

**Leelanau Township Zoning Ordinance**  
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 Amended through August 2012

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## ARTICLE 1

### INTRODUCTIONS

#### SECTION 1.1 PURPOSE AND SCOPE

- A. Purpose** – PA 110 of 2006, as amended, the Michigan Zoning Enabling Act enables the creation of zoning ordinances for the regulation of land development and the establishment of districts which regulate the use of land and structures; in order to meet the needs of the citizens; to insure use of the land in appropriate locations; to limit overcrowding of land; to facilitate adequate infrastructures; and to promote public health, safety and welfare.
- B. Scope** - The Ordinance is presented in five parts, with separate Articles in each part and sections and subsections in each Article. Part I consists of introduction and definitions. All definitions are in Article 2 and in general not repeated elsewhere. The basic districts and related regulations are presented in Part II; with the process for approval and administration in Part III. Part IV includes special provisions such as planned unit developments, condominiums, etc. Part V includes other items such as communication towers, fencing, water access, special overlays, etc.

**SECTION 1.2 CRITERIA AND CHARACTERISTICS** - Leelanau Township has adopted the following (“ABCDE”) criteria/characteristics for its ordinances, in addition to the requirements of PA 110 of 2006, as amended:

- A. Acceptable** - Any public hearing should ultimately reflect a general consensus on the acceptability of the ordinances recognizing that they are intended for the overall benefit of the entire township. The process of consensus-building must reflect an intentional attempt for resolution of any disagreement with individual parties and specific interest groups.
- B. Best Practices** - Ordinances should not only regulate what is current practice, but also look towards the future with an eye towards improvement of the Township and preparing for a better tomorrow, and preferably within the context of a Master Plan.
- C. Clear and concise** - Ordinances must be understandable, easy to read, and free of redundancy.
- D. Definitive** - Irrespective of the background of the readers, they must all hear the same message. Ambiguity, confusing definitions, and arbitrariness should not be part of ordinances.
- E. Enforceable** - Quantitative measures are to be used in lieu of qualitative “criteria” to the greatest extent possible. There should be a clear understanding as to what becomes a violation. The process for enforcement should be workable, consistent, and reasonable.

**SECTION 1.3 TITLE** - The title of this Ordinance is "Leelanau Township Zoning Ordinance," and it will be referred to herein as "this Ordinance."

**SECTION 1.4 SEVERABILITY** - If any section, subsection, sentence, phrase, provision, or clause of this Ordinance is held to be invalid by a court of competent jurisdiction, that shall not affect any remaining portions. Contradictions between two sections in the Ordinance shall be resolved by adopting the one interpreted to be the latest to be amended, or otherwise the one most specific to the district(s) of concern.

#### SECTION 1.5 GENERAL COMPLIANCE

- A. Entire Ordinance** - Compliance with this Ordinance shall imply compliance with all of its applicable Articles. Applicants for permits, variances, or similar requests should in particular review the Articles in Part V and assure compliance with those that apply.

- B. Related Regulations** - Land use permits and similar applications should be accompanied with evidence of compliance with applicable regulations from other agencies, including but not limited to:  
 Leelanau County Soil Erosion and Sedimentation Control  
 Benzie-Leelanau County Health Department  
 Michigan Department of Environmental Quality  
 Leelanau County Drain Commission  
 Leelanau County Road Commission  
 Michigan Department of Natural Resources  
 Federal Emergency Management Agency (FEMA)

**SECTION 1.6 CONSTRUCTION, EFFECTIVE DATE**

- A. This Ordinance shall be construed to be a comprehensive amendment of Leelanau Township Zoning Ordinance adopted by the Township Board on May 13, 1976, which is hereby repealed. Nothing contained in this Ordinance shall be construed to exempt any property, building or use from the application of this Ordinance of zoning regulations which property, building or use would have been subject to zoning except for the enactment of this Ordinance.
- B. Nothing in this Ordinance shall be construed to prevent the prosecution or abatement of any violation of said zoning ordinance of 1976, which violation was in existence at the effective date hereof. Should any section, clause or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of this Ordinance as a whole or any part thereof other than the part to be so declared invalid.
- C. This Ordinance is hereby declared necessary for the preservation of the peace, health, safety, and welfare of the People of the Township of Leelanau and is hereby ordered to take immediate effect.

**SECTION 1.7 RULES APPLYING TO THE TEXT** - For the purpose of this Ordinance, certain rules of construction apply to the text as follows:

- A. Words used in the present tense include the future tense; and the singular includes the plural, unless the context clearly indicates the contrary.
- B. The word "person" includes a corporation or firm as well as an individual.
- C. The word "lot" includes the word "plot", "tract", or "parcel".
- D. The term "shall" is always mandatory and not discretionary; the words "may" and "should" are permissive.
- E. The word "used" or "occupied" as applied to any land or building shall be construed to include the word "intended, arranged, or designed to be used or occupied"
- F. Any word or term not interpreted or defined in Article 2 shall be used with a meaning of common or standard utilization.
- G. Qualitative criteria in this ordinance are to be interpreted using information that is pertinent and available, for example:
  - a. The dictionary definition of the qualitative term in the context of the intent and purpose of this ordinance.
  - b. Such factual quantitative data as may be available.
  - c. Expert opinion specific to the situation.
  - d. Background experience from like situations in other communities.

Amendment History –  
 Amended by Board 04/10/07 Ord 3 of 2007, Published 04/19/07, Effective 04/27/07

Reformatted and Adopted by Board July 13, 2004; Published July 22, 2004; Effective July 30, 2004  
Amended 04/10/04, Ord 3 of 2007; Pub. 04/19/07, Eff. 04/27/07  
Amended 07/08/07; Ord. 2 of 2008; Pub 07/17/08, Eff. 07/25/08

**ARTICLE 2**

**DEFINITIONS**

**SECTION 2.1 – PURPOSE AND SCOPE** - For the purpose of this Ordinance, certain terms or words used herein shall be interpreted or defined as follows:

**SECTION 2.2 DEFINITIONS–**

A. Unless the context specifically indicates otherwise, the meaning of terms used in This Ordinance shall be as follows:

B.

**ACCESSORY BUILDING** – A detached building whose purpose is customarily found in connection with the permitted principal use, but subordinate to that of the principal building on a given lot or parcel of land. Detached garages, tool sheds and barns are all examples of accessory buildings. *(Amended 052809)*

**ACCESSORY USE** - A land use whose purpose is related, subordinate, ancillary and incidental to the permitted principal use. An accessory use must in some way serve the principal use, and must usually be located on the same building lot or parcel. Exceptions may be made, however, so that necessary off-street parking may sometimes be located nearby rather than on the same lot or parcel.

**ADJUNCT FOOD SERVICE** - Consists of snacks, sandwiches, luncheons, or pre-arranged dinners provided on the premises in connection with the operation of wineries, microbreweries, distilleries, civic events, private events, and value added agricultural enterprises. Alcoholic beverages may be served provided the responsible entity is licensed to do so. Adjunct food service shall not include the operation of a standard, take-out, or drive-through restaurant. . *(Added 05/28/09)*

**ADULT and/or SEXUALLY ORIENTATED BUSINESSES** - Those uses specified and defined as, but not limited to adult bookstore, adult cabaret, adult drive-in, adult film store, adult motion picture theater, adult novelty store.

**ADULT BOOKSTORE** - An establishment having as a substantial or significant portion of its stock in trade books, magazines, or other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas” as so defined by this Ordinance.

**ADULT CABARET** - A bar, lounge, club or other establishment which may sell alcoholic or non-alcoholic beverages and/or food and which features as part of the regular entertainment topless or bottomless dancers, strippers or similar entertainers, whether male or female, whose acts are characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas” as so defined by this Ordinance. This definition shall include Adult Encounter Parlor, Adult Lounge, Adult Novelties, Adult Entertainment, and Adult Modeling Studio.

**ADULT DRIVE-IN** - An open-air establishment in which a substantial or significant portion of the material presented is distinguished or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas” as so defined by this Ordinance, for observation by patrons therein.

**ADULT FILM STORE** - An establishment having as a substantial or significant portion of its stock in films, video tapes, video disks, or similar items which are distinguished or characterized by their emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas” as so defined by this Ordinance.



**ADULT MOTION PICTURE THEATER** - An enclosed building in which a substantial or significant portion of the material presented is distinguished or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas” as so defined by this Ordinance, for observation by patrons therein.

**ADULT NOVELTY STORE** - An establishment that has a substantial or significant portion of its activity in the sale of devices which stimulate human genitals or devices designed for sexual stimulation.

**AFFORDABLE HOUSING** - Single or two-family dwelling units which are architecturally compatible with the neighborhood in which they are located and interspersed, insofar as practical, with market priced units in new residential projects. Affordable housing units within existing developments may be either new construction or existing housing refurbished to meet the Building Code used by Leelanau County. Eligibility for affordable housing units is limited to those persons with incomes less than 80% of the Leelanau Township median household income according to the most recent U.S. census. The price of an affordable housing unit shall not exceed the 80 % of the median household income (MHI) multiplied by 3 ( 0.8 MHI x 3). *Added 072508*

**AGRIBUSINESS** - A business catering exclusively to the agricultural community that may include, but not necessarily be limited to, the sale of seed and feed, or establishments for the sale and/or repair of machinery directly associated with the operation of a farm. *(Added 05/28/09)*

**AGRICULTURAL LAND DEFINITION** - Parcels in this district will be comprised of lands 65% or more of which meet one or more of the following criteria: a. Land defined in the text of the Red Tart Cherry Site Inventory for Leelanau County as suitable for growing cherries. b. Land that is being actively farmed or has been actively farmed for a minimum of two years during the ten year period preceding a rezoning evaluation, c. Lands described in the Woodland Suitability Guide for Leelanau County as suitable for forestry purposes provided that such parcels have been commercially harvested within the twenty year period preceding a rezoning evaluation, or have been planted and/or managed for the purpose of harvesting either Christmas trees or a timber crop. d. Lands identified in the United States Department of Agriculture Soil Conservation Service Soil Survey of Leelanau County as having soil characteristics suitable for cultivated crops, forage crops, pasture, or horticultural crops.

**AGRICULTURE** - The art and science of cultivating the ground for the production of crops (including forestry) and livestock.

**ALTERNATIVE TOWER STRUCTURE** - means man-made trees, clock communication towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or communication towers.

**ANTENNA** - means any exterior transmitting or receiving device mounted on a tower, building or structure that radiates or captures electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

**ATTACHED** - A building otherwise complete in itself, which depends, for structural support or complete enclosures, upon a wall or walls shared in common with adjacent building or buildings. *(Effective 8-21-98)*

**BACKHAUL NETWORK** - means the lines that connect a provider’s communication towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.

**BASE LOT OR BASE PARCEL** - The smallest lot or parcel area that may be developed in a district without the uses of a DTO or PUD option, or the use of a development option specified in that district. In any of the foregoing options, the base lot or base parcel size is to be used for the calculation of density.

**BASEMENT** - The lowest story of a building or the one just below the main floor, at least 50% of which is lower than the finished grade. *(Amended effective 9-19-91)*

**BEDROOM** - Any room used principally for sleeping purposes. *(Effective 8-21-98)*

**BENEFIT, RECOGNIZABLE AND SUBSTANTIAL** - A clear benefit, both to the ultimate users of the property in question and to the community, which would reasonably be expected to accrue, taking into consideration the reasonable foreseeable detriments of the proposed development and use(s), including, without limitation: long-term protection and/or preservation of natural resources and natural features and/or historical and/or architectural features of a significant quantity and/or quality in need of protection or preservation on a local, state and/or national basis; reducing to a significant extent the nonconformity of a nonconforming use or structure so that, to a significant extent, it is rendered more conforming, or less offensive, to the zoning district in which it is situated.

**BUILDING** - Any structure, including those erected on site, a mobile structure, or a pre-manufactured or pre-cut structure, which is built and used for the shelter, support or enclosure of persons, animals, or property of any kind. *(Amended 10-6-94).*

**BUILDING UNIT** - A dwelling, rental cottage, camping space, recreational vehicle space, or hotel, lodge, or motel room. The term is used when the Ordinance establishes the minimum areas into which a base parcel may be divided for the uses listed in the preceding sentence or specifically included in a district. *(Adopted 10-6-94).*

**CAMPGROUNDS** - a tract of land developed to accommodate low density, short duration camping in tents, not including recreational vehicles. Campgrounds shall require sanitation facilities approved by the Department of Health. *(Adopted Effective 3-1-02)*

**CHURCH** - A building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary buildings.

**CIVIC (CULTURAL) EVENT** - A periodic or special event open to the general public typically occurring in an outdoor setting such as a concert, fundraiser, festival, exposition, race or similar gathering which attracts, either by direct participation, or as spectators, a large gathering of people. *(Added 052809)*

**CLEARCUTTING** – Removal of an entire stand of trees, shrubs, bushes or similar vegetation on a parcel or portions of a parcel. Where clearcutting is prohibited, the provision shall not prevent the removal of noxious weeds, invasive species, or dead or diseased vegetation. Vegetation shall not be intentionally damaged or killed so as to permit removal.

**CLINIC** - An establishment where patients who are not lodged overnight are admitted for examination and treatment by a physician or a group of physicians practicing medicine, dentistry or osteopathy together.

**CLUB** - An organization catering exclusively to members and their guests, or premises and buildings for recreation, artistic, political or social purposes, which are not conducted primarily for gain and which do not provide merchandising, vending or commercial activities, except as required incidentally for the membership and purpose of such club.

**COMMERCIAL** - Activities which are focused on, engaged in, or concerned with commerce. Central to these activities is a process by which individuals or groups exchange goods or services using money, credit or other mediums of exchange. *(Added June 13, 2000)* The **Commercial District** is designed to provide for local shopping and includes a wide range of convenience stores and personal service establishments which cater to frequently recurring needs. The District regulations are designed to promote convenient shopping and the stability of retail development by encouraging continuous retail frontage and by excluding local service establishments which tend to break such continuity and to limit uses or characteristics of operation which encourage traffic from outside the immediate neighborhood.

**COMMERCIAL RESORT DISTRICT INTENT AND PURPOSE** - The intent of the this District is to provide opportunities for accommodating the housing needs of Township tourists and residents through development projects designed to preserve significant portions of the project site in its natural state and offer outdoor recreation opportunities for the development's permanent residents and persons having temporary lodging accommodations. The developments, including their recreational facilities, are to be compatible with the overall rural character and natural resources of the Township, including its shoreline resources. Provisions of this District are intended to assure that future land uses do not negatively impact surrounding residential or other land uses and are compatible with the specific features of the parcel, including on-site water bodies and drainage courses, topographic conditions, and soils.

**COMMERCIAL GARAGE** - A building or portion thereof, other than a private or storage garage, designed or used for equipping, servicing, repairing, hiring, selling or storing motor driven vehicles.

**COMMUNICATION TOWER** - means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice communication towers, guyed communication towers, monopole communication towers, or poles. The term includes, but is not limited to radio and television transmission communication towers, microwave communication towers, common-carrier communication towers, cellular telephone communication towers, alternative tower structures, and the like. The term includes the structure and any support thereto, and any antenna that may affixed to such structure. This term also applies to an antenna in the case where the antenna is affixed to a building or other structure that was not constructed primarily for the purpose of supporting an antenna.

**COMMUNITY IMPACT STATEMENT** - An assessment of the developmental, ecological, social, economic and physical impacts of the project on the natural environment and physical improvements on and surrounding the development site. This includes any impacts on existing or prospective future public services including, but not limited to, sewer, water, roads, storm drains, police, fire, other emergency services, and schools. Information required for compliance with other Township ordinances shall not be required to be duplicated in the Community Impact Statement.

**CONDOMINIUM** – A “project” or “condominium project” means a plan or project consisting of not less than 2 condominium units established on a parcel in conformance with Act 59 of 1978, as amended, being the Condominium Act.

**CONDOMINIUM COMMON ELEMENTS** – The portion of the condominium project other than the condominium units.

**CONDOMINIUM DEVELOPMENT LOT** – Commonly referred to as the condominium unit.

**CONDOMINIUM DOCUMENTS** – The master deed, recorded pursuant to the Condominium Act, act 59 of 1978, as amended, and any other instrument referred to in the master deed or bylaws which affects the ;rights and obligations of a co-owner in the condominium.

**CONDOMINIUM GENERAL COMMON ELEMENTS** – The common elements other than the limited common elements

**CONDOMINIUM LIMITED COMMON ELEMENTS** – A portion of the common elements reserved in the master deed for the exclusive use of less than all of the co-owners.

