Ordinance.

11.4 SITE PLAN REQUIREMENTS

- A. Requirements. A site plan application shall be accompanied by a filing fee established by resolution of the Village Council. Site plans shall be sealed by a registered architect, engineer, or landscape architect and shall be drawn to scale, rendered on a minimum sheet size of 24 inches by 36 inches and shall include the following:
1. A legal description, property lines, lot lines and property dimensions;
 2. The scale, north arrow, date and vicinity map;
 3. The property owner's and applicant's name and address;
 4. The preparer's name and address;
 5. Street names, existing street and alley widths, the location and width of utility easements the size and location of existing and proposed public utilities and building service lines;
 6. The zoning classification of the site and surrounding properties and, where applicable, the zoning request;

7. Required setback lines, lot size, lot coverage and any variance to be requested;
 8. The size and location of existing buildings and improvements on and adjacent to the subject parcel;
 9. The existing building use and proposed building use, location, shape, building height, elevations, floor area and unit computations and dimensions and a description of all exterior building materials;
 10. A land use tabulation summary provided in the margin of the plan indicating types of uses, acreage for each land use, number of units, densities and land use intensities;
 11. The proposed number and location of parking spaces, maneuvering lanes, sidewalks, driveways and loading areas, and their dimensions and proposed points of access to the site from public streets and alleys;
 12. The proposed location and dimensions of site drainage areas, walkways, landscaped areas, recreation areas, open space and buffer yards;
 13. Natural features, such as unique topographic features, wetlands, 100-year flood plain elevations, creeks, springs and others, with an indication as to which are proposed to be maintained, altered or removed during site development; and any additional information if requested by the Zoning Administrator.
 14. The following additional information if requested by the Zoning Administrator.
 - a. A report describing the soil types and the ability of soils to accommodate the proposed development;
 - b. A tree location survey signed by an engineer, surveyor or landscape architect, showing all existing trees having a diameter at breast height of six inches or greater, the common and/or scientific names and the diameter at breast height of these trees, plus an indication of trees to be preserved, to be transplanted, or to be removed during site development. Closely grouped trees shall be designated by the predominate species represented, the number present and the diameter at breast height range of the group or clump;
 - c. The existing and proposed topography at two (2) foot contour intervals.
- B. Waiver. The Zoning Administrator may waive any or all site plan requirements if the construction or alteration does not affect existing traffic circulation, drainage, grading, relationship of buildings to each other, landscaping, buffering, lighting, parking and other considerations of site plan review. Any of these requirements

may be waived by the Zoning Administrator where, in his or her judgment, such data will not bear on his or her decision or the decision of the Village Council.

- C. Appeals. The property owner may appeal a decision of the Zoning Administrator to the Zoning Board of Appeals.

11.5 STANDARDS FOR GRANTING SITE PLAN APPROVAL

- A. Standards for Granting Site Plan Approval. Before approving or disapproving a site plan, the Village Council shall review each application to determine that the proposed use meets the following general standards. The Council shall find that each proposed use on the proposed location:

1. Shall be designed, constructed, operated, and maintained to be harmonious, compatible, and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the area or neighborhood in which it is proposed to be located.
2. Shall not be hazardous or disturbing to existing or future uses in the same general vicinity and will be a substantial improvement to property in the immediate vicinity and to the community as a whole.
3. Shall be adequately served by essential public facilities and services, such as streets, police and fire protection, drainage improvements, refuse disposal, water and sewage services, and schools or that persons responsible for the establishment of the proposed use shall, in the opinion of the Village Council, provide adequate private services and facilities in lieu of public facilities and services.
4. Shall minimize traffic conflicts and maintain traffic capacity by employing sound access management principles.
5. Shall not create excessive additional public costs for facilities and services.
6. Shall 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 emitting fumes, dust, glare, vibrations or odors.
7. Shall preserve, to the maximum extent possible, the natural resources of the site and area.
8. Shall be consistent with the specific standards and the intent and purposes of this and other Village ordinances and the Village Master Plan.
9. Shall meet the standards and requirements of other governmental agencies and approval has already been obtained or is assured.

11.6 CONDITIONAL APPROVALS.

- A. Attached Conditions. The Village Council may attach conditions to the approval of a site plan when such conditions:
 - 1. Insure that public services and facilities affected by a proposed land use or activity are capable of accommodating increased service and service facility loads caused by the land use or activity,
 - 2. Protect the natural environment and conserve natural resources and energy,
 - 3. Insure compatibility with adjacent uses of land,
 - 4. Promote the use of land in a socially and economically desirable manner, and
 - 5. Are related to the valid exercise of the police power under this Ordinance and the purposes which are affected by the proposed use or activity.
- B. Recording Conditions. The conditions and/or safeguards imposed, if any, on a site plan shall be recorded in the record of the approval action and shall remain unchanged except upon mutual consent of the Village Council and the landowner. The Village Council shall maintain a record of the conditions that have changed or been imposed.

11.7 SITE PLAN AMENDMENTS.

No change shall be made to an approved site plan prior to or during construction except upon application to the Zoning Administrator in accordance with the following procedures

- A. Minor Change. A change to a site plan or site plan involving minor changes in the siting of buildings, the adjustment of utilities, walkways, traffic ways and parking areas and similar minor changes may be approved by the Zoning Administrator.
- B. Major Change. A change or amendment involving a change in the number and location of accesses to public streets and alleys; an increase or decrease of over ten percent in gross floor area or in the number of parking spaces; a major relocation or re-siting of a building, a reduction in open space and similar major changes shall require the approval of the Village Council. A major change to a site plan before or during construction shall be approved by the Village Council.