**CONDOMINIUM MASTER DEED** – The condominium document recording the condominium project to which are attached as exhibits and incorporated by reference the bylaws for the project and the condominium subdivision plan for the project.

**CONDOMINIUM SUBDIVISION** – A subdivision developed under the provisions of Act 59 of 1978, as amended, being the Condominium Act.

**CONDOMINIUM UNIT** – That portion of the condominium project designed and intended for separate ownership and use.

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

**CUSTOMER** - An individual receiving goods or service, regardless of payment for said goods or service.

**DEDICATED OPEN SPACE** – Dedicated open space means a natural state preserving natural resources, natural features, or scenic or wooded conditions; agricultural land; open space, or a similar use or conditions. Land in dedicated open space does not include a golf course but may include a recreational trail, picnic area, children’s play area, greenway, or linear park. Land in a dedicated open space may be, but is not required to be, dedicated to the use of the public. (PA 177 of 2001, with “dedicated open space” treated as ‘undeveloped state’). The dedicated open space shall be pursuant to an irrevocable conveyance.

**DEVELOPMENT** - Any improvement in the form of buildings or structure on any parcel of land.

**DISTRICTS** - A section or sections of the Township of Leelanau for which the Zoning regulations governing the use of building and premises, the height and size of buildings, size of yards, and the intensity of use are uniform.

**DRIVEWAY** - A passage along which vehicles or animals may be driven.

**DWELLING** - Any building or part thereof, if occupied or rented as the home, residence or sleeping place of one or more persons either permanently or transiently. Single family dwellings: A building containing not more than one dwelling unit designed for residential use. Two-family dwellings: A building containing not more than two separate dwelling units designed for residential use. Multiple-family dwellings: A building containing three or more dwelling units designed for residential use and complying with the General Provision of Article 3, and the specific requirements of Article 5 – Residential. This definition includes cooperatives, condominiums and any type of fractional ownership. (revised 6-03) (revised 10-03)

**EASEMENT** - A right or privilege that a person or persons may use another's land.

**EMPHASIS** - “Emphasis” or “emphasis on” means that the type of matter specified in the apparent matter upon which the particular work or exhibition is based, or that the matter specified is a substantial or significant portion of such work or exhibition.

**ENVIRONMENTALLY SENSITIVE AREA** - Any area which meets any of the criteria stated in Article 15, Sections 15.1 and 15.2.

**ERECTED** - Includes built, constructed, reconstructed, moved upon or any physical operations on the land required for building. Excavations, fill, drainage and the like shall be considered a part of erection.

**ESSENTIAL SERVICES** – The erection, construction, alteration or maintenance of public utilities by a municipal corporation, public utility, or cable television company including gas, electric, steam, communication, safety, water supply systems, or wastewater disposal systems including equipment and accessories in connection therewith necessary for furnishing utility services for public health or safety or general welfare, but not including sanitary landfills, wireless communication antennas or wind energy conversion systems.

**FAA:** means the Federal Aviation Administration.

**FALL ZONE** - means the anticipated distance from the center of the communication tower base that all portions of the communication tower will fall within upon a collapse or failure of the communication tower, as a minimum, the fall zone shall be of a radius equal to the height of the tower.

**FAMILY** - Any number of individuals living together and cooking together on the premises as a single housekeeping unit, as distinguished from a group occupying a hotel, club or similar structure, together with all necessary employees of the family.

**FARM** - A tract of land devoted to agriculture for the production, use and/or sale of crops; for raising and/or sale of livestock and their products; for processing and/or sale of forestry products; for grazing and for other things and/or uses not named for which such lands are generally used.

**FARM BUILDING** - Any and all buildings, structures, or land uses required for the operation of a farm, including dwelling units used exclusively for residential purposes, barns, poultry houses, silos, storage structures for hay, grains, vegetables, dairy products, fruit and other products produced, machinery, tools, and other accessory structures not specifically mentioned but needed for the proper and efficient operation of the farm.

**FCC:** means the Federal Communications Commission.

**FLEA MARKET** - a place where merchandise, consisting principally, if not completely of used merchandise, is sold by two or more persons, each selling their own merchandise, whether owned by them or sold on commission or consignment to them.

**FLOOD PLAIN** - Means a land area adjoining a river, stream, watercourse, ocean, bay or lake which is likely to be flooded.

**GOLF COURSE** - An area of land laid out for the game of golf with a series of nine (9) or eighteen (18) holes, including tees, greens, fairways, practice/driving ranges, clubhouse, and often one or more natural or artificial hazards.

**GRADE** - The lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line or, when the property line is more than five (5) feet from the building, between the building and a line five (5) feet from the building.

**GROUND FLOOR** - The basement, or if no basement exists, the story of a building found at (or nearest to) finished grade.

**GUEST HOUSE** - Sleeping quarters with or without kitchen and bath facilities, located on the same premises with a main building and occupied for the sole use of members of the family, temporary guests or persons permanently employed on the premises. (*Effective 8-21-98*)

**HEIGHT** - The vertical distance measured from the finished grade to the highest point of the roof. If the building is located on sloping terrain, the height shall be half the vertical distance measured from the grade of the wall furthest downhill to the highest point of the roof, plus half of the distance measured from the grade of the wall furthest uphill to the highest point of the roof. See **GRADE**.

**HEIGHT** - means, when referring to a tower or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.

**HIGHWAY** - Any public thoroughfare, except alleys, in the Leelanau County/Leelanau Township road system, including Federal, State and County roads.

**HOME BUSINESS** - an enterprise conducted in the home by the owner and a limited number of partners, employees, and/or volunteers, which meets the *applicable* requirements of Article 12. Each home business must have a Leelanau Township Home Business Permit.

**HOME BUSINESS OCCUPATIONS** - The Master Plan anticipates that home business enterprises will be comprised primarily of those businesses which, because of continuing improvements in transportation and communication systems, do not need to be located in metropolitan areas or commercial districts. Additionally, those occupations that have traditionally been conducted in the home are permitted. Examples of the former include, but are not limited to, businesses primarily in the legal, engineering, and accounting professions; communications; consulting; insurance; design; and similar enterprises. Examples of the latter are: artistic painting, ceramics, tailoring, teaching, woodworking, small personal service operations, and like occupations. Home businesses do not include the following uses which are covered separately in this Ordinance: funeral parlors, commercial stables or kennels, auto body or repair shops, dental or medical offices, and tourist homes.

**HOME OCCUPATION** - An enterprise conducted solely by the homeowner or immediate family members residing in the dwelling without partners, employees, or volunteers which meets the *applicable* requirements of Article 16.

**HOME OFFICE** - That part of a dwelling unit, or accessory building, that is used for the resident's private office. (*Effective 8-21-98*)

**HOTEL (OR INN)** - A building where lodging with or without meals is furnished to transient guests for compensation, containing more than four (4) sleeping rooms with or without cooking facilities in any individual lodging, but wherein a restaurant may or may not be located. (Revised 3/03)

**INCIDENTAL USE** - same as accessory use.

**INDUSTRIAL** - A building or structure housing a manufacturing process.

**INDUSTRIAL DISTRICT** It is the intent of this District to provide for the development of a variety of warehousing, light industrial manufacturing, and research uses that are compatible with existing or planned adjacent uses. This District is characterized by developments on major roads, and having a low percentage of land covered by buildings and parking. It is anticipated that the lots will be landscaped, park like areas. Regulations are included to control objectionable external effects such as waste products, noise, emissions, and visual impacts that are incompatible with the character of Leelanau Township.

**INSTITUTION** - A building occupied by a municipal or non-profit corporation or non-profit establishment for public use.

**IRREVOCABLE CONVEYANCE** - The conveyance of rights to the use and/or protection of open space to the dwelling owners or the public by means of conservation easements, restrictive covenants, deed restrictions or the transfer by a deed to the Township.

**ISLAND CONSERVATION DISTRICT** - It is the intent of this district to establish land use regulations that will minimize the effect of development on the natural undisturbed character of South Fox Island. It is further intended that no development be approved that imposes an unwarranted burden on the Township. Any areas on South Fox Island, designated as environmentally sensitive pursuant to Article 15 - Environmentally Sensitive Overlay District, shall further be subject to the regulations of Article 15.

**JUNK** - Any type of waste materials, refuse or equipment no longer useful to the degree for which it was originally intended, which yet may or may not have some salvage value.

**LICENSED DAY CARE FACILITY** - A state licensed facility for the care of pre-school and/or school-aged children.

**LIVESTOCK** - farm animals, including beef and dairy cattle, goats, hogs, horses, poultry, sheep, and fur bearing animals. *(Added June 13, 2000)*

**LODGE** - A structure for use as a meeting place for members or private clubs, lodges and other non-profit fraternal or religious organizations.

**LOT** - The parcel of land on which one (1) principal building and its accessories are placed, together with the open space required by This Ordinance.

**LOT COVERAGE** - percent of the gross lot square footage covered by building footprints including attachments such as porches or covered walkways; but excluding driveways, sidewalks, overhanging eaves, and detached structures of less than 100 square feet. *(Added June 13, 2000)*

**LOT OF RECORD** - A parcel of land, the dimensions of which are shown on a document or map on file with the County Register of Deeds or in common use by County and Community Officials and which actually exists as shown, or any part of such parcel held in a record ownership separate from that of the remainder thereof.

**MAJOR PROJECTS** - Any new development which requires site plan review, or any significant modifications to an existing project for which a site plan or project plan has been approved, shall be classified as a Major Project for the purposes of this Ordinance and shall be approved by the Planning Commission. *Amended 11/28/08*

**MARINA** - A boat basin providing dockage facilities which may include supplies, sales and service for water craft.

**MICROBREWERY** - A facility that manufactures up to 30,000 barrels during one year of any beverage obtained by alcoholic fermentation of an infusion or decoction of barley, malt, hops or other cereal grains in potable water. *(Added 052809)*

**MINOR PROJECT** - Any development for which this Ordinance does not require site plan or project plan approval by the Planning Commission or changes to an approved site plan or project plan that are based on

unforeseen and/or practical difficulties in implementation that are not included in the definition of significant modifications. *Amended 11/28/08*

**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. *(Amended 10-6-94)*.

**MOBILE HOME PARK** - A parcel or tract of land under the control of an individual, partnership, association, trust, or corporation, or any other legal entity or combination of legal entities 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. *(Amended 10-6-94)*.

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

**NATURAL FEATURES** - Natural features shall include soils, wetland, flood plain, water bodies, sand dunes, topography, vegetative cover, and geologic formations.

**NON-BUILDABLE AREA** – Land or area that shall not be built upon due to law, ordinance, regulation, agreement, or other similar limitation in addition to areas that generally cannot be built upon due to physical characteristics including, but not limited to: lakes, ponds, streams, and wetlands.

**NON-CONFORMING USE** - Any building or land lawfully occupied by a use, at the effective date of This Ordinance or amendment thereof which does not conform after passage of This Ordinance or amendments thereto with the requirements of the District in which it is situated.

**NON-INTENSIVE LIVESTOCK OPERATIONS** - Those livestock operations with less than 50 animal units as defined by CFR (Code of Federal Regulations) 40 Section 122, Appendix B. *(Added June 13, 2000)*

**NUISANCE** - That, which is defined and declared by statutes to be such and also means any place in or upon which lewdness, assignation, or prostitution is conducted, permitted, continued or exists.

**NURSING HOME** - Home for the aged, convalescent, chronically ill or incurable persons in which three or more persons not of immediate family are received, kept or provided with food, or shelter and care for compensations, but not including hospitals, clinics or similar institutions devoted primarily to the diagnosis, treatment or care of the sick or injured.

**OCCUPATION AND BUSINESS CLASSIFICATIONS** - The term "home business group" as used in this Article includes three types of home business which are described as follows: **HOME OCCUPATION** --- those conducted solely by the homeowner or immediate family members residing in the dwelling without partners, employees, or volunteers. Specific conditions for home occupations are given in Section 16. No permit is required for a home occupation. **HOME BUSINESS** --- those enterprises conducted in the home by the owner and a limited number of partners, employees, and/or volunteers. Specific conditions for home businesses are given in Section 16. Each home business must have a Leelanau Township Home Business Permit *prior to operating of said business*. **SPECIAL HOME BUSINESS** --- essentially the same as home businesses except that a greater latitude in operating conditions, as defined in Section 16, may be granted by the Planning Commission. A Special Home Business Permit is required before a special home business begins operation.



**OFF-SITE STORAGE** – means the depository, stockpiling, or safekeeping of materials, products, equipment, vehicles, trailers, or appliances located off the premises or otherwise not on the location of the principle use. *(Added 033012)*

**OFF-SITE USE** - means any building, structure, or use not located on the same lot or parcel that a communication tower is located. “Use” shall be interpreted to mean any frequently occurring activity that may or may not involve a structure or building, such as parkland and farmland, but shall not include land generally vacant, such as woodlands.

**OFF-STREET PARKING SPACE** - An area of definite length and width; said area shall be fully accessible for the storage or parking of permitted vehicles on a lot or parcel, but not within a public highway or public or private street right-of-way.

**ORDINARY HIGH WATER MARK (OHWM)** – The point on the bank or shore up to which the presence and action of the water is so continuous as to leave a distinct mark either by erosion, destruction of terrestrial vegetation, or other easily recognizable characteristic. And where the bank or shore at any particular place is of such character that it is impossible or difficult to ascertain where the point of the ordinary high water mark is, recourse may be had to other places on the bank or shore of the same stream or lake to determine whether a given stage of water is above or below the ordinary high water mark. *Added 07/08/08*

**PARENT PARCEL** - A Parcel of land, usually under one ownership, the acreage of which is used for residential density calculations as in the case of lot splits in the Agricultural district. *Effective 2-13-92.*

**PARK** - Properties and facilities owned and operated by any governmental agency, or owned and operated by any private agency, which are open to the general public for recreational purposes.

**PARKING SPACE** - A land area, exclusive of driveways and aisles, and so prepared as to be usable for the parking of a motor vehicle and so located as to be readily accessible to a public street or alley.

**PERSONAL SERVICE OPERATION**- An enterprise which provides a customer a service related to aiding that customer's personal appearance, health, or state of mind. Beauticians, barbers, masseurs/masseuses and cosmetologists are all examples of enterprises providing personal service.

**PLANNED UNIT DEVELOPMENT** - A planned unit development may include such concepts as cluster development, planned development, community unit plan, planned residential development, and other terminology denoting zoning requirements designed to accomplish the objectives of This Ordinance through a land development project review process based on the application of site planning criteria to achieve integration of the proposed land development project with the characteristics of the project area.

**PLAYGROUND** – An active recreational area with a variety of play facilities designed for use by children. *(Amended 083112)*

**PRE-EXISTING COMMUNICATION TOWERS** - means any tower or antenna for which a building permit or special use permit has been properly issued prior to the effective date of this zoning ordinance, including permitted communication towers or antennas that have not yet been constructed so long as such approval is current and not expired.

**PRIMARY BUILDING** - The building housing the main or principal use or purpose to which the land is put, as opposed to accessory building or out building.

**PRINCIPAL USE-** The only primary or dominant use or activity to which a lot or parcel is put.

**PRIVATE EVENT** - A periodic or special event such as, but not necessarily limited to, an exhibition, banquet, reunion, ceremony or service, typically occurring in a building, structure, or outdoor area, alone or in combination which is rented or leased to private parties on a limited basis. *(Added 052809)*

**PRIVATE GARAGE** - An enclosed building or semi-open carport designed for storing automobiles together with garden tools and equipment, etc.

**PUBLIC UTILITY** - Any person, firm, corporation, municipal department or board duly authorized to furnish and furnishing, under government regulation, to the public, transportation, water, gas, electricity, telephone, steam, telegraph or sewage disposal and other services.

**R1 DISTRICT - LOW DENSITY** - The R1 district serves as the low-density residential district. It includes much of the Township's shoreline areas. This district may serve as a transitional residential area between the Agricultural or Residential/Conservation districts and the higher density residential districts.