11.8 SITE PLAN EXPIRATION AND REVOCATION

- A. Expiration. An approved site plan shall expire if a zoning/building permit has not been issued within 12 months following the date of approval of the site plan. The Village Council may, upon written request by the applicant, waive or extend the period of time in which the site plan is to expire if the Village Council is satisfied that the applicant demonstrates a good faith effort to proceed with construction. In the event no such request is made in writing by the applicant within the initial 12-

month approval period, the Zoning Administrator shall notify the applicant in writing of the expiration of said site plan. If a zoning/building permit has been obtained within the 12-month period following approval of the site plan, but work ceases or substantial progress is not made for any 12-month period thereafter, the site plan shall expire and the applicant shall be so notified in writing by the Zoning Administrator.

- B. Revocation. The Village Council shall have the authority to revoke site plan approval at any time, following a hearing, if construction of the approved project is deemed by the Zoning Administrator not to be in conformance with the approved site plan. Upon discovery of a violation, the Zoning Administrator may issue a stop work order and a notice to the applicant to appear before the Village Council. Notice of the hearing date shall be provided to the applicant no less than 10 days prior to the date of the hearing.

ARTICLE XII NONCONFORMITIES

12.1 PURPOSE

It is the purpose of this section to provide for the regulation of uses, structures and lots that do not, at the time of adoption of this ordinance, conform to the requirements of this ordinance. The provisions of this section shall govern such uses.

12.2 NONCONFORMING USES

No nonconforming use of a structure or land shall be enlarged, expanded, extended, or altered except in conformance with the provisions of this section.

- A. Maintenance of Nonconforming Use Buildings. Nothing in this ordinance shall prevent any such necessary repairs and incidental alterations of a building which contains a nonconforming use on the effective date of this ordinance as may be necessary to secure a reasonably advantageous use thereof during its natural life.
- B. Completion of Nonconforming Buildings Containing Nonconforming Uses. Nothing in this ordinance shall require any change in the construction or intended use of a building or structure; the construction of which shall have been substantially underway on the effective date of this ordinance.
- C. Damage or Total Destruction of Nonconforming Uses. Any building or structure which contains a nonconforming use shall not be reconstructed if destroyed by explosion, fire or other acts of God to the extent of 50% or greater of its SEV.
- D. Alterations. A building or structure containing a nonconforming use may not be reconstructed or remodeled during its natural lifetime if the aggregate cost of such reconstruction or remodeling exceeds 25% of the fair market value of the building as determined by a qualified appraiser, unless the use within the building or structure is changed to a conforming use. No such reconstruction or remodeling shall increase the available floor area of the nonconforming structure.
- E. Discontinuance of a Nonconforming Use. If a property owner has intent to abandon a nonconforming use or structure and in fact abandons this nonconforming use or structure for a period of one (1) year, then any subsequent use of the property or structure shall conform to the requirements of this Ordinance. When determining the abandonment of a nonconforming use or structure, the Zoning Administrator shall consider all of the following factors:
 - 1. Whether utilities, such as water, gas, and electricity to the property have been disconnected.
 - 2. Whether the property, buildings, and grounds have fallen into disrepair.
 - 3. Whether signs or other indications of the existence of the nonconforming use have been removed.

4. Whether equipment or fixtures necessary for the operation of the nonconforming use have been removed.
 5. Other information or actions that evidence an intention on the part of the property owner to abandon the nonconforming use or structure.
- F. Change of Nonconforming Use. If no structural alterations are made, the Board of Appeals may authorize a change from one (1) nonconforming use to another nonconforming use, PROVIDED the proposed use would be more suitable to the zoning district in which it is located than the nonconforming use that is being replaced. Whenever a nonconforming use has been changed to a more nearly conforming use or to a conforming use, such use shall not revert or be changed back to a nonconforming or less conforming use.
- G. Expansion or Extension. The Zoning Board of Appeals may authorize the expansion or extension of a nonconforming use, provided the expansion or extension will not increase the size of the building or parking requirements of the use, will not change the appearance of the use from either a residential area or a public street, and, in the judgment of the Zoning Board of Appeals, will have no adverse effects on adjoining uses and properties.

12.3 NONCONFORMING STRUCTURES

It is the intent of this Ordinance to allow the continuation of nonconforming structures that contain conforming uses and to allow the removal, replacement, expansion and alteration of those nonconforming structures, provided such replacement; expansion or alteration does not increase any dimensional nonconformity and complies fully with Benzie County's building code requirements.

12.4 SUBSTANDARD LOTS

Any lot that was of record as of the effective date of this ordinance may be used for a permitted principal use even though the lot area and/or the dimension is less than required by the district provided, the other dimensional requirements of the district are satisfied and no contiguous land is owned by the owner of the lot in question or was owned at the time of adoption of this ordinance.

ARTICLE XIII ZONING BOARD OF APPEALS

13.1 PURPOSE

In order that the objectives of this Ordinance may be fully and equitably achieved, that a means shall be provided for competent interpretation of this Ordinance, that the health, safety and welfare of the public be secured, and that justice be done, there is hereby established a Village Zoning Board of Appeals.

13.2 CREATION

The Beulah Village Council shall act as the Zoning Board of Appeals. The Council may appoint two alternate members of the Zoning Board of Appeals for terms of two years. The alternate members shall be called on a rotating basis to sit as regular members of the Zoning Board of Appeals in the absence of a regular member. An alternate member may also be called by the Council to serve in the place of a regular member for the purpose of reaching a decision on a case in which a regular member has abstained for reasons of conflict of interest. The alternate member having been appointed shall serve in the case until a final decision has been made. The alternate member shall have the same voting rights as a regular member of the Zoning Board of Appeals.

13.3 RULES OF PROCEDURE

- A. Rules. The Board shall adopt rules and regulations to ensure proper conduct of its meetings. Copies of such regulations shall be made available to the public at the office of the Village Clerk.
- B. Meetings. Meetings of the Board shall be open to the public and shall be held at the call of the Chairman and at such times as the Board may determine.
- C. The Board Shall Act by Resolution. The concurring vote of a majority of the entire Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator or to decide in favor of the applicant concerning any matter upon which the Board is required to pass under this Ordinance or to grant dimensional variances from the requirements of this Ordinance. The concurring vote of two-thirds (2/3) of the entire Zoning Board of Appeals, however, shall be necessary to grant any use variance under this Ordinance.
- D. Records. Minutes shall be recorded of all proceedings that shall contain evidence and data relevant to every case considered together with the votes of the members and the final disposition of each case. The findings of every determination shall be stated. Such minutes shall accompany and be attached to the standard forms required of persons appealing as part of the Zoning Board of Appeals' permanent records. Such minutes shall become a public record and as such be filed in the office of the Village Clerk. A copy of the decision shall be sent promptly to the applicant and the Zoning Administrator.

- E. Secretary and Counsel. The Village Clerk shall act as secretary and all records of the Board's action shall be taken and recorded under his/her direction. The Village attorney may be requested to attend any meeting of the Zoning Board of Appeals.
- F. Conflict of Interest. The Chairperson shall inquire whether any member has any financial or other private interest in a matter before the Zoning Board of Appeals. Such member shall remove himself/herself from any all discussion and shall not vote thereon. The Secretary shall note that such action has been taken. A conflict of interest occurs when one (1) of the following applies to a member:
 - 1. A relative or other family member is involved in any request for which the Zoning Board of Appeals is asked to make a decision;
 - 2. The Zoning Board of Appeals member has a business or financial interest in the property involved in the request or has a business or financial interest in the applicant/owner's company, agency, or association;
 - 3. The Zoning Board of Appeals member owns or has a financial interest in a neighboring property. For purposes of this section, a neighboring property shall include any property that is adjacent and shares a common property line with the subject property or is directly across a road right-of-way or alley of the subject property.
 - 4. There is a reasonable appearance of a conflict of interest, as determined by the Zoning Board member declaring such conflict.

13.4 APPEALS PROCEDURES

- A. Appeals. Appeals to the Zoning Board of Appeals may be taken by any person aggrieved, or by an officer or Board of the Village.
- B. Filing of an Appeal. Any appeal from a ruling of the Zoning Administrator shall be made within thirty (30) days after receipt of the ruling. The person making the appeal shall file with the Zoning Administrator a signed notice of appeal specifying the grounds for the appeal. The Zoning Administrator shall immediately transmit all the papers concerning the case being appealed to the Zoning Board of Appeals.
- C. Hearings. When a notice of appeal has been filed in proper form with the Zoning Board of Appeals, the Secretary shall place the request for appeal upon the calendar for hearing and shall cause notices stating the time, place and object of the hearing to be served personally or by mail addressed to the parties making the request for appeal, at least fifteen (15) days prior to the date of the scheduled hearing. Notice shall also be served personally or by mail to all persons to who own any real property within three hundred (300') feet of the premises in question.

The Zoning Board of Appeals may recess such hearings from time to time; and, if the time and place of the continued hearing be publicly announced at the adjournment, no further notice shall be required.

- D. Decisions. The Zoning Board of Appeals shall return a decision upon each case within sixty (60) days after a request or appeal has been filed with the Board unless additional time is agreed upon with the parties concerned. Decisions made by the Zoning Board of Appeals will be forwarded, in writing, to the appealing party and the Zoning Administrator.
- E. Representation. Any party may appear in person or by agent or by attorney at a hearing considering his request or appeal.

13.5 DUTIES AND POWERS OF THE ZONING BOARD OF APPEALS

- A. Decide Appeals. The Zoning Board of Appeals shall hear and decide appeals from any review, any order, requirement, interpretation, decision or determination made by the Zoning Administrator in the administration of this Ordinance.
- B. Make Interpretations. The Board shall have the power to:
 - 1. Hear and decide, upon appeal, the interpretation of the provisions of this Ordinance;
 - 2. Determine the precise location of the boundary lines between zoning districts when there is dissatisfaction with a decision on such subject made by the Zoning Administrator.
- C. Consider Variances. The Board shall have the power to investigate and grant the following variances from the strict requirements of this Ordinance so that the spirit of the Ordinance is observed, public safety secured, and substantial justice done.
 - 1. Dimensional Variances: A dimensional variance may be granted by the Zoning Board of Appeals only in cases where the applicant demonstrates in the official record of the public hearing that practical difficulty exists by showing all of the following:
 - a. That the need for the requested variance is due to unique circumstances or physical conditions of the property involved, such as narrowness, shallowness, shape, water, or topography and is not due to the applicant's personal or economic difficulty.
 - b. That the need for the requested variance is not the result of actions of the property owner or previous property owners (self-created).
 - c. That strict compliance with regulations governing area, setback, frontage, height, bulk, density or other dimensional requirements will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome.