**R2 MEDIUM DENSITY RESIDENTIAL DISTRICT** - R2 districts are typically located adjacent to R1 properties and, in certain locations, serve as buffer zones between the R1 and commercial, light industrial, and higher density residential uses

**R3 HIGH DENSITY RESIDENTIAL DISTRICTS** This Section specifies three districts which provide for a variety of high-density residential developments. These include an R3A, Multiple Family Dwelling District; an R3M, Mobile Home Park District; and an R3S, Single Family Housing subdivision District. The R3 districts are to be located on or with public access to major thoroughfares and close to the Villages of Northport and Omena or in locations where they can serve as transition zones between commercial or light industrial uses and less intensive residential areas. R3 developments shall have increased setbacks from primary public roads. The driveway access to an individual lot shall be restricted to an interior street or service drive. Lot size specifications are a function of the availability of public or approved common water and sanitary systems.

**R3A MULTIPLE FAMILY DWELLINGS** - The multiple family residential district is provided to serve the needs for the duplex, apartment or townhouse type dwelling units

**R3M MOBILE HOME PARK DISTRICT** - The mobile home park district is intended to provide for alternate types of single-family housing. An additional objective is to establish certain standards for Mobile Home Park developments in order to further the health, safety, and welfare of the residents thereof.

**R3S HIGH DENSITY SINGLE FAMILY RESIDENTIAL** - The purpose of this district is to provide for small lot, platted subdivision developments or site condominium subdivisions of three or more building units, free from other uses except those normally accessory to and compatible with neighborhood residential living.

**R4 PRE-PLATTED SUBDIVISIONS** - The R4 district shall include only certain residential subdivisions, in their entirety, which were platted and recorded before the adoption of the Leelanau Township Zoning Ordinance on May 13, 1976. As a result of the Zoning Ordinance enactment, many lots of record in said subdivisions are dimensionally non-conforming. It is the intent of this district to provide reasonable setback and side yard standards to facilitate the use of these lots. Rezoning to this district shall be based on a precedent of need as established by the variance request history of the plat and must be a requested action of the Zoning Board of Appeals or the Township Board.

**RECOGNIZABLE AND SUBSTANTIAL BENEFIT** - (See Benefit, Recognizable and Substantial).

**RECREATIONAL VEHICLE PARK AND CAMPGROUND** - A parcel or tract of land under the control of a person, a business, or corporation, which is intended to accommodate two (2) or more recreational vehicles and/or tent sites wither free of charge or for revenue purposes, as licensed by the Michigan Department of Health, having such required accessory buildings as central shower and toilet facilities, central laundry and utility buildings; and also includes recreational facilities such as playground areas, etc., all designed and used to serve transient or seasonal type guests in said park and campground.

**RECREATIONAL VEHICLES** - Any unit which is licensed and/or unlicensed and is used or so constructed as to permit it to be used as a temporary seasonal or vacation type home for sleeping or housekeeping by one (1) or more persons, and has it's own motive power or is mounted on or drawn by another vehicle which is self-powered. Such units may consist of: travel trailers, camping trailers, pop-up campers, motor homes, truck campers, house cars, slide-in campers, chassis-mount campers, or any other similar units; as defined in Public Act 171, Michigan Public Acts of 1970. Recreational vehicles do not include boats or mobile homes (as defined by this Ordinance.)

**RESIDENTIAL/CONSERVATION LAND DEFINITION** - The Residential/Conservation district will be comprised of lands 65% or more of which meet one or more of the following criteria: a) Wetlands, as defined by Michigan Public Act 451, Natural Resource and Environmental Protection Act, as amended; b) Dune lands, as defined and regulated by Michigan Public Act 451, Natural Resource and Environmental Protection Act, as amended; c) Steep slopes, as defined in Article 15- Environmentally Sensitive Areas of this Ordinance; d) Lake Michigan and Grand Traverse Bay shorelines (those areas lying within five hundred (500) feet of the “Waterfront Setback Datum”; e) Areas within one hundred fifty (150) feet of a stream, pond, inland lake or the designated flood plain of the water bodies; f) Topography and/or soil(s) that limit agricultural and forestry production capability. *Amended 07/08/08*

**RESTAURANT, STANDARD** - An establishment that sells food and/or beverages to customers in a ready to consume state, and whose principal method of operation includes one or both of the following characteristics:

- a. Customer selection of food and beverages from a menu and served by employees of the restaurant to customers seated at tables or counters within the restaurant facilities.
- b. A variety of prepared food is selected by customers from a cafeteria line and is subsequently consumed by the customers within the restaurant facilities. *(Amended 05/28/09)*

**RESTAURANT, DRIVE-THROUGH** - A restaurant in which all or a substantial portion of the business consists of serving foods and beverages in a ready to consume state from a drive-through window to patrons in motor vehicles. A drive-through restaurant may or may not have indoor seating. *(Added 05/28/09)*

**RESTAURANT, TAKE- OUT** - A restaurant that sells foods and beverages in a ready to consume state from a counter to customers principally for take-out. A take-out restaurant may or may not have indoor seating. A take-out restaurant shall not include drive-through restaurant window services. *(Added 05/28/09)*

**RETAIL STORE** - A store, market or shop in which commodities are sold, or offered for sale, in small or large quantities to the retail trade.

**RIDGELINE** - A continuous long elevation of land which is the highest elevation in the immediate area observed from 1000 feet or less from either side of the ridge.

**ROADSIDE STAND** - A building or open-air display accessory to a farm operation used solely for the seasonal sale of farm, garden, greenhouse, and nursery products. (*Amended 052809*)

**ROOMING HOUSE** - Primarily a family dwelling where lodging with or without meals is furnished on a weekly, monthly or any paying basis to three or more persons who are not members of the family occupying and operating the premises, but not necessarily to anyone who may apply.

**ROOMING UNIT** - Any room or group of rooms, forming a single habitable unit used for living and sleeping, but which does not contain cooking or eating facilities.

**SCHOOL** - A public or private educational institution offering students a conventional academic curriculum, including kindergartens, elementary, middle schools, and high schools. Such term shall also include all adjacent properties owned and used by such schools for educational research and recreational purposes.

**SECONDARY USE** - same as accessory use.

**SERVICE INSTITUTION** - A store, market or shop in which services are sold or offered for sale to the public, such as gasoline stations, garages, repair shops, laundries, warehouses, printing houses, undertaking establishments, barber shops and beauty parlors, etc.

**SET-BACK LINES** - Lines established parallel to a property line along highway or waters edge for the purpose of defining limits within which no building or structure or any part there of shall be erected or permanently maintained.

**SEXUALLY ORIENTED BUSINESS** - Those uses specified and defined as, but not limited to an adult bookstore, adult cabaret, adult drive-in, adult film store, adult motion picture theater, and/or adult novelty store.

**SIGNIFICANT MODIFICATIONS** - Changes to approved Site Plans and Final Project Plans that may include changes in the number and/or type of residential or commercial units, the relocation of any structure more than 10 feet from the approved location, the size and/or location of dedicated open space, revisions to the conditions that are a part of the approval, or any modification that would change the character of the development. *Amended 11/28/08*

**SHORELINE** - A term used synonymously with "water's edge" and "high water" in this Ordinance for establishing building setbacks. *Amended 07/08/08*

**SINGLE-FAMILY ATTACHED DWELLINGS** - Two to four dwelling units which share common sidewalls with each unit having its own ground level entry to/from the outdoors.

**SLOPE** – The degree of deviation of a surface from the horizontal, expressed in percent or degrees.

**SPECIAL HOME BUSINESS** - essentially the same as home businesses except that a greater latitude in operating conditions may be granted by the Planning Commission. A Special Home Business Permit is required before a special home business begins operation.

**SPECIFIED ANATOMICAL AREAS** - Includes any of the following: Less than completely and opaquely covered human genitals, public region, buttocks, and female breasts below a point immediately above the top of the areola; and Human male genitals in a discernable turgid state, even if completely and opaquely covered.

**SPECIFIED SEXUAL ACTIVITIES** - Includes any of the following: Human genitals in a state of sexual stimulation or arousal; Acts of human masturbation, sexual intercourse or sodomy; Fondling or other erotic touching of human genitals, pubic region, buttock or female breasts.

**STEEP SLOPES** – A slope of 30% or greater, as determined by a topographic Survey. *Amended 11/28/08*

**STORAGE AREA**- A place for storing goods and/or materials.

**STREET** - A thoroughfare which affords a principal means of access to abutting property.

**STRUCTURE** - A product of, or pieces of, material built up or composed of parts joined together in some definite manner, including but not limited to, dwellings, decks, garages, porches, buildings, fuel tanks, storage sheds, towers, antennas, or other like objects, which must meet the setback requirements of this Ordinance. Fences, screening walls, birdhouses, signs, signboards and grade-level walkways and driveways are exempt from the District's setbacks. *(Amended effective 9-19-91, 10-6-94, 3-1-02).*

**SUBDIVISION** – A division of land under the provisions of Act 591 of 1996, as amended, being the Land Division Act.

**SUBSTANTIAL OR SIGNIFICANT PORTION** - An establishment will be deemed to have a substantial or significant portion of its stock in trade or services if it meets at least one of the following criteria: Thirty-five percent (35%) or more of the stock, material or services provided are distinguished or characterized by their emphasis on matter depicting, describing or related to specified sexual activities, specified anatomical areas, or both. Thirty-five percent (35%) or more of the usable floor area of the building is used for the sale, display or provision of services distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities, specified anatomical areas, or both. The advertising (on signs, in publications, on television or radio and/or other medial forms) associated with the business describes or related to specified sexual activities, specified anatomical areas, or both.

**TENT** - A portable shelter consisting of canvas, nylon or other similar materials, stretched over poles and attached to stakes, or other similar portable shelters, used for temporary human habitation.

**TOPOGRAPHIC SURVEY** – The graphic delineation in detail on maps or charts of natural and manmade features of a place to show relative positions and elevations.

**TOURIST HOMES** - An owner occupied/operated single-family dwelling having no more than five bedrooms available for guest use for compensation. Meals may or may not be furnished. May also be called a "Bed and Breakfast."

**UNDERLYING ZONING** - The zoning classification and regulations applicable to the property immediately preceding the grant of an application to designate the property planned unit development.

**USE** - The purpose, for which land or a building thereon is designed, arranged or intended to be occupied or used or which is occupied or maintained.

**USED** - The word "used" includes "arranged," "designed," or "intended to be used."

**VALUE ADDED AGRICULTURAL ENTERPRISE** - A processing activity conducted by a farm operator that increases the value of the product grown by the operator. *(Added 052809)*

**VARIANCE** - A modification of the literal provisions of This Ordinance granted when strict enforcement thereof would cause undue hardship owing to circumstances unique to the specific property on which the modification is granted by the Zoning Board of Appeals.

**WATERFRONT SETBACK DATUM (WSD)** – for the purposes of establishing setbacks for Lake Michigan waterfront lots the setback shall be measured from a datum of 580.5 feet above sea level. *Added 07/08/08*

**WATER'S EDGE** - The surveyed property line along the shore of a body of water.

**WILDLIFE HABITAT** - Habitat that consists of natural indigenous plant materials which support wild animal feeding, nesting and breeding. It includes cover, wildlife travel corridors and paths.

**WINE RELATED BEVERAGES** - alcoholic and non-alcoholic fruit juices and other fruit beverages including, but not limited to, wines, fortified wines, distilled wines, brandies and mixed wine drinks. *(Added June 13, 2000)*

**WINERY** - the site and buildings used principally for the production of Wine and Wine Related Beverages in accordance with the Bureau of Alcohol, Tobacco and Firearms law, Article 27 CFR (Code of Federal Regulations), paragraph 4.35 (a)(1) definition of “Produced and Bottled By”, and that 75% or more of such products will be clarified and fermented on the site. *(Added June 13, 2000)*

**YARD** - The area of any lot not supporting any building. Yard measurement shall be the minimum horizontal distances. **Front Yard** - A yard extending the full width of the lot between the front lot line (highway frontage) and the nearest line of the main building. **Rear Yard** - A yard extending a full width of the lot between the rear lot line (or water's edge) and the nearest line of the main building. **Side Yard** - A yard extending from the front yard to the rear yard between the side lot line and the nearest line of the main building or accessory building.

Reformatted and approved by Board 03/09/04

Amended 01/31/06, Ord 2 & 3 of 2006; Pub. 02/09/06; Eff. 02/17/06

Amended 01/31/06, Ord 4 of 2006; Pub 02/09/06; Eff. 02/17/06

Amended 03/14/06, Ord 06-2, 06-3, 06-4, 06-6 of 2006, Pub. 03/23/06; Eff. 03/31/06

Amended 01/09/07, Ord 1 of 2007, Pub. 01/18/07; Eff. 01/26/07

Amended 04/25/08, Ord 1 of 2008, Pub 04/17/08, Eff 04/25/08

Amended 07/08/08, Ord 2 of 2008, Pub 07/17/08, Eff 07/25/08

Amended 11/11/08, Ord 6 of 2008, Pub 11/20/08, Eff 11/28/08

Amended 05/12/09, Ord 1 & 2 of 2009, Pub 05/21/09, Eff 05/28/09

Amended 03/13/12, Ord 1 of 2012, Pub 03/22/12, Eff 03/30/12

## ARTICLE 3

### LAND USE DISTRICTS

**SECTION 3.1 PURPOSE AND SCOPE** - This Article lists the Districts and presents the schedule of regulations and general provisions for those Districts. This Article refers also to driveways, signs, rental of dwellings and use of recreational vehicles.

#### **SECTION 3.2 DISTRICTS AND MAP**

**A. For the purposes of This Ordinance** the Township of Leelanau is divided into Land Use Districts, as follows:

1. A - Agricultural (Article 4)
2. R - Residential (Article 5)
  - a. R1 - Low density (Section 5.2)
  - b. R2 - Medium density (Section 5.3)
  - c. R3 - High density (Section 5.4)
    1. R3A (Multi-family dwellings)
    2. R3M (Mobile Home parks)
    3. R3S (Single family residential)
  - d. R4 - Pre-platted subdivision (Section 5.5 Cherry Homes is the only pre-platted subdivision with R4 zoning)
  - e. RC - Residential Conservation (Section 5.6)
3. G - Governmental (Article 6)
4. C - Commercial (Article 7)
  - a. C - Commercial (Section 7.2)
  - b. CR - Commercial Resort (Section 7.3)
5. I - Industrial (Article 8)
6. IC - Island Conservation (Article 9)

**B. Map** - The Land Use District into which each parcel of land in the Township is placed, is shown on the map entitled "Leelanau Township Zoning Map", which accompanies and is part of This Ordinance. Copies of the Leelanau Township Zoning Map are available for examination at the Township office at all reasonable times, and kept with the records of the Township Clerk. Unless otherwise stated, all Land Use District boundaries shown on said Map are intended to follow lot lines, or the center lines of roads, streets or alleys as they existed on the date of enactment of This Ordinance, or section or sub-section lines.

**SECTION 3.3 INTERPRETATION OF DISTRICT BOUNDARIES** - Where uncertainty exists with respect to the boundaries of any of the Districts indicated on the Zoning Map, the following rules shall apply:

A. Boundaries indicated as approximately following the street or highways, the center lines of such streets or highways shall be considered to be such boundaries.

- B. Boundaries indicated as approximately following lot lines shall be construed as following such lot lines.
- C. Boundaries indicated as approximately following Township boundary lines shall be construed as following such Township boundary lines.
- D. Boundaries indicated as approximately parallel to the center lines of streets or highways shall be construed as being parallel and at such distance as indicated on the official Zoning Map. If no distance is given, such dimension shall be determined by the use of the scale shown on the official Zoning Map.
- E. Boundaries following the shoreline of a stream, lake or other body of water shall be construed to follow such shorelines; boundaries indicated as approximately following the center line of streams, rivers, canals, or other bodies of water shall be construed to follow such center lines.
- F. Where the application of the above rules leaves a reasonable doubt as to the boundaries between two (2) districts, the regulations of the more restrictive district shall govern the entire parcel in question, unless otherwise determined by the Township Board of Appeals after recommendation from the Township Planning Commission.