- d. That the requested variance is the minimum variance necessary to do substantial justice to the applicant as well as to other property owners in the district.
 - e. That the requested variance will not cause an adverse impact on surrounding property, property values, or the use and enjoyment of property in the neighborhood or zoning district.
 - f. Whether the proposed variance would confer on the applicant/property owner special privileges denied other lands, structures, or buildings in the same zoning district.
2. Use Variances: A use variance may be granted by the Zoning Board of Appeals only in cases where the applicant demonstrates in the official record of the public hearing that undue hardship exists by showing all of the following:
- a. The building, structure, or land cannot be reasonably used for any of the uses permitted by right or by special use permit in the zoning district in which it is located.
 - b. That the need for the requested variance is due to unique circumstances or physical conditions of the property involved, such as narrowness, shallowness, shape, water, or topography and is not due to the applicant's personal or economic hardship.
 - c. That the proposed use will not alter the essential character of the neighborhood.
 - d. That the need for the requested variance is not the result of actions of the property owner or previous property owners (self-created).
 - e. Whether the proposed variance would confer on the applicant/property owner special privileges denied other lands, structures, or buildings in the same zoning district.
3. Rules Applicable to Variances. In addition to the foregoing conditions, the following rules shall be applied in the granting of variances:
- a. In granting a variance the Zoning Board of Appeals may specify, in writing, to the applicant such conditions in connection with the granting that will, in its judgment, secure substantially the objectives of the regulations or provisions to which such variance applies. The breach of any such condition shall automatically invalidate the variance granted.
 - b. No application for a variance which has been denied wholly or in part by the Zoning Board of Appeals shall be resubmitted for a period of one (1) year from the date of the last denial, except 1) on grounds of newly discovered evidence, or 2) proof of changed con-

ditions found upon inspection by the Board of Appeals to be valid, or 3) when the Village Attorney, by a written opinion, states that in the attorney's professional opinion, the decision made by the Zoning Board of Appeals or the procedure used in the matter was clearly erroneous.

Each variance granted shall become null and void unless the provisions of the variance have been utilized by the applicant within twelve (12) months after the granting of the variance.

- D. Special Exceptions. The Zoning Board of Appeals, after a public hearing, shall have the authority to grant special exceptions for temporary dwelling units subject to the provisions of Section 3.5 of this Ordinance.

13.6 STAY OF PROCEEDINGS

An appeal stays all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Zoning Board of Appeals, after the notice of the appeal shall have been filed with him, that for reasons of acts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be granted by the Zoning Board of Appeals or, on application, by the Circuit Court on notice to the officer from whom the appeal is taken and on due cause show.

ARTICLE XIV ADMINISTRATION AND ENFORCEMENT

14.1 ADMINISTRATION

The provisions of this Ordinance shall be administered by the Beulah Village Council in accordance with the State of Michigan Act 110 of the Public Acts of 2006, as amended.

- A. Authority. The Beulah Village Council shall appoint a Zoning Administrator to act as its officer and except as otherwise provided in this Ordinance; the Zoning Administrator shall have the authority to administer the provisions of this Ordinance. The Village Council shall also designate a person to act in the absence of the Zoning Administrator. The Zoning Administrator or his/her designee shall have the authority to receive and process applications for land use permits, special land use permits, Ordinance amendments, appeals and variances or other matters the Zoning Board of Appeals or Village Council are required to decide. The Zoning Administrator shall also have the authority to inspect premises, issue decisions and orders and institute proceedings to enforce the provisions of this ordinance.
- B. Land Use Permit Required. It shall be unlawful for any person to commence the erection or addition to any structure or to change the use of any existing building or land area without first securing a Land Use Permit from the Zoning Administrator. Except upon written order from the Zoning Board of Appeals, no such Land Use Permit shall be issued for any building or land where the use or performance requirements of this Ordinance would be violated.
- C. Land Use Permit Application Requirements. A Land Use Permit application, signed by the owner or a duly authorized agent of the owner, shall be filed in writing with the Zoning Administrator. Three (3) identical scale drawings and written documentation shall be included with the Land Use Permit application that includes the following information:
1. The existing and intended use of the building or land.
 2. Property dimensions and proposed setbacks.
 3. The location of proposed structures and uses both existing and proposed.
 4. Evidence of ownership.
 5. Existing and proposed grade and drainage system at intervals not exceeding two (2) feet.
- D. Waiver of Requirements. In cases of minor alterations the Zoning Administrator shall have the authority to waive the requirements of subsection C.
- E. Display. The Land Use Permit shall be displayed face out, in a conspicuous location, within 24 hours of issuance and shall be so displayed until all work is completed.

F. Fee Schedule and Escrow Account for Zoning Fees.

1. To assist in defraying the costs of investigating, reviewing, and administering zoning applications, appeals, rezoning requests from individual property owners, and other types of decisions which result in costs to the Village, the Village Council may from time to time adopt by resolution a fee schedule establishing basic zoning fees related to the following:
 - a. Land Use Permits.
 - b. Special Use and Housing Cluster Option permits.
 - c. Appeals to or requests for interpretations by the Zoning Board of Appeals. Appeals and requests for interpretations initiated by the Village Council or the Zoning Administrator shall not be subject to a zoning fee.
 - d. Classification of unlisted property uses.
 - e. Requests for variances from the Zoning Board of Appeals.
 - f. Requests for rezoning of property by individual property owners. Rezoning of property initiated by the Village Council shall not be subject to a zoning fee.
 - g. Site plan reviews.
 - h. Temporary dwelling permits issued by the Zoning Administrator.
 - i. Any other discretionary decisions by the Village Council or Zoning Board of Appeals.

The amount of these zoning fees shall cover the costs associated with the review of the application or appeal, including but not limited to the costs associated with conducting public hearings, publishing notices in the newspaper, sending required notices to property owners, postage, photocopying, mileage, time spent by zoning staff, and time spend by the members of the Village Council and/or Zoning Board of Appeals. The basic zoning fees are non-refundable, even when an application or appeal is withdrawn by the applicant.

2. If the Village Council or Zoning Board of Appeals determines that the basic zoning fees will not cover the actual costs of the application review or appeal, or if the Village Council or Zoning Board of Appeals determines that review of the application and/or participation in the review process or appeal by qualified professional planners, engineers, attorneys, or other professionals is necessary, then the applicant shall deposit with the Village Clerk such additional zoning fees in an amount determined by the Village

Council or Zoning Board of Appeals equal to the estimated additional costs. The additional zoning fees shall be held in escrow in the applicant's name and shall be used solely to pay these additional costs. If the amount held in escrow becomes less than ten percent (10%) of the initial escrow deposit or less than ten percent (10%) of the latest additional escrow deposit and review of the application or decision on the appeal is not completed, then the Village Council or Zoning Board of Appeals may require the applicant to deposit additional fees into escrow in an amount determined by the Village Council 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 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 final action on the application or the final decision on the appeal. Any actual costs incurred by the Village 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.

14.2 ENFORCEMENT

- A. Authority. The Zoning Administrator shall have the authority to enforce the provisions of this Ordinance. Any land, dwellings, buildings, or structures, used, erected, altered, razed or converted in violation of this Ordinance or in violation of any regulations, conditions, permits or other rights granted, adopted or issued pursuant to this Ordinance are hereby declared to be a nuisance per se.
- B. Investigation; correction period. The Zoning Administrator shall investigate each alleged violation and shall send to the alleged violator by certified mail a written notice specifying all violations and ordering him or her to correct the violation within thirty (30) days of the notice.
- C. Violations. Any person who fails to correct a violation of any provision of this Ordinance within the specified date of the notice ordering the correction shall be guilty of a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101-600.9939 of Michigan Compiled Laws, and shall be subject to a fine of not more than Five Hundred and 00/100 (\$500.00) Dollars. Each day this Ordinance is violated shall be considered as a separate violation.
- D. Enforcement. The Zoning Administrator is hereby designated as the authorized village official to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court.
- E. Abatement. In addition to enforcing this Ordinance through the use of a municipal civil infraction proceeding, the Village may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this Ordinance.

14.3 CONFLICTING REGULATIONS

In the interpretation, application and enforcement of this Ordinance, whenever any of the provisions or limitations imposed or required by the provisions of this Ordinance are more stringent than any other law or ordinance, then the provisions of this Ordinance shall govern. Whenever the provisions of any other law or ordinance impose more stringent requirements than is imposed or required by this Ordinance, then the provisions of such other law or ordinance shall govern.

ARTICLE XV AMENDMENT PROCEDURE

15.1 VILLAGE COUNCIL MAY AMEND

The regulations and provisions of this Ordinance and the boundaries of zoning districts as shown on the Zoning Districts Map of the Village of Beulah, may be amended, supplemented, or changed by the Village Council in accordance with the State of Michigan Act 110 of the Public Acts of 2006, as amended.

15.2 INITIATION OF AMENDMENTS.

Proposals for amendments, supplements or changes may be initiated by the Village Council on its own motion or by petition of one or more owners of property to be affected by the proposed amendment.

15.3 AMENDMENT PROCEDURES.

- A. Petition. Each petition by one or more owners for an amendment shall be submitted by application to the Zoning Administrator on a form provided by the Village. A fee as established by the Village Council shall be paid at the time the application is submitted to cover the cost of administration and publication.
- B. Public Hearing. Prior to any action on the application, the Village Council shall conduct at least one public hearing. Notice of the time and place of the public hearing shall first be published in a newspaper of general circulation within the Village not less than 15 days prior to the public hearing. Mailed notice stating the time and place of the public hearing shall be given to all owners of property within 300 feet of the property in question, to each public utility company and to each railroad company operating within the districts affected by the rezoning at least 15 days prior to the public hearing. The notices shall include the places and times at which the proposed text and map changes may be examined prior to the hearing.
- C. Village Council Action. At any regular or special meeting following the public hearing, including the meeting at which the public hearing is held, the Village Council may ordain and enact into law the proposed amendment to the Beulah Zoning Ordinance. A majority vote of the total Council shall be required to approve a proposed ordinance amendment.
- D. Protest Petition. Upon presentation of a protest petition by the owners of at least 20% of the land area included in the protested change, or by the owners of at least 20% of the area of land included within an area extending outward 100 feet from any point on the boundary of the land included in the proposed amendment, but excluding public land, the amendment shall be passed by no less than a 2/3 vote of the Village Council.
- E. Resubmittal. No application for essentially the same rezoning which has been denied by the Village Council shall be resubmitted for a period of one year from the date of the last denial, except on grounds of newly discovered evidence, or proof of changed conditions as determined by the Village Council or when the Village

Attorney, by written opinion, states that in the attorney's professional opinion, the decision made by the Village Council or the procedure used in the matter was clearly erroneous.

- F. **Effective Date.** The ordinance amendment shall not be final until one notice of adoption shall be published in a newspaper of general circulation within the Village within 15 days following adoption of the amendment.

ARTICLE XVI - DEFINITIONS

16.1. DEFINITIONS

For the purpose of this Ordinance, terms and words are defined as follows:

Access – Any driveway, street or other means of providing for the movement of vehicles to and from property to a roadway.

Accommodations and Food Services – Uses listed in Sector 72 of the North American Industry Classification System of 1997.

Accessory Building or Structure – A structure that is customarily incidental and subordinate to the principal building and located on the same lot as and spatially separated from the principal building.

Accessory Apartment – A complete, separate dwelling unit that has a separate kitchen (sink, stove, refrigerator) and a separate bathroom (sink, toilet, shower stall), which is located in the main dwelling unit.

Accessory Dwelling Unit – An incidental and subordinate dwelling unit which provides living quarters for one (1) individual or a family that is on the same lot, but is separate from the primary dwelling unit and contains, but is not limited to, a kitchen, bathroom, and sleeping quarters.