### **SECTION 3.4 GENERAL PROVISIONS**

- A. Scope** - Except as otherwise provided in this Ordinance, no lot or parcel of land, no existing building, structure, or part thereof and no new building, structure or part thereof shall hereafter be located, erected, constructed, reconstructed, altered or used for purpose other than in conformity with the provisions of this Ordinance.
- B. Essential Services** - Existing utilities and essential services defined in the Ordinance may continue to be operated and maintained, but no new essential public service construction other than poles, wires, and the usual underground utilities shall be started without first obtaining approval of the Planning Commission in conformance with Article 11, Site Plan Review. Telecommunications towers, alternative tower systems, antennas and wind energy conversion systems shall be regulated pursuant to this Ordinance and shall not be permitted or regulated as an essential public service, public utility or private utility.
- C. Leelanau Township Governmental Functions** - Based on findings and interpretations of court decisions including *Taber v. Benton Harbor*, 280 Mich App 522 (1937), *Mainster v. West Bloomfield Township*, 68 Mich App 319 (1976), *Keiswetter v. City of Petoskey*, 124 Mich App 590 (1983), and *Morrison v. City of East Lansing*, 255 Mich App 505 (2003), Leelanau Township owned properties and uses, where maintained and operated in the furtherance of a governmental function, shall be exempted from the provisions of this Zoning Ordinance. *(Added 083112)*
- D. Other Governmental Functions** – Uses pertaining to functions of governmental agencies other than Leelanau Township shall be subject to the provisions of this Zoning Ordinance unless exempted by Federal, State or Local laws or court decisions. *(Added 083112)*



**3.5 SCHEDULE OF REGULATIONS –**  
**A. TABLE 3.5A SCHEDULE OF REGULATIONS**

District	Min area in acres	Min front width (ft)	Depth to width ratio (5)	Minimum Setbacks (ft) (2)				Max Height (ft)	Max Floor Area	Max Building Density (8)
				Front	Sides (3)	Rear No shore	WSD or OHWM Shoreline			
A	10 (8, 11)	300 (9)	4:1	40	40	40 (9)	40	35/60 (4, 10)		(8)
R1	2 (11)	150	4:1	30	10 (6)	40	40	35		
R2	2 (11)	150	4:1	30	10 (6)	40	40	35		
R3A	1 (11)		4:1	50	10 (6)	40	40	35		
R3M	¾ (11, 13)		4:1	(14)	(14)	(14)	40	35		
R3S	1 (11)		4:1	50	10 (6)	40	40	35		
R4	Pre-platted	NA		20	(7)	40 (7a)	40	35		
RC	10 (11)	300	4:1	40	40 (6,11)	40 (9)	40	35		
C	6000 sq ft (18)	50		0	10 (16)	20 (16)	40	35	(17)	
CR	(18)			40 (19)	10	40	40 (20)	35 (21)		(22)
I	10	100		50/30 (23)	50/20 (24)	50/20 (24)	100	35		
IC	10			40	40	40	100	35		

Footnotes:

1. When compliance with those restrictions on a lot platted and/or recorded before the enactment of this Ordinance creates a hardship, the Zoning Board of Appeals may reduce the setback from the edge of the public road right-of-way but in no case shall the setback from the right-of-way be less than twenty (20) feet nor the setback from the waterfront setback datum (WSD) or ordinary high water mark, as applicable, be less than forty (40) feet, except for commercial districts where the minimum front setback from the right-of-way remains at zero (0) feet.
2. To reduce Fire Hazard, no building or structure, nor any part thereof, may be erected or maintained closer than ten (10) feet to any neighboring property line, except where specifically permitted.

3. Except as permitted in footnote 7 of this Article 3.5, no variations shall be granted to locate a building or structure, or any part thereof, less than ten (10) feet from the side lot lines. Setback requirements do not supersede any special conditions of Section 17.3 – Landscaping and Fencing which may increase setbacks for agricultural buffering, greenbelts, etc.
4. In order to preserve the pastoral character of the area, no building or structure or any part thereof shall be constructed having a height greater than sixty (60) feet. This does not include antenna systems that might require a greater height for adequate signal reception, communication towers as permitted in Article 18, and wind turbines as permitted in Article 19; or as permitted in footnotes 10 and 23 of this Article. The maximum height of all other structures will be determined by the Board of Appeals.
5. The ratio of the mean length to mean width of any lot two or more acres in area created after November 21, 1996 shall not be greater than four (4) to one (1). The mean dimension is calculated by dividing the sum of the maximum and minimum width or length dimensions by two. Variances to this ratio may be granted by the Zoning Board of Appeals when an exiting road, body of water, or other significant natural feature forms one boundary of the lot or parcel and makes strict adherence to the ratio impractical. Variances may also be granted when:
  - a. the non-conforming lot has been created by combining two or more lots which have been recorded before November 21, 1996; or,
  - b. the parent parcel has been divided before November 21, 1996, and the remaining portion can be split into lots that meet all of the requirements of this Ordinance except for the dimensional ratio.
6. For lots less than 100 feet wide, side setbacks shall be 10 feet on each side. For lots of 100 feet or more in width, each side setback shall be 10% of the lot width, up to a maximum of twenty (20) feet. Results of side setback calculations shall be rounded down to the nearest whole foot. In A and RC districts these setbacks apply only to residential structures on lots of less than three (3) acres.
7. On one pre-platted lot, the sum of the side setbacks shall be not less than 15 feet with a minimum of 5 feet on one side. If more than one pre-platted lots are combined for building purposes, the minimum setback for each side shall be 10 feet. Once a minimum side setback has been established by the placement of a structure, all future structures shall comply with said setback dimension.
  - a. The rear setback in the R4 district, on non-waterfront lots is twenty (20) feet for accessory buildings only. On waterfront lots, the rear (waterfront side) setback is as shown. *(Added 082710)*
8. A density of one residence per legally recorded lot or parcel shall be accomplished by either: a) a minimum lot area of 10 acres for a dwelling unit or, b) lot splits from a parent parcel; the area of such lots to be a minimum of two (2) acres, with the balance of the acreage up to ten (10) acres retained as 'residentially unbuildable'. See Section 4.5 for the procedure and requirements to accomplish this option. The foregoing shall not cause the lot of record (parent parcel) to be split in such a manner which would violate the lot split provisions contained in the Subdivision Control Act of 1967, being Act 288 of the Public Acts of Michigan of 1967 as amended.
9. For lot splits from a parent parcel, the minimum width shall be 150 feet and the minimum rear setback 20 feet.
10. The maximum height for all buildings is 35 feet except the height of buildings for agricultural uses is 60 feet with farm silos being excluded from this height limitation. In addition, Article 14 permits flexibility in the building height and other regulations in order to achieve improved project designs Maximum height of all residential use buildings is 35 feet. *(Amended 052809)*
11. Lot size may be reduced if development conforms to Article 13.
12. For pre-platted lots of less than 21,780 square feet (0.50 acres) in area, the maximum lot coverage shall not be more than 20% of the gross site area. For all other lots, the maximum lot coverage shall not be more than 15% of the gross site area.

13. Minimum lot size and minimum land area per dwelling unit, exclusive of the required open space:
  - a. Five thousand five hundred (5,500) square feet when a common sanitary sewer, approved by the Michigan Department of Environmental Quality and/or the Leelanau County Health Department, is provided
  - b. 3/4 acre (32,670 square feet) when a common sanitary sewer system is not provided.
14. All setback requirements, other than those specified in this ordinance, shall be as established in the Michigan Mobile Home Commission Rules Handbook.
15. Twelve thousand (12,000) square feet when a public or common sanitary sewer, approved by the Michigan Department of Environmental Quality and/or Leelanau County Health Department, is provided.
16. With buffering where abutting residentially-zoned lands.
17. With exception of residential, each separate use may occupy no more than 8,000 square feet; however, retail stores for selling food for home consumption and preparation may occupy a total floor area not in excess of 15,000 square feet.
18. All Commercial Resort Districts shall include ten (10) or more contiguous acres. Such districts may consist of one or more parcels.
19. A minimum setback of seventy-five (75) feet is required from a public road not wholly contained within the boundaries of the project parcel.
20. Marinas and break walls having the necessary state and federal permits are exempt from this requirement. The Planning Commission may increase this required setback where it deems necessary during site plan review proceedings.
21. This height restriction may be waived by the Planning Commission for a building or structure not intended for human occupancy during site plan review proceedings, provided the petitioner describes a functional need for such a waiver and the resulting building or structure is or can be buffered so as not to depreciate or otherwise negatively impact neighboring properties.
22. For the purposes of this Table the definition of "dwelling unit" shall be: any residence which is part of a single family, two-family or multiple family building, including a townhouse residence; a rental cottage; a camping space; a recreational vehicle park space; or a hotel, lodge, or motel room.
  - a. In the case of camping facilities, recreational vehicle parks, and hotels, lodges, motels or multiple family dwellings which are not characterized by townhouse construction, the maximum number of dwelling units permitted shall not exceed the number derived from dividing the total parcel acreage, exclusive of permanently submerged lands and all right-of-ways and easements for roads, including boundary and access roads, by 0.35.
  - b. In the case of all other accommodations not otherwise included above, including single family and two-family dwellings, multiple family dwellings, and rental cottages, the maximum number of such dwelling units permitted shall not exceed the number derived from dividing the total parcel acreage, exclusive of permanently submerged lands and all road right-of-ways and road easements, including boundary and access roads, by 0.70.
  - c. In the case where a parcel is proposed to be developed with a mix of dwelling unit types where neither of the above formulas apply for the entire project, the Planning Commission shall determine the maximum number of dwelling units permitted by applying the above formulas to the relative percentage of the parcel needed to support the density of each of the different building unit types.
23. 50 feet when fronting a County road; 30 feet when fronting an industrial subdivision street.
24. 50 feet when abutting any other district; 20 feet from adjacent industrial property.

**B. TABLE 3.5.B – MAXIMUM LOT COVERAGE IN RESIDENTIAL DISTRICTS**

<b>Residential Lot Size in Square Feet</b>	<b>Maximum Lot Coverage in %</b>
Less than 22,000	35
22,000 to 87,000	25
Greater than 87,000	15

*(Added 052809)*

**SECTION 3.6 LAKE ACCESS** - Easement to lake front requirement is thirty (30) feet per residence.

**SECTION 3.7 ACCESS TO STREET OR ROAD** - No dwelling shall be placed on any parcel of land unless there is direct access to a street or road, or assured permanent access evidenced by an easement of record.

**SECTION 3.8 DRIVEWAYS** - To reduce fire hazard and make possible access to all buildings or structures by the Fire Department, no driveway shall have a clear right-of-way of less than twelve (12) feet in width.

**SECTION 3.9 SIGNS** - Signs in the township shall comply with the regulations of the Leelanau Township Sign Ordinance, 91-1.

**SECTION 3.10 RENTAL OF DWELLING** - Except in Industrial Zone, rental of a dwelling, as defined in Article 2, shall be permitted in all zoning districts.

**SECTION 3.11 RECREATIONAL VEHICLE USE** - The following requirement shall apply to all districts unless otherwise specifically stated: A maximum of two (2) recreational vehicles may be located on any parcel of land without issuance of a Land Use Permit provided that the following conditions and limitations are met:

- A. Each recreational vehicle shall;
  - 1. Meet all applicable setback requirements;
  - 2. Not be used for commercial or business purposes;
  - 3. Not be used for residential purposes for more than forty-five (45) calendar days in any calendar year;
  - 4. Not be used as a permanent dwelling.
- B. No recreational vehicle shall be located, parked or stored for a total period of more than forty-five (45) days in any calendar year, on any parcel of land on which no permanent dwelling exists, unless inside an enclosed structure meeting the requirements of This Ordinance, or screened so that it is not visible.
- C. More than two (2) recreational vehicles on a parcel of land shall constitute a Recreational Vehicle Park and Campground.

**Amendment History –**

- Reformatted and adopted by Board 06/08/04, Pub. 06/17/04; Eff. 06/24/04
- Amended 01/31/06 – Sec. 3.2 and 3.5A, Ord. 1 of 2006; Pub. 02/09/06; Eff. 02/17/06
- Amended 03/14/06 – Sec 3.4.B – Essential Service, Ord 06-4 of 2006; Pub. 03/23/06; Eff. 03/31/06
- Amended 01/09/07 – Sec 3.6 – Boat houses – deleted, Ord . 1 of 2007; Pub. 01/18/07; Eff. 01/26/07
- Amended 04/08/08 3.5 table and footnotes – Ord 1 of 2008, Pub 04/17/08, Eff 04/25/08
- Amended 07/08/08 3.5 table and footnotes 0 Ord 3 of 2008, Pub 07/17/08, Eff 07/25/08
- Amended 05/12/09 3.5 table and footnotes, Add Table 3.5B, Ord 1 and 2 of 2009, Pub 05/21/09, Eff 05/28/09
- Amended 08/10/10 3.5 Table and footnotes, Add footnote 7a, Ord of 2010, Pub 08/19/10, Eff. 08/27/10
- Amended 08/31/12 Added sections 3.4.C and D, Ord 7 of 2012, Pub 08/23/12, Eff 08/31/12

**ARTICLE 4  
AGRICULTURAL DISTRICT**

**SECTION 4.1 PURPOSE AND SCOPE** - This article defines permitted and special uses in the Agricultural Districts. These regulations are meant to facilitate agricultural and horticultural operations and to conserve productive Agricultural Lands. This article refers to procedures for Lot Split Options.

**SECTION 4.2 PERMITTED USES**

- A. One single family dwelling per ten (10) acre parcel or legal lot. (See Section 3.5 – Schedule of Regulations)
- B. Agricultural activities such as field crops, horticulture, horticultural nurseries, forestry, vineyards, truck gardens, and beekeeping.
- C. Non-intensive livestock operations including poultry and egg production, milk production, and animal husbandry.
- D. New and/or expanding operations with 50 animal units or greater must be located on minimum parcels of eighty (80) acres or greater and must comply with all applicable requirements of the Michigan Department of Agriculture GAAMPS (Generally Accepted Agricultural and Management Practices) for determining acceptable locations, site analysis plan, manure management system plan process for approval, and manure management and utilization.

**SECTION 4.3 ACCESSORY PERMITTED USES**

- A. Any use customarily incidental to the permitted principal uses, including barns, sheds, and processing operations incidental to the harvesting, packing, storage, and transporting of agricultural products.
- B. Home occupations and businesses as regulated in Article 16.
- C. Bed and Breakfast operations with a maximum of five rental rooms and with provision for one off-street parking space for each guest room and for each of the regular occupants' vehicles.
- D. Roadside stands subject to the following requirements:
  - 1. The produce sold shall be limited to that grown in Leelanau County.
  - 2. At least 50% of the produce sold must be produced on land that is owned or leased by the operator of the stand.
  - 3. Stands shall be located in the Agricultural District. However, the stand operator may petition the Planning Commission on an annual basis to waive this requirement provided the proposed location will not (a), result in increased traffic inappropriate to the area or (b), produce noise that disturbs the adjacent neighbors or (c), depreciate the value of neighboring properties.
  - 4. Roadside stands shall be adequately served by public streets and highways. In no instance shall site access materially impede traffic flow on adjacent streets and highways, create a traffic hazard, or alter area traffic patterns.
  - 5. Stands shall not be located within the road right-of-way and shall provide parking in accordance with Table 17.2.A.
  - 6. Roadside stands shall be operated only during daylight hours.
- E. State of Michigan licensed housing for 5 or more agricultural workers.
- F. Farm Year Round Employee Housing - Individual dwelling units for year round employees of a farm may be provided subject to the following conditions:
  - 1. Mobile homes, manufactured housing, or conventional construction homes are permitted.
  - 2. Farm year round employee housing shall be subject to all setback requirements of this Ordinance.

3. All farm year round employee housing shall be owned by the owner or operator of the farm.
4. One dwelling unit shall be permitted for each 40 acres of the aggregate acres owned or leased by the farm owner or operator.
5. When two or more farm year round employee housing units are to be provided, a site plan review by the Planning Commission shall be required.
6. The person or persons residing in farm year round employee housing must be employed by the farm owner/operator a minimum of 51% of the normal working hours in a year.
7. Farm year round employee dwellings shall not be rented to persons not employed by the farm owner/operator.
8. If the farm operation has not produced an agricultural crop for three years, all farm year round employee housing shall be removed or sold on a lot meeting the requirements of the district in which it is located.

G. Wineries, Microbreweries, Distilleries on parcels of twenty (20) acres or more, provided all of the required licenses and approvals have been obtained from the appropriate state and federal agencies. These facilities are subject to the following regulations and conditions:

1. Ten acres of the parcel on which any of the foregoing facilities are located or, alternatively, ten acres that are owned or operated by the owner or operator of the winery, brewery, or distillery must be in active production of a fruit, grain, vegetable or other principal ingredient of the beverage to be produced.
2. The on-premise consumption of alcoholic beverage shall be limited to tasting room quantities. Adjunct food services are exempted from this restriction. The facility shall not function as a bar.
3. Any retail sales shall be clearly subordinate to the production of the beverage produced such as boxes/packaging containing wines, beer or liquors; glassware for serving alcoholic beverages; and wine bottle openers. Specifically prohibited are unrelated merchandize such as clothing, coffee cups, and bumper stickers. The retail sales area shall be no more than twenty five (25) percent of the floor area devoted to the winery, but in no case shall it occupy more than two thousand (2000) square feet of floor area.
4. Adjunct food services may be provided.
5. Parking spaces shall be provided in accordance with the requirements of Section 17.3 – Landscaping and Fencing.
6. Parking, buildings, and processing areas shall be set back a minimum of fifty (50) feet from all property lines. This setback area shall be landscaped and visually screened from adjacent properties and roads pursuant to Article 17.