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

Administrative and Support Services – Uses listed in Sector 56 of the North American Industry Classification System of 1997, subject to the specific exclusions noted within each district.

Adult Foster Care – A state licensed residential facility as defined by MCLA 125.583b; MSA 5.2933 (2) that is used for the care and supervision of six (6) or fewer persons under 24 hour supervision but excluding persons released from or assigned to adult correction institutions.

Alley – A service roadway providing a secondary means of public access to abutting property and not intended for general traffic circulation.

Alternative Access – A means of access that is not directly to the highway including frontage roads, backage roads and access to existing or proposed roads other than the highway.

Ambulatory Health Care Services - Health care services that are provided directly or indirectly to ambulatory patients.

Antenna – An exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communications signals.

Apartment - A unit with one or more rooms with private bath and kitchen facilities comprising an independent, self-contained dwelling unit in a building containing three (3) or more dwelling units.

Arts, Entertainment and Recreation Sales and Services – Uses listed in Sector 71 of the North American Industry Classification System of 1997, subject to the specific exclusions noted within each district.

Backage Road – An alternative roadway which generally runs parallel to and behind the development that fronts on a highway.

Balcony - A railed elevated platform projecting from the wall of a building.

Basement – That portion of the building that is partly underground and which has more than 50% of its floor to ceiling height below ground level.

Bed and Breakfast – A private home that is occupied by a resident family which provides short term lodging for tourists and guests and features a highly personalized service and a full breakfast.

Boarding Home – A dwelling unit or part thereof in which, for compensation, lodging and meals are provided; personal and financial services may be offered as well.

Buffer Yard – A required setback area from a street or property line that is designed for the exclusive purpose of buffering nonresidential uses from residential uses and public streets by means of landscaping and the use of other buffering materials.

Building – A structure either temporary or permanent, having a roof supported by columns and walls.

Building Height – The vertical distance measured from the mean elevation of the natural ground at the front of the building to the highest point of the roof.

Building Inspector – The administrator of the building, housing, plumbing, electrical or other codes that have been adopted by the Village or County.

Changeable Copy Sign- A sign or portion thereof designed to accommodate frequent message changes (more frequently than every (2) two hours) composed of characters, letters, or illustrations and that can be changed or rearranged electronically, without altering the face or surface of the sign.

Colocate/Colocation - The location by two or more wireless telecommunication providers of wireless telecommunication facilities on a common structure, tower or building with the intent of reducing the overall number of structures required in the community.

Commercial Daycare Facility – A private establishment enrolling four (4) or more children for less than 24 hours a day, and where tuition, fees, or other forms of compensation for the care of the children is charged, and which is licensed or approved to operate as a child care center.

Condominium Subdivision - Any development undertaken under the provisions of the Michigan Condominium Act, Act 59 of Public Acts of 1978 as amended, or any other act of the Legislature of the State of Michigan providing for the development of property under joint or concurrent ownership.

Deck- An open, unroofed porch or platform extending from a house or other building.

District – Districts as used herein is synonymous with the word “zones” or “zoning districts.”

Dormitory- A building used as group living quarters for a student body or religious order as an accessory use for a college, university, boarding school, convent, monastery, or other similar institutional use.

Drive-thru Business – A business that by design, physical facilities or service permits customers to receive goods or services while remaining in their motor vehicles.

Driveway – An access via a curb cut that permits vehicle access to a road or alley.

Dwelling – Any building, or portion thereof, which is designed or used exclusively for residential purposes.

Dwelling, Multiple – A building located on one lot and designed for or occupied by three or more families living independently of each other.

Dwelling, Single family – A detached building containing one dwelling unit and designed for occupancy by only one family.

Dwelling, Two-family – A building designed for or occupied by two families living independently of each other.

Dwelling Unit – A building or portion thereof, designed for permanent residential occupancy by one family.

Dwelling, Standard – A dwelling unit that meets the following requirements:

- a. The dwelling complies with the minimum square footage and performance requirements for the district within which located;
- b. The dwelling complies in all respects with the Michigan State Construction Code as promulgated by the State Construction Commission in accordance with Act 230 of the Public Acts of 1972, as amended;
- c. The dwelling is firmly attached to a permanent foundation constructed on the site in accordance with the County building code;
- d. The dwelling is compatible in design and appearance with other residences in the vicinity including either a roof overhang of not less than six inches on all sides or alternately with window sills or roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling; and has not less than two exte-

rior doors with the second one located in either the rear or side wall of the dwelling;

- e. The dwelling has no additions or rooms or other areas which are not constructed with similar quality workmanship as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein;
- f. The dwelling complies with all pertinent building and fire codes;
- g. The forgoing standards do not apply to a mobile home located in a licensed mobile home development except to the extent required by state or federal law or otherwise specifically required by the Township pertaining to such parks.

Educational Institutions - A school for kindergarden through twelfth grade or any college or university authorized by the State to award degrees.

Educational Services – Uses listed in Sector 61 of the North American Industry Classification System of 1997.

Essential Services – The installation, construction, alteration or maintenance by public utilities or governmental agencies of underground, surface or overhead communication, telephone, electrical, gas, water distribution, sewage collection, streets, alleys, sidewalks or trails including pavement, traffic control devices, signs, poles, wires, mains, drains, sewers, pipes, conduits, cables, pad-mount transformers, fire alarm and police call boxes, traffic signals, hydrants, and similar accessories in connection therewith which are necessary for the furnishing of adequate service by such utilities or government agency for the general public health, safety, convenience or welfare and including structures 800 cubic feet or less which are enclosures or shelters for service equipment. Telecommunications towers or facilities, alternative tower structures and wireless communication antennae are not included within this definition.

FAA - means the Federal Aviation Administration

FCC - means the Federal Communications Commission.

Family – A group of individuals related by blood, marriage, adoption, or guardianship living together in a dwelling unit. Or a collective number of unrelated individuals living together in one dwelling unit as a single housekeeping unit under a common housekeeping management plan based on an intentionally structured relationship providing organization and stability. This definition shall not include rooming or boarding houses or any society, club, fraternity, sorority, association, lodge, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or other similar determinable period.

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

Financial Institutions - A business managing funds on deposit for its customers and/or lending funds to borrowers. This includes, but is not limited to, banks, savings and loan institutions, credit unions, stock and bond brokerages, and insurance agencies.

Floor Area – The area of a floor computed by measuring the exterior faces of the exterior walls of a building.

Front Lot Line - A line that divides a lot from the road right-of-way providing access to the lot. This definition does not apply to alleys.

Garage – A detached accessory building or portion of the main building which is used for the parking of automobiles, boats, and such other vehicles as may be used by the occupants of the building to which it is accessory.

Group Housing- A nonprofit or for-profit boarding home for the sheltered care of person with special needs, which, in addition to providing food and shelter, may also provide some combination of personal care, social or counseling services, and transportation.

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

Guesthouse – An incidental and subordinate dwelling unit that is separate from the principal dwelling unit and is used for housing guests. It may have separate a kitchen, bathroom, and sleeping quarters.

Health Care and Social Assistance – Uses listed in Sector 62 of the North American Industry Classification System of 1997.

High Water Mark - The place where the Court established water level meets a parcel of land. When Crystal Lake has two levels, it is the higher of the two.

Highway – This word shall apply specifically to US-31.

Home-Based Business – An accessory use of a dwelling unit for business purposes.

Hospitals – Uses listed in Sector 62 of the North American Industry Classification System of 1997.

Hotel – A facility offering transient lodging accommodations to the general public and providing additional services, such as restaurants, meeting rooms, entertainment, and recreational facilities.

Housing for Elderly- A nonprofit or for-profit boarding home for the sheltered care of an aged person with special needs, which, in addition to providing food and shelter, may also provide some combination of personal care, social or counseling services, and transportation.

Impervious Area – The amount of land permitted to be covered by buildings, structures, paving, or any other material that prevents, impedes, or slows infiltration or absorption of storm water directly into the ground at a rate of absorption of vegetation bearing soils.

Information Services – Uses listed in Sector 51 of the North American Industry Classification System of 1997, subject to the specific exclusions noted within each district.

Kennel – A facility where more than a total of four (4) dogs or cats (or a combination of dogs and cats) over four (4) months old are kept, housed, or boarded on a single parcel.

Light Manufacturing – The production, assembly, processing, compounding, packaging and storage of semi-finished or finished products from previously prepared materials.

Lot – A parcel of land occupied or intended for occupancy by a use permitted by this Ordinance, including one principal building together with accessory buildings, open spaces and parking areas required by this Ordinance and having its principal frontage on a street or on an approved private street.

Lot, Corner – A lot which has at least two contiguous sides abutting on and at the intersection of two or more streets which streets intersect at an angle of less than 135 degrees.

Lot Coverage – That portion of a lot, that is covered by buildings. This shall include porches, arbors, breezeways, patios, garages, houses, and all accessory buildings.

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

Lot of Record – A lot which was recorded in the Office of the Register of Deeds in Benzie County on the effective date of this Ordinance or a lot described by metes and bounds, the deed or land contract, or land contract memoranda, which has been recorded in the Office of Registered of Deeds in Benzie County on the effective date of this Ordinance.

Lot Line – The boundary line between two lots. In the case of property abutting a street or alley, the right-of-way line.

Lot Width – The horizontal distance between side lot lines measured at the required front setback.

Management of Companies and Enterprises – Uses listed in Sector 55 of the North American Industry Classification System of 1997.

Marina - An establishment engaged in the docking and storage, with or without one or more related activities, such as the retail sales of fuel and marine supplies; and the repair, maintenance, and rental of pleasure boats.

Medical Clinic – An establishment where patients are admitted for examination and treatment on an outpatient basis by one or more physicians, dentists, other medical personnel, psychologists, or social workers and where patients are not lodged overnight.

Mobile Home – A structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained in the structure.

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

Motel – An establishment providing sleeping accommodations with a majority of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building.

Nonconforming Use – A use legally existing at the time of adoption of this Ordinance which does not meet the use requirements of the district within which located.

Nonconforming Structure – A structure legally existing at the time of adoption of this Ordinance that does not meet the dimensional requirements of the district within which located.

North American Industry Classification System of 1997 - An industry classification system that groups establishments into industries based on the activities in which they are primarily engaged.

Nursery School – A pre-kindergarden school for children aged three to five years old.

Nursing and Residential Care Facilities - Establishments that provide residential care combined with either nursing, supervisory, or other types of care as required by the residents.

Offices, Business – A building or portion of a building where services are performed of an administrative nature including such uses as insurance, real estate and financial services offices.

Offices, Professional – A building or portion of a building where services are performed of a professional nature including architectural, engineering, accounting, and similar professional service offices.

Ordinary High Water Mark – The boundary of lakes and streams which elevation shall be the elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape; commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.

Outdoor Sales – The display and sale of merchandise beyond the perimeter of a building.

Owner – A person having an ownership interest in premises regardless of whether such deed or land contract is recorded.

Pedestrian Scale – the design and construction considerations based upon the scale of a human being which imbue occupants and users of the built environment with a sense of comfort and security.