H. Value Added Agricultural Enterprise, subject to the following conditions:

The proposed enterprise shall be clearly subordinate to on-site agricultural production. The following factors shall be considered in making this determination:

1. The geographic area of the lot devoted to the value added enterprise in comparison to that remaining in agricultural production.
2. Whether or not new structures or significant expansion of existing structures is needed to accommodate the support service use.
3. The relative number of employees devoted to the value added agricultural enterprise in comparison to the number needed for agricultural production.

- I. Off-site storage, subject to the following conditions: *(Added 033012)*
1. All off-site storage shall only be located within an enclosed building having a gross floor area of 1,200 square feet, or more.
  2. Only one (1) accessory building shall be used for off-site storage.
  3. The storage of domestic waste, commercial waste, hazardous materials, construction debris, or building materials or supplies not intended for the personal use of the property owner, is expressly prohibited.
  4. No signs shall be located on the premises which are used to advertise off-site storage conducted on the premises.
  5. Off-site storage shall be restricted to parcels five (5) acres or greater in area.

#### **SECTION 4.4 SPECIAL USES SUBJECT TO REQUIREMENTS OF ARTICLE 12 – SPECIAL LAND USES**

- A. Landing strips for private aircraft.
- B. Sawmills, on parcels of twenty (20) acres or more, provided that no sawmill is located closer than two hundred-fifty (250) feet from any road right-of-way or five hundred (500) feet from any body of water.
- C. Agribusinesses subject to the following conditions:
1. All outdoor storage of materials, vehicles, equipment and machinery used in the course of the applicant's business shall be restricted to the rear yard or be set back from the front lot line not less than 150 feet, whichever is less restrictive.
  2. All outdoor storage shall be set back not less than 50 feet from all side and rear property lines.
  3. Materials having a propensity for airborne migration off-site such as, but not necessarily limited to, earth or light sand, may be stored on site provided it is stored in a manner that minimizes its migration onto adjacent property. The need for, and the appropriateness of the containment proposed, shall be determined by the Planning Commission in consideration of the type of material being stored, the operational needs of the business, and the aesthetic character of the neighboring properties. For purposes of this section, containment shall be defined to mean the device or technique proposed to limit or prevent the migration of stored material off site including, but not necessarily limited to, a tarp, storage corral, bulk storage building, native vegetative cover, or additional yard setback distance.
  4. Vehicles or equipment shall be stored at their lowest operable height.
  5. All open storage area shall be screened from all streets, screened from private road easements, and screened to prevent visibility from all horizontal lines of sight from neighboring residentially zoned or used property. Such screening shall consist of a solid ornamental 8-foot wall or fence or a living plant wall consisting of plant materials not less than 5 feet tall and which form a complete visual barrier at the time of their installation.
- D. Civic Events subject to the following conditions:
1. Civic events shall not be conducted more than 3 calendar days in a 30-day period.
  2. The civic event shall not involve overnight sleeping accommodations for participants or spectators.
  3. The hours of operation shall be confined between the hours of 10:00 a.m. and 10:00 p.m.
  4. Adequate area shall be provided on site to accommodate off-street parking needs. The number of such parking spaces shall be determined by the Planning Commission based upon the maximum peak attendance anticipated by the event sponsor. The parking area shall be designed and sited to mitigate potential nuisance effects on adjacent property owners.

E. Private Events subject to the following conditions:

1. The private event shall be a use accessory to an established, legally conforming principal use.
2. Private events shall not be conducted more than 3 calendar days in any 30-day period.
3. The private event shall not involve the overnight sleeping accommodations for event patrons.
4. The hours of operation shall be confined between the hours of 10:00 a.m. and 10:00 p.m.

F. Value Added Agricultural Enterprise Promotional Events, subject to the following conditions:

When adjunct food service is provided, the events shall be limited to 3 days per week and comprise no more than 150 persons each. Activities such as small group demonstrations, tours, and workshops are exempt from this limitation. For purpose of this section, small groups are defined as less than 30 persons on site at one time. The hours of operation for value added agricultural enterprise promotional events shall be confined between the hours of 10:00a.m. and 10:00p.m. No outdoor speaker system shall be utilized.

#### **SECTION 4.5 SPECIAL LOT SPLIT OPTION PROCEDURE**

- A. To use the lot split option a Special Lot Split application shall be submitted to the Zoning Administrator. The application shall include an Affidavit establishing the Parent Parcel and its acreage and a survey indicating the following:
1. The boundaries and acreage of the Parent Parcel.
  2. The boundaries and acreages of the residential lots to be created.
  3. The boundaries and acreage of the retained 'residentially unbuildable area.
  4. Legal descriptions of the Parent Parcel and all newly created lots, with the residentially unbuildable area described as such.
- B. If more than one new residential lot is created under 4.5.A, all driveways used to access those lots shall be shared driveways, reflected in recorded easements, unless accesses are able to be located at least 500 feet apart, where practical.
- C. The area retained as 'residentially unbuildable' shall not be used for residential purposes, but may be used for any other Agriculturally permitted uses, including farming, and the building of barns, cherry pads, agricultural storage facilities, etc.
- D. After the completed application of the Special Lot Split is reviewed and approved by the Zoning Administrator, the Parent Parcel Affidavit, surveys and legal descriptions shall be recorded with the Leelanau County Register of Deeds. Following the approval, the Zoning Administrator shall change the Township zoning map to record the size and location of all such lot splits.
- E. After the approval of the Special Lot Split, the applicant shall submit an application for land division pursuant to Leelanau Township Ordinance 97.7 - Parcel Division Ordinance.
- F. Any request for a Land Use Permit on a lot or parcel of less than 10 acres that was not a lot of record as of the time of amendment of the Article (5-12-94) shall be accompanied by a copy of the recorded survey map which describes the location and dimensions of the lot and the parent parcel from which it was derived.
- G. When the number of lot splits for a given parent parcel has reached the allowable density specified in footnote 3.5.A.8, the Zoning Administrator shall note this on the Township zoning map and no further lots splits or Land Use Permits for dwellings shall be approved for that parcel. Land Use Permits shall be issued for other uses permitted in the Agricultural District provided the regulations of this Ordinance are met.
- H. Guidelines for using the special lot split option.



1. Applicant must identify the Parent Parcel. For every 10 acres of land in the Parent Parcel, one (1) single family residence may be built. This may be on either A) parcels 10 acres or greater in size; or B) parcels with a minimum of 2 acres in size (with remaining land retained as residentially unbuildable).
2. All resulting residential lots that measure under 10 acres in size must have the balance of the acreage up to 10 acres retained, on the Parent Parcel, as forever residentially unbuildable.

Example:

Residential lot Acreage	Acreage to be Retained
2	8
3	7
4	6
5	5

3. Examples of land division options in the Agricultural District:

**Option A** - If only parcels 10 acres or greater are to be split out of a Parent Parcel, the Parent Parcel does not need to be recorded.

**Option B** - If one or more Special Lots Splits (a minimum of 2 acres) are going to be split out of a Parent Parcel, the Parent Parcel must be recorded establishing land equivalent to retaining the 1 residence to 10 acre density ratio. For example, to allow four Special Lot Splits of 2 acres each (a total of 8 acres) and the amount of acreage required to be retained as residentially unbuildable (a total of 32 acres), the Parent Parcel would need to be at least 40 acres in size.

**Option C** - The Parent Parcel is identified as 80 acres, it contains a 10.01 acre parcel which was non-farmable so sold as a large acreage residential site, the Parent Parcel is a working family farm with a farm residence, three 3-acre parcels have been split for residential development, with 21 acres being forever retained in the Parent Parcel for agricultural/open space use. The Parent Parcel has used up to 5 (five) of its allowable eight residential options, with the farmer being able to split out 3 (three) more residentially buildable parcels in any manner, which complies with local and state laws and meets the farmer's desired use of the land.

Amendment History

Reformatted and adopted by Board 06/08/04, Ord 2 of 2004, Pub. 06/17/04, Eff 06/24/04 Amended by Board 05/12/09, Ord 1 of 2009, Pub 05/21/09, Eff 05/28/09  
 Amended by Board 12/14/10, Ord 6 of 2010, Pub 12/23/10, Eff 12/30/10  
 Amended by Board 03/13/12, Ord 1 of 2012, Pub 03/22/12, Eff 03/30/12, added Sec. 4.3.I

## ARTICLE 5

### RESIDENTIAL DISTRICTS

**SECTION 5.1 PURPOSE AND SCOPE** - This Article defines principal, accessory, and special uses in Residential Districts.

#### **SECTION 5.2 R1 DISTRICT - LOW DENSITY**

- A. Principal Permitted Uses - see Table 5.7.A and footnotes
- B. Accessory Permitted Uses - see Table 5.7.B and footnotes
- C. Special Uses Subject to Requirements of Article 12 – Special Land Uses - see Table 5.7.C and footnotes (*Added 083112*)

#### **SECTION 5.3 R2 DISTRICT - MEDIUM DENSITY**

- A. Principal Permitted Uses - see Table 5.7.A and footnotes
- B. Accessory Permitted Uses - see Table 5.7.B and footnotes
- C. Special Uses Subject to Requirements of Article 12 – Special Land Uses - see Table 5.7.D and footnotes

#### **SECTION 5.4 R3 DISTRICT - HIGH DENSITY**

##### **A. General Requirements for R3A, R3M and R3s developments.**

1. Base District Size. The base size for any R3A, R3M, or R3S district shall be comprised of a minimum of ten contiguous acres.
2. Interior Streets and Access Standards. All interior streets in any of the three R3 districts shall comply with the requirements of Township Ordinance 90-1, Private Access Road Ordinance. The number and type of access routes to the development shall be based on the following criteria:
  - a. The number and size of buildings and/or dwelling units included in the project;
  - b. The interior roadway circulation layout;
  - c. Topography and other natural features of the site;
  - d. Amount of frontage on a public street;
  - e. Recommendations from the Township Fire Chief.

##### **B. R3A**

1. Principal Permitted Uses - see Table 5.7.A and footnotes
2. Accessory Permitted Uses - see Table 5.7.B and footnotes
3. Special Uses Subject to Requirements of Article 12 – Special Land Uses - see Table 5.7.D and footnotes
4. Density Standards - See Section 3.5 – Schedule of Regulations
  - a. When a public or approved common sanitary system is not available, the maximum density shall be one dwelling unit per acre, and the minimum lot size shall be one acre.

- b. When a public or approved common sanitary system is provided, the maximum density shall be eight dwelling units per acre, and the minimum lot size shall be 5500 square feet

### **C. R3M**

1. Principal Permitted Uses - see Table 5.7.A and footnotes
  - a. Utility buildings for laundry facilities and auxiliary storage space for mobile home park residents.
  - b. Community buildings, parks, recreation areas and playgrounds for use by the residents of the mobile home park.
  - c. The sale of new and used mobile homes located on lots within the mobile home park and are intended to be occupied and used on those sites may be sold by the owner, a licensed dealer and/or broker. However, this shall not be interpreted to allow the general sale of mobile homes at the park as a dealership or franchise business.
2. Accessory Permitted Uses - see Table 5.7.B and footnotes
3. Specific Requirements for R3M developments
  - a. Open Space. Each mobile home park shall include an open space area of no less than 25,000 (twenty-five thousand) square feet or two percent of the gross acreage of the base parcel, whichever is greater. All open space areas shall be conveniently located, well drained, and accessible to all residents of the mobile home park.
  - b. Boundary setbacks and screening. R3M developments shall provide and maintain a fifty-foot setback from any public street that borders the park and shall provide screening along such public right-of-way consisting of evergreen trees or shrubs of minimum three feet in height which are placed so as to provide a continuous screen at maturity. Alternative screening devices may be utilized if they conceal the mobile home park as effectively as the landscaping described above.
  - c. Skirting. When installed, the dwelling shall not have any exposed towing mechanism, undercarriage, or chassis.

### **D. R3S**

1. Principal Permitted Uses - see Table 5.7.A and footnotes
2. Accessory Permitted Uses - see Table 5.7.B and footnotes
3. Special Uses Subject to Requirements of Article 12 – Special Land Uses - see Table 5.7.D and footnotes

## **SECTION 5.5 R4 DISTRICT - PRE-PLATTED SUBDIVISIONS**

- A. Principal Permitted Uses - see Table 5.7.A and footnotes
- B. Accessory Permitted Uses - see Table 5.7.B and footnotes

## **SECTION 5.6 RC DISTRICT - RESIDENTIAL CONSERVATION**

- A. Principal Permitted Uses - see also Table 5.7.A and footnotes
- B. Accessory Permitted Uses - see also Table 5.7.B and footnotes
- C. Special Uses Subject to Requirements of Article 12 – Special Land Uses - see also Table 5.7.D and footnotes. All special uses shall have direct access to a public road.

## SECTION 5.7 – TABLES

### A. Table 5.7.A: Principal Permitted Uses

PRINCIPAL PERMITTED USES (numbers refer to footnotes, x means allowable)								
USES		R1	R2	R3 A	R3 M	R3S	R4	RC
<b>DWELLINGS</b>								
	Single family detached	X	X		X	1	X	2
	Two-fam. Attached		X					
	Two-fam. Incl. duplexes			X				
	2,3,4 dwellings		3					
	Multiple family dwelling			4				
	Mobile homes				5			
	Office bldg. for operation				X			
HOME OCCUPATIONS; Article 16		X	X	X	X	X	X	X
HOME BUSINESS; Article 16		X						X
BED AND BREAKFAST		6	7				6	8
<b>ANIMALS (keeping and raising)</b>								
	Pets	9	9	9	9	9	9	9
	Other	10						11
GUEST HOUSE		12						
<b>PLANNED UNIT DEVELOPMENT</b>								
	“PUD”, Article 14	X	X	X	13	X		X
CONSERVANCIES, etc.								14
AGRICULTURAL ACTIVITIES								15
PASSIVE RECREATIONAL FACILITIES		16	16	16	16	16	16	16

#### Footnotes:

1. In accordance with Article 21 – Subdivision Developments.
2. One single family detached dwelling per ten (10) acres of land.
3. Single family detached, two-family attached, and three or four unit townhouses at a maximum density of one dwelling unit per acre. Two, three or four dwelling unit structures must be divided vertically between dwelling units and must have independent, ground floor entrances for each dwelling unit.
4. Two-family dwellings including duplexes, and multiple family dwellings up to and including eight (8) dwelling units.
5. Mobile homes in accordance with the Mobile Home Commission Act, Public Act 96 of 1987, as amended.
6. Bed and breakfast with a maximum of three (3) rental rooms and provision of one off-street parking space for each guest room and for each of the regular occupants' vehicles.
7. Bed and breakfast with a maximum of three (3) rental rooms are permitted only for the single family detached dwelling unit.
8. Bed and Breakfast operations with a maximum of five (5) rental rooms and provision for one (1) off-street parking space for each guest room and for each of the regular occupants' vehicles.
9. Pets belonging to the householder, including but not limited to dogs, cats, hamsters, rabbits, and birds.
10. Other
  - a. Fowl weighing less than thirty (30) pounds per animal, not to exceed five (5) per acre;
  - b. Domesticated farm animals weighing less than two hundred (200) pounds at maturity and fowl thirty (30) pounds or larger, not to exceed one (1) animal per acre;

- c. Large animals, those weighing two hundred (200) pounds or more at maturity. A minimum of three (3) acres shall be required for one (1) animal with an additional two (2) acres required for each additional animal;
  - d. Animal pastures shall have 100-foot setbacks from adjacent residence.
11. Other
- a. Fowl weighing less than thirty (30) pounds per animal, not to exceed 10 per acre;
  - b. Domesticated farm animals weighing less than two hundred (200) pounds at maturity and fowl thirty (30) pounds or larger, not to exceed two (2) animals per acre;
  - c. Large animals, those weighing three hundred (300) pounds or more at maturity. A minimum of three (3) acres shall be required for one (1) animal with an additional two (2) acres required for each additional animal;
  - d. Animal housing or shelters, for other than pets, shall not be located closer than one hundred (100) feet from any property line except those bordering agricultural district properties suitable for horticulture; if located adjacent to agriculturally zoned land suitable for horticulture, see Article 17- Water Access, Off-street Parking, Landscaping and Fencing.
  - e. Large animal pastures shall have 100' setbacks from adjacent residences.
12. One guest house, provided that the lot upon which the principal dwelling and the guest house are located has an area twice the minimum required in the district or is comprised of two lots which were recorded prior to the May 13, 1976 date of enactment of the Zoning Ordinance.
13. The density bonus in Section 14.3 of Section 14 – Planned Unit Development shall not be granted.
14. Plant and wildlife management areas, refuges, and sanctuaries; nature conservancies.
15. Small scale agricultural activities including but not limited to, truck gardens, horticultural nurseries, Christmas tree farming, forestry, vineyards, and beekeeping.
16. Passive recreation facilities which involve a minimum alteration of vegetation, topography or other native feature. Passive recreational facilities, include, but are not limited to, trails and walkways, viewing platforms, beaches, fishing docks or piers, and picnic areas. *(Added 083112)*

**B. Table 5.7.B: Accessory Permitted Uses**

USES	R1	R2	R3A	R3M	R3S	R4	RC
Accessory Buildings	1	1	1	1	1	1	1
Private Docks	2	2				3	
Other	4	4	4	4	4	4	4
Roadside Stands							5

**Footnotes:**

- 1. Buildings as defined in Article 2. When an accessory building is to be constructed before the principal building, the land use permit application must show where the principle building will be located on the site. *(Amended 052809)*
- 2. Private dock and boat basin for private use or rental use with allowance of up to four boat slips providing that no commercial advertising or on-site signs are used to promote the rentals. *(Amended January 26, 2007)*

3. Private dock not for commercial purposes. (*Amended January 26, 2007*)
4. Uses customarily incidental to the permitted uses.
5. Roadside stands must conform to the requirements of Section 4.3.D of this ordinance. (*Amended 052809*)

**C. Table 5.7.C: Special Uses Subject to the Requirements of Article 12 – Special Land Uses**

SPECIAL USES SUBJECT TO ARTICLE 12 (numbers refer to footnotes)							
USES	R1	R2	R3 A	R3 M	R3S	R4	RC
LIBRARIES, PARKS AND SIMILAR USES	3	1	2		2	3	3
CHURCHES SUBJECT TO:		4	4				5
EDUCATIONAL AND RELATED BLDGS.		6	6				7
CLUBS AND LODGES		8	8				
ASSISTED LIVING AND RELATED BLDGS		9					
CEMETERIES 10 ACRES OR MORE							X
GOLF COURSES							10

**Footnotes:**

1. Publicly owned and operated buildings and uses including libraries, community buildings, public parks, and recreational facilities.
2. Libraries, community buildings, parks, and recreational facilities.
3. Parks and active recreational facilities, such as, but not limited to, playgrounds, ball fields, skating rinks, swimming pools, tennis courts and skate parks. Leelanau Township owned facilities are exempt from the Special Use Permit requirement. (*Added 083112*)
4. Churches, subject to the following conditions:
  - a. Minimum site size shall be three acres.
  - b. All access shall be from a public road.
  - c. There shall be no parking in the front yard.
5. Churches and accessory facilities normally incidental thereto.
6. Public and private elementary, intermediate, or high schools, nursery schools, day nurseries, and child care centers, not including dormitories. Such uses shall be fenced and screened from any adjoining lot in any residential district in accordance with Section 17.3 – Landscaping and Fencing. Access to the site shall be from a public road.
7. Private or public low impact cultural or educational uses and facilities including, by way of example, educational programs in nature studies, crafts and manual trade skills, and the promotion of fine arts.
8. Private clubs and lodges, excepting those whose primary purpose is a service customarily carried on as a business. No private club or lodge shall have an entrance or exit for motor vehicles within two hundred (200) feet of an entrance or exit of a school playground, park, cemetery, public building, church, hospital, or home for senior citizens.
9. Assisted living facilities, extended care, nursing homes and retirement or senior citizen homes.
10. Golf courses consisting of nine holes or more, but not including miniature courses, or stand alone golf driving ranges, subject to these conditions:

- a. The minimum lot area shall be sixty-acres (60) for a nine-hole golf course and one hundred ten (110) acres for an eighteen-hole course;
- b. Parking requirements: four (4) parking spaces are required for each hole plus one (1) parking space for every two (2) employees. Additional parking is required for accessory uses that may be allowed. The amount of additional parking shall be the number determined by the Planning Commission to be adequate for the average number of individuals expected to be using the facility at one time;
- c. The course shall provide adequate ingress and egress onto a public road
- d. Lighting of buildings and parking areas shall be directed away from adjoining properties;
- e. Accessory uses, which may be incorporated into the operation of a golf course include: clubhouse / pro shop, managerial facilities, toilets, lockers, and food services. Additionally, indoor and outdoor tennis courts, indoor or outdoor swimming pools, and restaurants/bars may be allowed by the Commission. Additional land area as determined by the Commission shall be added to that required above for the attendant buildings, parking, setbacks, buffering and access roads.

Amendment History –

Reformatted and Adopted by Board 06/08/04, Ord 2 of 2004; Pub. 06/17/04; Eff. 06/24/04

Amended 01/09/07 – Boathouse deleted, Ord 1 of 2007; Pub 01/18/07; Eff. 01/26/07

Amended 04/08/08 – references to PSO, Ord 1 of 2008, Pub 04/17/08, Eff 04/25/08

Amended 05/12/09 – Table 5.7.B, Footnote 1 & 5 Ord 1 & 2 of 2009, Pub 052109, Eff 052809

Amended 08/14/12 – Added section 5.2.C; Table 5.7.A and footnote 16; Table 5.7.C and footnote 3; Ord 7 of 2012, Pub 08/23/12, Eff 08/31/12

## ARTICLE 6

### GOVERNMENTAL DISTRICT

**SECTION 6.1 PURPOSE AND SCOPE** - The Governmental District is designed to classify publicly owned uses and lands which are intended for major use in a recreational or institutional setting by the public.

#### **SECTION 6.2 PERMITTED USES**

- A. Municipal or other governmental uses including, but not limited to, offices, fire stations, police stations, cemeteries, museums, lighthouses, post offices, libraries, airports, parking lots, maintenance buildings, marinas, boat launches, storage facilities and recycling facilities.
- B. Publicly owned recreational uses including, but not limited to, parks and parkways, golf courses, community and recreation centers, boating areas, beaches, and fishing sites.

#### **SECTION 6.3 ACCESSORY PERMITTED USES**

- A. Any use customarily incidental to the permitted principal uses.

#### **SECTION 6.4 SITE DEVELOPMENT REQUIREMENTS**

- A. Minimum yard dimensions.
  - 1. Front yard. There shall be a front yard of not less than forty (40) feet as measured from the road right-of-way.
  - 2. Side yard. There shall be a side yard of not less than forty (40) feet as measured from the side lot line.
  - 3. Rear yard. There shall be a rear yard of not less than forty (40) feet as measured from the rear lot line.
- B. Maximum lot coverage. No lot shall be occupied by buildings covering more than twenty-five (25) percent of the lot.
- C. Maximum building height. No structure shall be erected or altered to a height exceeding thirty-five (35) feet.

**SECTION 6.5 LEELANAU TOWNSHIP GOVERNMENTAL FUNCTIONS.** Based on findings and interpretations of court decisions including *Taber v. Benton Harbor*, 280 Mich App 522 (1937), *Mainster v. West Bloomfield Township*, 68 Mich App 319 (1976), *Keiswetter v. City of Petoskey*, 124 Mich App 590 (1983), and *Morrison v. City of East Lansing*, 255 Mich App 505 (2003), Leelanau Township owned properties and uses, where maintained and operated in the furtherance of a governmental function, shall be exempted from the provisions of this Zoning Ordinance.

#### Amendment History

Reformatted and adopted by Board 06/08/04, Ord 2 of 2004; Pub. 06/17/04; Eff. 06/24/04  
Amended in its entirety, Ord 7 of 2012, Pub 082312, Eff 083112



**ARTICLE 7  
COMMERCIAL DISTRICTS**

**SECTION 7.1 PURPOSE AND SCOPE** - This article defines permitted and special uses in Commercial and Commercial Resort Districts. The article also presents open space and general layout requirements for Commercial Resort developments.

**SECTION 7.2 COMMERCIAL DISTRICT**

**A. Permitted Principal Uses**

**1. Retail Businesses**

- a. Appliance, radio, television store
- b. Bakery (small neighborhood bakery)
- c. Book, magazine, newspaper shop
- d. Candy store
- e. Clothing store
- f. Drug store or pharmacy
- g. Florist shop
- h. Fruit, nut and/or vegetable store
- i. Grocery store
- j. Hardware store
- k. Hobby and/or toy shop
- l. 5-and-10 cent general or variety store
- m. Package liquor store
- n. Paint store
- o. Photographic and camera supply and service store and studio
- p. Shoe store
- q. Sporting goods store

**2. Personal Service Shops and Establishments**

- a. Appliance, radio, television repair
- b. Bank, savings and loan association, personal loan agency, and branches
- c. Barber shop, beauty shop or combination thereof
- d. Bicycle repair and sales shop
- e. Dressmaker, seamstress, tailor
- f. Dry cleaning self-service and/or laundry self-service facility
- g. Medical, dental or chiropractic office clinic and/or laboratory
- h. Office for governmental business, professional or general purposes
- i. Photographic studio
- j. Public utility business office
- k. School offering instruction in art, music, dancing, drama or similar cultural activity
- l. Secretarial and/or telephone answering service
- m. Shoe repair shop
- n. Telephone exchange
- o. Radio and/or television station (excluding broadcasting towers)
- p. Private or semi-private club, lodge, union hall or social center
- q. Church
- r. Residential use lawfully existing within the district at the time of adoption of This Ordinance

- s. Off-street commercial parking lot
- t. Community centers
- u. Enclosed theaters, provided the seating capacity of such use does not exceed 600 seats

**B. Special Uses – Subject to the Requirements of Article 12 – Special Land Uses -** The following uses shall be permitted on a special use basis in this District.

1. Auto accessory store without storage of wrecked automobiles or scrapped or salvaged auto parts on the premises
2. Automobile service station provided:
  - a. operations involving major repairs, body and fender work, painting or the sale or rental of new or used cars or trucks, trailers or any type of boats, are not conducted on the premises;
  - b. all pumps are set back at least twenty five (25) feet from the right-of-way line of all abutting streets;
  - c. parking, storage and/or service areas are separated from adjoining residential properties or roadside view by a suitable planting screen, fence, or wall at least six (6) feet in height above finish grade (Article 17 – Water Access, Off-street Parking, Landscaping and Fencing.)
3. Bakery provided that goods baked on the premises are sold only at retail on the premises.
4. Contractor's office with no storage of vehicles, equipment, or materials on the premises.
5. Delicatessen, restaurant, soda fountain or other eating and/or drinking establishment (other than drive-in establishment) provided:
  - a. no outside loud speaker systems are utilized;
  - b. all lights or lighting arrangements used for purposes of advertising or night operations are directed away from adjoining or nearby residential properties (as per the Township's Nuisance Ordinance);
  - c. parking and/or service areas are separated from adjoining residential properties by a suitable planting screen, fence or wall at least six (6) feet in height above the finished grade (Article 17 – Water Access, Off-street Parking, Landscaping and Fencing.)
6. Dry cleaning or laundry agency provided that any laundering, cleaning or pressing done on the premises involves only articles delivered to the premises by individual customers.
7. Meat, fish and/or poultry shop provided that no slaughtering be permitted. Any cleaning of fish or poultry necessary for such use may be permitted provided cleaning activities are conducted within the principal building enclosure on the premises.
8. Pet shop, provided all animals are housed within the principal building
9. Outdoor sales by temporary permit for six (6) month periods with the Zoning Board of Appeals, if in the opinion of the Zoning Board of Appeals adequate conditions exist or can be imposed that will make such uses compatible with the permitted uses in this district, and with the uses established in the area.
10. Combination of a residential structure with any use herein permitted, provided that all dwelling units have direct access to an abutting street. In such combined Residential use, the residential use on the street level shall not exceed 49% of the interior square footage of that level. Commercial use shall be located (as described in Article 2.2B Commercial) so as to provide continuous retail frontage.
11. Hotels, Inns, as defined in Article 2 - Definitions.
12. Adult and/or Sexually Oriented Businesses
  - a. Adult and/or Sexually Orientated Businesses are prohibited in this District as long as these types of uses are permitted in other Townships or Incorporated Villages within seven (7) miles of the Leelanau Township Commercial District.
  - b. If Adult and/or Sexually Orientated Businesses are not permitted within seven (7)miles of the Leelanau Township Commercial District, the following standards shall apply:

1. Such businesses shall not be permitted within seven hundred (700) feet of any property which is zoned Residential. The required separation shall be measured from the property line of the proposed business to property line of the protected zoned Residential property using the closest points along the two property lines (lot to lot).
2. Such businesses shall not be permitted within seven (700) feet of any Residential dwelling which is located on property zoned agricultural or commercial resort. The required separation distance shall be measured from the nearest point along the property line of the proposed use to the nearest point of the protected residential building (lot to building).
3. Such businesses shall not be permitted within one thousand (1000) feet from a public or private school, child care facility, church, public building, public bathing beach, or line, using the closest points along the property lines involved (lot to lot). Such businesses shall not be established within five hundred (500) feet of another Adult and/or Sexually Orientated Business, nor within five hundred (500) feet of any establishment licensed by the Michigan Liquor Control Commission. The required separation distance shall be measured from property line to property line, using the closest points along the property lines involved.
4. No more than one (1) such business shall be permitted in a single structure.
5. Proposed signage may contain only the name of the business and shall not include photographs, silhouettes, drawings, or pictorial representations of any type.
6. Building exterior: Buildings and structures shall not be painted or surfaced with garish colors or textures or any design that would simulate a sign or advertising message. Upon order of the Zoning Administrator, graffiti appearing on any exterior surface of a building or structure shall be removed and that surface restored within seventy-two hours of notification of the owner or person in charge of the premises.
7. Lighting: All Adult and/or Sexually Orientated Businesses shall be required to install outdoor lighting that illuminates the entire parking and vehicular use area. The lighting shall be installed on structures which do not exceed sixteen (16) feet in height from the finished grade. The lighting shall satisfy requirements of the Township's Nuisance Ordinance.
8. The premises shall meet all barrier free requirements and building code requirements imposed by the Leelanau County Building and Inspections Department.
9. No person operating an Adult and/or Sexually Orientated Business shall permit any person under the age of 18 to be on the premises either as an employee or as a customer.
10. Hours of operation shall be limited to 10:00 A.M. to 10:00 PM.

## **SECTION 7.3 COMMERCIAL RESORT DISTRICT**

### **A. Permitted Principal Uses**

1. Single family detached dwellings.
2. Single family attached dwellings, such as duplexes, townhouses, and row houses, but excluding buildings which provide primary access to two (2) or more dwelling units from a common interior hallway or space, except as provided in 3 below.
3. Multiple family dwellings which provide primary access to two (2) or more dwelling units from a common interior hallway or space, provided such residences do not account for more than fifty percent (50%) of the total number of dwelling units and temporary lodging units on the parcel.
4. Hotels, inns, motels and rental cottages, as defined in Article 2 – Definitions
5. Other recreational facilities, which meet the intent of the Master Plan and this District. The uses listed above typify the permitted uses. Uses not meeting the criteria of This Ordinance include, but are not limited to: amusement parks, arcades, miniature golf courses, and racetracks.

**B. Permitted Accessory Uses** - Buildings, structures and uses customarily incidental and subordinate to the permitted principal use such as, by way of example, caretaker's cottage, employee housing, storage and maintenance buildings, administrative offices, manager's office, hiking trails, and tennis courts, excluding golf courses.