Person – An individual, partnership, association, trust or corporation, or any other legal entity or combination thereof.

Personal and Laundry Services – Uses listed in Subsector 812 of the North American Industry Classification System of 1997, subject to the specific exclusions noted within each district.

Porch- A roofed open area, which may be screened, that is attached to the structure.

Principal Use – The main use of the property as distinguished from an accessory use.

Private Household Services - Uses listed in Subsector 814 of the North American Industry Classification System of 1997, subject to the specific exclusions noted within each district.

Professional, Scientific and Technical Services – Uses listed in Sector 54 of the North American Industry Classification System of 1997, subject to the specific exclusions noted within each district.

Public Administration Services – Uses listed in Sector 92 of the North American Industry Classification System of 1997.

Real Estate Rental and Leasing – Uses listed in Sector 53 of the North American Industry Classification System of 1997.

Religious Institution – A building where persons primarily and regularly assemble for religious worship that is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose.

Rental Cabins – A centrally managed facility that provides lodging for overnight guests in separate dwelling units and is not be used for long-term residency beyond one hundred and eighty (180) days.

Renter – A person who rents a property for a time period

Repair and Maintenance Services - Uses listed in Subsector 811 of the North American Industry Classification System of 1997, subject to the specific exclusions noted within each district.

Resort – A facility for transient guests where the primary attraction is generally recreational features or activities.

Retail Trade Establishments – Uses listed in Sectors 44 and 45 of the North American Industry Classification System of 1997, subject to the specific exclusions noted within each district.

Right-of-Way – A public or private street, alley or easement permanently established for the passage of persons or vehicles.

Right-of-Way Line – The edge of the right-of-way.

Setback – The minimum distance required between a lot line and a structure.

SEV- The State Equalized Valuation of a property.

Shared Access – A method whereby adjoining property owners shares a common access. These accesses are generally located at the common property line but may be located entirely on one property with access to another property by easement or other access agreement.

Small Retail Establishment – A retail establishment having a gross-floor area of less than 2,500 square feet.

Street – A public or private way that is permanently established for the passage of vehicles.

Streetwall- A straight line approximately parallel to the street right-of-way established by the projection of the front buildings walls of the buildings, within a Village block, closest to the street right-of-way.

Story – A level of occupancy. One story equals one dwelling level, exclusive of the basement.

Structure – Anything constructed or erected which is permanently located on or above the ground including buildings, fences, signs, parking lots, and similar structures.

Substandard Lot – A lot or parcel of record at the time of adoption of this Ordinance which does not meet the lot area or width requirements of the district within which located.

Telecommunications Tower – Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communications purposes, including self-supporting lattice and monopole towers and guyed towers. The term includes such as radio and television transmission towers, microwave towers, common-carrier towers and cellular telephone towers. Not included in this definition are: citizen band radio facilities; short wave receiving facilities; radio and television broadcast reception facilities; satellite dishes; federally licensed amateur (HAM) radio facilities; and governmental facilities which are subject to state or federal law or regulations which preempt municipal regulatory authority.

Technical and Trade Schools - This industry comprises establishments primarily engaged in offering vocational and technical training in a variety of technical subjects and trades. The training often leads to job-specific certification.

Testing Laboratories - This industry comprises establishments primarily engaged in performing physical, chemical, and other analytical testing services, such as acoustics or vibration testing, assaying, biological testing (except medical and veterinary), calibration testing, electrical and electronic testing, geotechnical testing, mechanical testing, nondestructive testing, or thermal testing. Testing may occur in a laboratory or on-site.

Vehicle Sign- A sign that is attached to or painted on a vehicle that is parked on or adjacent to any property, the principle purpose is to attract attention to a product sold or a business for a period in excess of four (4) hours.

Warehousing – A building used primarily for the storage of goods and materials.

Wholesale Trade Establishments - Uses listed in Sector 42 of the North American Industry Classification System of 1997.

Yard – An open space on the same lot with a building unoccupied and unobstructed from the ground upward, except as otherwise provided herein.

Yard, Front – All land extending across the width of the property and lying between the building and the front lot line. The front yard for a corner lot shall be the narrowest dimension on a street.

Yard, Interior Side – A yard extending between the side lot line and the nearest line of the building extending from the front yard to the rear yard.

Yard, Rear – All land extending across the width of the property and lying between the building and the rear lot line.

Yard, Street Side – A yard between the side lot line that is adjacent to a street and the nearest line of the building extending from the front yard to the rear yard.

Zoning Administrator – The administrator of this Ordinance, appointed by the Village of Beulah.

Zoning Permit – A standard form issued by the Zoning Administrator, upon application and declaration by the owner or his or her duly authorized agent, granting approval for the construction or use for which an application was made.

ARTICLE XVII VALIDITY

Should any article, section, clause or provision of this Ordinance be declared by the courts to be invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be invalid.

ARTICLE XVIII REPEALER

The existing zoning regulations of the Village of Beulah and dated July 1974, as amended, are hereby repealed. However, said repeal shall not abate any action now pending under or by virtue of the Ordinance herein repealed. Nor shall said repeal discontinue, abate, modify, or alter any penalty accrued or to accrue. Nor shall it affect the rights of any person, firm, or corporation. Nor shall said repeal waive any right of the Village under any section or provision of the Ordinance hereunder repealed that was existing at the time of passage and effective date of this Ordinance.

ARTICLE XIX ADOPTION AND EFFECTIVE DATE

This Ordinance was adopted by the Beulah Village Council on April 10, 2003 and shall be effective on April 25, 2003, this Ordinance was amended on January 4, 2007 and shall be effective January 19, 2007.

ATTEST:

Laura Spencer, Village Clerk