**C. Special Uses subject to the requirements of Article 11 – Site Plan Review**

1. Restaurants, retail shops, and other uses which are not of a recreational character, provided they are part of and appropriate to a permitted principal use.
2. Recreational parks or camps, including but not limited to “church/youth” camps.
3. Recreational vehicle parks and campgrounds.
4. Marinas, as defined in Article 2 – Definitions, provided a proposed marina has access to the waters of Grand Traverse Bay or Lake Michigan and complies with the following standards and regulations, in addition to all other applicable standards and regulations of this Ordinance:
  - a. Marinas shall be designed and/or operated, through natural or mechanical circulation of water, so that there will be no accumulation of algae, weeds, or garbage upon the marina waters.
  - b. All provisions for the storing and disposing of fuels, oils, and waste products, including daily generated garbage, shall meet county, state, and federal standards. The applicant shall document the availability and capacity of sewage facilities to handle the anticipated volume of wastes.
  - c. Marinas shall be designed to minimize negative impacts upon neighboring properties including lighting, glare, and unsightliness. Considerations to minimize negative impacts shall include, but not be limited to: height, type, and hours of operation of lighting fixtures, including night-sky protection measures; location of parking areas, boat ramps, and access roads and drives; location of storage buildings and restroom facilities; location of heavy pedestrian traffic areas; and landscaping and screening. (See Article 17 – Water Access, Off-street Parking, Landscaping and Fencing, and the Township's Nuisance Ordinance.)
  - d. The applicant shall submit, as part of the site plan application, minimum-operating rules for the management of the marina which shall effectively assure that the marina will be operated in a manner compatible with surrounding land uses, including rules regarding noise and hours of operation.
  - e. Any dangerous or dilapidated waterfront structure, including docks, shall be removed or repaired within thirty (30) days after notice of such condition by the Zoning Administrator.
  - f. Special measures shall be taken to preserve vegetation around shoreline areas to prevent soil erosion.
  - g. All applicants shall provide documentation, in the form of a written spill contingency plan, of their capability to respond as rapidly and effectively as possible to contain any spills of petroleum or other hazardous materials. Such plan shall include a list of clean-up equipment and its location, fuel pump operation and emergency shut-down procedures, spill containment and removal procedures, and the training of marina staff.
  - h. Marinas shall meet all applicable standards and regulations of the Department of Natural Resources, Department of Environmental Quality, U.S. Army Corps of Engineers, and all other county, state, and federal agencies having regulatory authority over the use of, or construction upon, the affected surface waters and bottom lands.

- i. To the extent that the number of boat dockage slips proposed for a marina affects the ability to meet the regulations and criteria of Section 7.3.C.4.a through 7.3.C.4.h, the Planning Commission may limit the number of boat dockage slips as necessary to achieve such conformance.
- j. The Commission may waive under site plan review one or more (or portions) of the above regulations if four (4) boats or less are to be docked.

**D. Appropriateness of Special Use** - Where a special use consisting of a non-residential commercial component is proposed as part of a permanent or temporary lodging facility, such as a restaurant or retail sales shop, the application shall be reviewed by the Planning Commission for a determination of the extent to which such commercial use is designed or intended to serve persons other than those residing or having temporary accommodations on the Commercial Resort parcel. The Planning Commission shall determine the appropriateness of such commercial uses after considering, at a minimum, the following: amount of traffic generated; hours of operation or use; noise; overall impact on adjoining uses; land area allocated to each use; and building area allocated to each use.

**E. General Layout Requirements** - All uses shall be designed to comply with the following standards to the greatest extent practical:

1. The development shall provide amenities intended to serve the permanent or temporary residents of the use, such as playground areas, hiking trails, and/or tennis courts, but excluding golf courses.
2. The development shall employ an efficient use of land, arrangement of utilities, and design of traffic and pedestrian circulation systems.
3. The siting of buildings and structures shall preserve important visual, ecological, recreational or agricultural resources.
4. Vehicular access to permanent dwellings and buildings associated with motels, hotels, lodges, inns, and similar temporary housing facilities shall be from interior project roads to minimize the number of access points along the existing Township road network and resulting traffic hazards, consistent with emergency access needs.
5. The use shall protect and preserve the existing natural character of Township road corridors through appropriate siting and setbacks of new residential buildings and structures.

**F. Special Buffering Requirements** - The Planning Commission may impose buffering requirements that exceed those of Section 17.3 – Landscaping and Fencing on uses in this District if, in its sole judgment, such additional buffering is required to maintain the integrity of residential uses. Such additional buffering may include the construction of effective visual and/or sound barriers.

**G. Open space Requirements**

1. **Minimum Area of Open Space.** A minimum of twenty-five percent (25%) of the project site shall be set aside as designated permanent open space.
2. **Character of Designated Open Space.** Lands which are used to meet the minimum area requirements for designated permanent open space shall not include: roads and road rights-of-way or easements; required front, side, and rear yard areas of buildings; hard surfaced recreational facilities such as tennis and basketball courts; and permanently submerged lands including marinas and submerged wetlands. Up to fifty percent (50%) of the minimum required open space area may include wetlands which are not permanently submerged during the year.
3. **Recording of Open Space.** The required open space shall be set aside by the developer through an irrevocable conveyance, such as a deed restriction, conservation easement, or covenant that runs with the land, assuring that the open space will be maintained as such in conformity with the site plan. The Township shall be granted a legally enforceable interest in the required open space and such interest

shall require the approval of the township Board before any change can be made to the character or use of the required open space from that which received prior site plan approval, or subsequent amendment thereto. Such conveyance shall:

- a. Provide for the privately-owned open space to be maintained by private property owners with an interest in the open space, and provide for assessment of these private property owners by the Township for the cost of maintenance of the open space in the event that it is inadequately maintained or becomes a public nuisance.
- b. Provide maintenance standards and a maintenance schedule.

#### Amendment History

Reformatted and adopted by Board 06/08/04, Ord 2 of 2004; Pub. 06/17/04; Eff. 06/24/04  
Amended 05/10/05; Ord. 2 of 2005; Pub. 05/19/05; Eff. 05/27/05  
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## ARTICLE 8

### INDUSTRIAL DISTRICT

**SECTION 8.1 PURPOSE AND SCOPE** - This Article defines permitted principal, accessory and special uses in Industrial Districts.

#### **SECTION 8.2 PERMITTED PRINCIPAL USES, SUBJECT ARTICLE 11 – SITE PLAN REVIEW**

- A. Research and development offices and laboratories relating to medical, computer, communication, industrial processing, or similar technologies.
- B. Data processing and computer centers including computer programming and software development, training, and data processing services.
- C. Warehousing and wholesaling establishments, refrigerated and general storage.
- D. Lumberyards and other building material supply establishments.
- E. Processing and packaging of food products including meat, dairy, fruit, vegetables, fish, grains, bakery goods, confections, beverages, and like foods but excluding any slaughterhouse operations.
- F. Wineries, Microbreweries, Distilleries, provided all of the required licenses and approvals have been obtained from the appropriate state and federal agencies. These facilities are subject to the following regulations and conditions:
  - 1. The on-premise consumption of alcoholic beverage shall be limited to tasting room quantities. Adjunct food services are exempted from this restriction. The facility shall not function as a bar.
  - 2. Any retail sales shall be clearly subordinate to the production of the beverage produced such as boxes/packaging containing wines, beer or liquors; glassware for serving alcoholic beverages; and wine bottle openers. Specifically prohibited are unrelated merchandize such as clothing, coffee cups, and bumper stickers. The retail sales area shall be no more than twenty five (25) percent of the floor area devoted to the winery, but in no case shall it occupy more than two thousand (2000) square feet of floor area.
  - 3. Adjunct food services may be provided. *(Added 052809)*
- G. Manufacture, compounding, processing, packaging, treating, and assembling in the production of:
  - 1. Furniture and fixtures.
  - 2. Wood products including millwork, prefabricated structural wood products and containers.
  - 3. Printing and publishing.
  - 4. Engineering, measuring, sensing, optical, photographic and similar instruments or devices.
  - 5. Robotics, tools, dies, gauges, job lot machine products, and machine repairs.
  - 6. Fabricated metal products.
  - 7. Electrical and electronic machines, components, and accessories.
  - 8. Medical drugs, medicinal chemicals, pharmaceutical preparations, medical instruments or devices.
  - 9. Products made from precious or semi-precious metals or stones, natural materials, or materials manufactured elsewhere such as canvas, cloth, cork, elastomers, felt, fiber, glass, leather, paper, paperboard, plastics, and sheet metal.
  - 10. Monuments, cut stone, and stone products.
  - 11. Other light industrial uses of a similar character to the above uses.

### **SECTION 8.3 ACCESSORY PERMITTED USES**

- A. Any use customarily incidental to the permitted use.
- B. Wholesale and retail sale of the products manufactured or processed on the premises provided, however, that the total amount of internal floor area of the structure(s) devoted to sales and display does not exceed (10) percent of the total floor area of the establishment except that the Zoning Board of Appeals may grant variances allowing sales and display areas not to exceed twenty (20) percent of the total area if adequate provision is made for traffic movement and parking and provided the on site activity is an ancillary part of the industrial operation.

### **SECTION 8.4 SPECIAL USES SUBJECT TO THE REQUIREMENTS OF ARTICLE 12 – SPECIAL LAND USES**

- A. Public utility buildings, telephone exchange buildings, electrical transformer and/or distribution stations, and gas regulator stations, other than outside storage and service yards.
- B. Self storage facilities (mini-warehouses) subject to the following:
  - 1. The maximum length of any building on the site shall not exceed one hundred fifty (150) feet.
  - 2. The maximum lot coverage is forty (40) percent.
  - 3. Any outside storage shall be screened so as to not be visible from a public road.
  - 4. The storage of combustible or flammable liquids or explosive materials as defined in the fire prevention code is prohibited.
  - 5. Storage units shall not be used for operating any business, or as a dwelling, or for maintaining or repairing vehicles, or for any other purpose other than the storage of personal and/or business items.
- C. Vehicle repair or body shops provided all work is performed within an enclosed building or enclosed or screened area; and any outdoor storage of vehicles is within a screened or enclosed area.
- D. Bulk storage of refined petroleum products. Such storage facilities must comply with all regulations promulgated by the Township Fire Department, The State Fire Marshal, and the Department of Natural Resources. Storage tanks shall not be placed closer than eight hundred (800) feet from any residential district or established residence.
- E. Contractor and excavating equipment yards and operations.
- F. Sawmills, provided that the sawmill shall not be located closer than five hundred (500) feet from any lake, stream, or residence.
- G. Passenger transportation facilities; transfer stations; truck terminals, including maintenance and service facilities.

### **SECTION 8.5 DISTRICT REGULATIONS**

- A. No Industrial District shall be less than ten (10) acres in size. (See Section 3.5 – Schedule of Regulations for lot size and width, setbacks & lot coverage)
- B. For any use permitted in this Article, there shall be a finding by the Planning Commission during the site plan review that the noise, fumes, odor, dust, glare, or electrical interference that may be generated shall not exceed commonly accepted limits and shall not detrimentally affect adjoining properties.
- C. Access and driveways
  - 1. Access to industrial properties shall be provided by two access driveway entrances which are not less than 400 feet apart and which have the maximum feasible sight distances except that the number of access driveway entrances and their spaces may be modified by the Planning commission or Zoning Administrator when the available highway frontage or the topography



of the site make those requirements impractical to achieve. If the industrial site is comprised of multiple lots, their access driveways shall be restricted to interior roads or service roads with access to the main thoroughfare as described in the preceding sentence.

2. All proposed entrance driveways which access an industrial property from a major thoroughfare (State or County owned roads), must meet Leelanau county Road Commission and/or Michigan Department of Transportation standards for the intended use.
3. During the site plan review process, it may be determined by the Planning commission and/or the County Road Commission and/or the Michigan Department of Transportation that certain roadway improvements shall be necessary to promote public health, safety and welfare, and to facilitate adequate and efficient provision for the transportation systems. The following improvements may be considered necessary:
  - a. Construction of by-pass and/or left turn lanes.
  - b. Paving of the roadway.
    - c. Street alignment.
    - d. Improvement of sight distance.
    - e. Widening of the roadway.
    - f. Intersection improvements.
    - g. Construction of acceleration/deceleration lanes.

#### Amendment History

Reformatted and adopted by Board 06/08/04, Ord 2 of 2004; Pub. 06/17/04; Eff. 06/24/04  
Amended by Board 051209, Ord 1 of 2009, Pub 052109, Eff 052809  
Article 8 - Industrial District 052809

## ARTICLE 9

### ISLAND CONSERVATION DISTRICT

**SECTION 9.1 PURPOSE AND SCOPE** - This article defines special uses and principal and accessory permitted uses in Island Conservation Districts.

#### **SECTION 9.2 PRINCIPAL PERMITTED USES**

- A. One single family detached dwelling or guest house per ten (10) acres of land.
- B. Home occupations and businesses as regulated by Article 16 – Home Based Occupations and Business.
- C. Bed and breakfast operations with a maximum of five rental rooms, other than as restricted in 9.2.G. If motor vehicles are used on the island, suitable parking arrangements must be provided as per Article 17 – Water Access, Off-street Parking, Landscaping and Fencing.
- D. The keeping and/or husbandry of domesticated livestock in accordance with
  - 1. Fowl weighing less than thirty (30) pounds per animal, not to exceed 10 per acre;
  - 2. domesticated farm animals weighing less than two hundred (200) pounds at maturity and fowl thirty (30) pounds or larger, not to exceed two (2) animals per acre;
  - 3. large animals, those weighing three hundred (300) pounds or more at maturity. A minimum of three (3) acres shall be required for one (1) animal with an additional two (2) acres required for each additional animal.
  - 4. Animal housing or shelters, for other than pets, shall not be located closer than one hundred (100) feet from any property line except those bordering agricultural district properties suitable for horticulture; if located adjacent to agriculturally zoned land suitable for horticulture, see Article 17 – Water Access, Off-Street Parking, Landscaping and Fencing.
  - 5. Large animal pastures shall have 100' setbacks from adjacent residences
- E. Planned Unit Developments in accordance with Article 14 – Planned Unit Development.
- F. Plant and wildlife management areas, refuges, and sanctuaries; nature conservancies.
- G. Agricultural activities including, but not limited to, field crops, grazing, horticulture, and forestry
- H. A ranch retreat for hunting, horseback riding, ranching, recreational and/or similar uses. Any such ranch retreat shall be subject to Article 11 - Site Plan Review and shall comply with the following requirements:
  - 1. The ranch retreat may include guest houses, housing for employees, cook houses for employees and guests (collectively, "dwelling units"), and other ancillary service buildings: provided that the number of dwelling units shall not exceed one such structure for each ten (10) acres of land included in the ranch retreat (see Table 3.5A).
  - 2. The ranch retreat shall not include attached multifamily homes, hotels, motels, inns, bed and breakfasts, row houses or rental cottages.
  - 3. All of the land and structures in the ranch retreat shall be under unified ownership.
  - 4. The minimum contiguous land area required for the establishment and/or continuation of any existing ranch retreat shall be one hundred (100) acres.
  - 5. A description and plot plan of the property included within the ranch retreat shall be provided to the Township in connection with any request for site plan approval to establish such a ranch retreat. For any ranch retreat existing as of the date of adoption of this provision, the description and plot plan shall be submitted in connection with any site plan request to construct any additional structure or building on the ranch retreat.

6. The property described in 9.2. H.5 which comprises the ranch retreat shall, for the purpose of administration of the Zoning Ordinance, be considered as one lot. Under this definition, the locations of structures may be made, based on a sound rationale, at the discretion of the owner provided: a) that the schedule of regulations shown in Table 3.5A are observed at the perimeter boundaries of the ranch retreat and b) that a minimum spacing of twenty (20) feet be maintained between structures.
  7. In the event the use of the property as a ranch retreat is terminated in whole or in part, no subdivision, split, or plat of the former or remaining ranch retreat property shall be permitted that does not result in preserving at least ten (10) acres of land for each dwelling unit then existing on the property.
- I. Landing strips for private aircraft.

### **SECTION 9.3 ACCESSORY PERMITTED USES**

- A. Uses customarily incidental to the permitted uses.

### **SECTION 9.4 SPECIAL USES SUBJECT TO REQUIREMENTS OF ARTICLE 12 – SPECIAL LAND USES**

- A. Golf courses, consisting of nine (9) holes or more but not including miniature courses, or stand alone golf driving ranges, subject to these conditions:
1. The minimum lot area is sixty (60) acres for a nine hole golf course and one hundred ten (110) acres for an eighteen hole course.
  2. Parking requirements, if motor vehicles are used on the island: four (4) parking spaces are required for each hole plus one (1) for every two (2) employees. Additional parking is required for accessory uses that may be allowed. The amount of additional parking shall be the number determined by the Planning Commission to be adequate for the average number of individuals expected to be using the facility at one time.
  3. The course shall provide adequate ingress and egress roads or paths.
  4. Lighting of buildings and parking areas shall be directed downward and away from adjoining properties
  5. Accessory uses which may be incorporated into the operation of a golf course include: clubhouse/pro shop, managerial facilities, toilets, lockers, and food services. Additionally, indoor or outdoor tennis courts, indoor or outdoor swimming pools, and restaurants/bars may be allowed by the Planning Commission.
- B. Campgrounds having no more than two (2) campsites per acre.

#### Amendment History

Reformatted and adopted by Board 06/08/04, Ord 2 of 2004; Pub. 06/17/04; Eff. 06/24/04  
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## ARTICLE 10

### ADMINISTRATION, PERMITS AND APPEALS

**SECTION 10.1 PURPOSE AND SCOPE** - This article presents the process for permits, appeals, non-conforming conditions, penalties and amendment to the Ordinance.

#### SECTION 10.2 ADMINISTRATION

##### A. Zoning Administrator –

1. A **Zoning Administrator** shall be appointed by and on such terms as shall be determined by the Leelanau Township Board; provided that the Zoning Administrator shall not be a member of the Township Board, the Planning Commission, nor the Board of Appeals. The zoning administrator shall perform such duties as the Township Board may prescribe in the most recent job description as approved by the Township Board.

##### B. Fee Schedule and Escrow Account for Zoning Fees –

1. To assist in defraying the cost of investigating, reviewing, and administering the zoning ordinance applications, appeals, rezoning requests from individual property owners, and other types of decisions which result in costs to the township, the Township Board 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 land use permits
  - c. Appeals to or requests for interpretations by the Zoning Board of Appeals. Appeals and requests for interpretations initiated by the Township Board, Planning Commission, 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 Township Board, or the Planning Commission shall not be subject to a zoning fee.
  - g. Site plan reviews
  - h. Requests for a planned unit development, or open-space residential developments
  - i. Any other discretionary decisions by the Planning Commission 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 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 spent by members of the Planning Commission and/or Zoning Board of Appeals. The basic zoning fees are non-refundable, even when a particular application or appeals is withdrawn by the applicant.

2. If the Planning Commission, Zoning Board of Appeals, or Zoning Administrator determines that the basic zoning fees will not cover the actual costs of the application review or appeal, or if the Planning Commission, Zoning Board of Appeals, or Zoning Administrator 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

township treasurer such additional zoning fees in an amount determined by the Planning Commission, Zoning Board of Appeals, or Zoning Administrator 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 latest additional 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 Planning Commission, Zoning Board of Appeals, or Zoning Administrator may require the applicant to deposit additional fees into the escrow account in an amount determined by the Planning Commission, Zoning Board of Appeals, or Zoning Administrator to be equal to the estimated cost 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 township in excess of the amount held in escrow shall be billed to the applicant and shall be paid by the applicant prior to the issuance of any permit or the release of a final decision on an appeal.

**C. Reference to the Planning Commission** in This Ordinance shall also pertain to the Zoning Board if, at any time applicable, the powers of the Zoning Board shall not have been transferred to a Planning Commission, pursuant to P.A. 1959, No. 168, S11.

**D. Date of Application and Applicable Standards** - An application should be considered in terms of the standards in the Ordinance in effect at the time of the date of the application. The date of the application is defined by the date the application is determined to be complete by the Township Zoning Administrator, including the collection of the appropriate fee. *(Amended 082710)*

## **SECTION 10.3 PERMITS, INSURANCE AND STANDARDS**

### **A. Land Use Permits**

- 1. Any individual, corporation, association, officer, department, board or bureau** of the Federal, State, County or Township planning to erect a building or structure, or to alter any existing structure, requiring the use of more land area, or to establish a new use for any premises in any Land Use District, shall file an application in writing with the Zoning Administrator for a Land Use Permit. The Zoning Administrator shall issue a Land Use Permit, if in his/her opinion, such planned building or structure or Land Use is in compliance with the provisions of This Ordinance.
- 2. Distribution of land use permits** - Each Land Use Permit shall be in quadruplicate and the copies shall be distributed as per the instructions with the form available through the Zoning Administrator.
- 3. Denial of Permits** - The Zoning Administrator shall promptly (i.e. within 45 working days) inform the applicant of the denial of a Land Use Permit if, in his/her opinion, such planned building or structure or land use does not comply with the provisions of This Ordinance.
- 4. Permit requirements** - Subject to all other terms and conditions of This Ordinance, a Land Use Permit shall include legal description, length and width of lot, dimensional size and location of all structures to be erected, water supply and sewage system.
  - a. **Yard area and lot relationships** - Every building or buildings hereafter erected shall be located on a lot or parcel of land the description of, and the deed to which, shall be on record in the office of the Register of Deeds of this County, or on lots or parcels of land the description of which shall be contained in a bona fida land contract or lease which is in full force and effect at the time of application for a permit under This Ordinance. In the event the proposed building is to be erected on

a parcel of land which is part of a larger parcel, the area to be devoted to the use and necessary for compliance with the requirements of This Ordinance shall be designated by a legal description which shall be attached to the application for a land use permit.

- 5. Completion** - Any structure requiring a Land Use Permit must be completed on the exterior surfaces with a suitable finishing material, including painting or staining in the case of wood, within one (1) year from date of issuance of the Land Use Permit. A Land Use Permit which has not required site plan review by the Planning Commission may be renewed for one (1) additional year by the Zoning Administrator by payment of an additional fee established by the Township Board.
- 6. Temporary Permits and Extensions** - The Zoning Administrator shall be authorized to issue a temporary land use permit for one (1) year for a recreational vehicle or mobile home on a specific parcel provided that said property owner has met the following criteria:
  - a. Property owner shall obtain concurrently a valid Land Use Permit and Building Permit indicating intention to erect a permanent dwelling on said parcel;
  - b. Be hooked up to a well and septic system approved by the County Health Department;
  - c. That a mobile home shall meet the requirements of Section 5.4.C, and shall be removed from said parcel on or before the Temporary Land Use expiration date.
  - d. An extension of the Temporary Land Use Permit may be issued by the Zoning Administrator for up to one (1) additional year, at a cost established by the Township Board, providing that construction of the permanent dwelling has begun and that an extension for the permanent dwelling Land Use Permit is concurrently issued.
  - e. A recreational vehicle may remain on said parcel providing that it meets the requirements of Section 3.12 - Recreational Vehicle Use on or before the expiration date of the Temporary Land Use Permit.
- B. Additional Permit Requirements** - In addition, the Zoning Administrator shall withhold any Land Use Permit pending verification that an applicant has received all other required county, state or federal permits including but not limited to soil erosion and sedimentation control permits, wetland permits, flood plain and culvert permits, or driveway permits. The placement of any sewage disposal system on any lot shall be such as not to endanger the domestic water supply of any neighboring property owners or otherwise be the cause of any contamination or pollution and therefore where a sewage disposal system is to be a part of the construction project, the Zoning Administrator may not issue a land use permit until a permit for the construction of the sewage disposal system and water system has been issued by the Benzie-Leelanau Health Department.
- C. Flood Insurance** - Any party or parties requesting a Land Use Permit on Lake Michigan lake shore property eligible for National Flood Insurance under the National Flood Insurance Act of 1968, as amended in 42 USC 40011127, must comply with all the requirements as defined in said Act, if said party or parties desire to obtain said insurance.
- D. Minimum Standards for Dwellings** - All dwellings in all Districts shall conform with the applicable rules of the Michigan State Construction Code, the State of Michigan Mobile Home Commission, the Department of Housing and Urban Development, and the Department of Public Health.

## SECTION 10.4 APPEALS

- A. Creation, Membership and Removal** - The Zoning Board of Appeals shall perform its duties and exercise its powers as provided in Article VI of 2006 PA 110, as may be amended (the Michigan Zoning Enabling Act). The Zoning Board of Appeals shall be appointed by the majority vote of the Township Board.

1. The Zoning Board of Appeals shall consist of at least three (3) members. The first member of the Zoning Board of Appeals shall be a member of the Planning Commission. The remaining regular members, and any alternate members, shall be selected from the electors of Leelanau Township residing within the community. The members selected shall be representative of the population distribution and of the various interests present in the Township.
2. One regular or alternate member of the Zoning Board of Appeals may be a member of the Township Board, but shall not serve as chairperson of the Zoning Board of Appeals.
3. An employee or contractor of the Township Board may not serve as a member of the Zoning Board of Appeals.
4. The terms of office for members appointed to the Zoning Board of Appeals shall be three (3) years, except for members serving because of their membership on the Planning Commission or Township Board, whose terms shall be limited to the time they are members of those bodies. When members are first appointed, the appointments may be for less than three (3) years to provide for staggered terms. A successor shall be appointed not more than one (1) month after the term of the preceding member has expired.
5. A vacancy of the Zoning Board of Appeals shall be filled for the remainder of the unexpired term in the same manner as the original appointment.
6. The legislative body may appoint not more than two (2) alternate members for the same term as regular members to the Zoning Board of Appeals. An alternate member may be called as specified to serve as a member of the Zoning Board of Appeals in the absence of a regular member if the regular member will be unable to attend one (1) or more meetings. An alternate member may also be called to serve as a member for the purpose of reaching a decision on a case in which the member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision is made. The alternate member serving on the Zoning Board of Appeals has the same voting rights as a regular member of the Zoning Board of Appeals.
7. A member of the Zoning Board of Appeals who is a member of the Planning Commission or the Township Board shall not participate in a public hearing or vote on the same matter that the member voted on as a member of the Planning Commission or the Township Board.
8. A member of the Zoning Board of Appeals may be removed by the Township Board for misfeasance, malfeasance, or nonfeasance in office upon written charges and after public hearing. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office.

## **B. Appeal and Hearing Requirements**

1. An appeal may be taken to the Zoning Board of Appeals by a person aggrieved, or by an officer, department, board, or bureau of this state or the Township. An appeal shall be made in accordance with the processing procedures established by the Zoning Board of Appeals by filing with the body or officer from whom the appeal is taken and with the Zoning Board of Appeals a Notice of Appeal specifying the grounds for appeal. The body or officer from whom the appeal is taken shall immediately transmit to the Zoning Board of Appeals all of the papers constituting the record upon which the action appealed from was taken. In addition, a variance in the Zoning Ordinance may be applied for and granted under Section 4 of the Uniform Condemnation Procedures Act, 1980 PA 87, MCL 213.54, and as provided for under 2006 PA 110.

2. Such appeal shall be made within such time as shall be prescribed by the Zoning Board of Appeals by general rule and in such manner as the Zoning Board of Appeals shall establish. A fee, as established by the Township Board's fee schedule and in compliance with the Township's Fee Ordinance 90-3, will be submitted with application for appeal before appeal shall be accepted by the Zoning Board of Appeals.
3. An appeal stays all proceedings in furtherance of the action appealed. However, if the body or officer from whom the appeal is taken certifies to the Zoning Board of Appeals after the notice of appeal is filed that, by reason of facts stated in the certificate, a stay would in the opinion of the body or officer cause imminent peril to life or property, proceedings may be stayed only by a restraining order issued by the Zoning Board of Appeals or a circuit court.
4. Following receipt of a written request for a variance, the Zoning Board of Appeals shall fix a reasonable time of the hearing. The hearing shall be noticed in accordance with the following terms and conditions:
  - a. Notice of the public hearing shall be published in a newspaper of general circulation in the Township not less than 15 days before the date of the hearing.
  - b. Not less than 15 days notice shall be given to the owner of the property that is subject to the appeal.
  - c. Not less than 15 days notice shall be given to all persons to whom real property is assessed within 300 feet of the property that is the subject of the request and to the occupants of all structures within 300 feet of the subject property regardless of whether the property or structure is located in the Township. Notification need not be given to more than 1 occupant of a structure, except that if a structure contains more than 1 dwelling unit or spatial area owned or leased by different persons, 1 occupant of each unity or spatial area shall be given notice. If a single structure contains more than 4 dwelling units or other distinct spatial areas owned or leased by different persons, 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.
  - d. The notice requirements of this section shall be considered given when personally delivered or when deposited during normal business hours for delivery with the U.S. Postal Service or other public or private delivery service. The notice shall be given not less than 15 days before the date the request will be considered. If the name of the occupant is not known, the term "occupant" may be used for the intended recipient of the notice.
  - e. A notice under this section shall do all the following:
    - i) Describe the nature of the request.
    - ii) Indicate the property that is the subject of the request. The notice 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.
    - iii) State when and where the request will be considered.
    - iv) Indicate when and where written comments will be received concerning the request.
5. If the Zoning Board of Appeals receives a written request seeking an interpretation of the zoning ordinance or an appeal of an administrative decision, the Zoning Board of Appeals shall conduct a public hearing on the request. Notice shall be given as required under Section 4 above. However, if the request does not involve a specific parcel of property, notice need only be published as provided



in Section 10.4, subsection B, 4 above and given to the person making the request as provided in Section 10.4, subsection B, 4, d above.

6. Upon the hearing, any party may appear in person or by agent or by attorney. The Zoning Board of Appeals may reverse or affirm, wholly, or partly, or may modify the order, requirement, decision, or determination as in its opinion ought to be made in the premises, and to that end shall have all the power of the body or officer from whom the appeal was taken and may issue or direct the issuance of a permit.
7. Where there are practical difficulties in the way of carrying out the strict letter of such Ordinance, the Zoning Board of Appeals shall have power in passing upon appeals to vary or modify any of its rules, regulations, or provisions so that the spirit of the Ordinance shall be observed, public safety secured, and substantial justice done. The Zoning Board of Appeals may impose conditions with an affirmative decision.
8. The concurring vote of a majority of the members of the Zoning Board of Appeals is necessary to reverse an order, requirement, decision, or determination of the administrative official or body, to decide in favor of the applicant on a matter upon which the Zoning Board of Appeals is required to pass under the zoning ordinance, or to grant a variance in the zoning ordinance.
9. The Zoning Board of Appeals is without general authority to reconsider a matter it has decided and from reversing its previous decision unless the facts and circumstances which actuated the decision have so changed as to vitiate or materially effect the reason which produced and supported it, and no vested rights have intervened.

### **C. Further Appeal**

1. The decision of such Zoning Board of Appeals shall not be final, and any party aggrieved by a decision of the Zoning Board of Appeals shall have the right to appeal to the circuit court on questions of law and fact.
2. An appeal from a decision of a Zoning Board of Appeals shall be filed within 30 days after the Zoning Board of Appeals issues its decision in writing signed by the chairperson, if there is a chairperson, or signed by the members of the Zoning Board of Appeals, if there is no chairperson, or within 21 days after the Zoning Board of Appeals approves the minutes of its decision.
3. The Zoning Board of Appeals may modify its findings and decision as a result of new proceedings ordered by the circuit court. The supplementary record and decision shall be filed with the court.
4. As a result of the review required by this section, the court may affirm, reverse or modify the decision of the Zoning Board of Appeals. The court may make other orders as justice requires.

### **D. Nonuse (Dimensional) Variances**

1. To obtain a nonuse variance, the applicant must show practical difficulty by demonstrating all of the following:
  - a. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not generally applicable to other lands, structures or buildings in the same district;
  - b. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance;
  - c. The special conditions and circumstances do not result from the actions of the applicant;

- d. That the variance is the minimum variance that will make possible the reasonable use of the land, building or structure;
- e. The variance will not be injurious to the neighborhood or otherwise detrimental to the general welfare; and
- f. That the spirit of this Ordinance shall be observed, public safety secured and substantial justice done.

**E. Use Variances**

- 1. Use variances are expressly prohibited.

**F. Miscellaneous**

- 1. An appeal may not be taken to the Zoning Board of Appeals in connection with a special land use or planned unit development decision.
- 2. No order of the Zoning Board of Appeals permitting the erection of a building shall be valid for a period longer than six (6) months, unless a building permit for such erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.

**SECTION 10.5 NON-CONFORMING USES, STRUCTURES, BUILDINGS AND LOTS.**

**A. Non-conforming uses**

- 1. The lawful use of a dwelling, building, or structure and of land or a premise as existing and lawful at the time of enactment of this zoning ordinance (May 13, 1976), or, in the case of an amendment of an ordinance, then at the time of the amendment, may be continued although the use does not conform with the ordinance or amendment. However, no such building or structure shall be enlarged or extended except as provided herein.
- 2. The township board shall provide in a zoning ordinance for the completion, restoration, reconstruction, extension, or substitution of nonconforming uses upon reasonable terms set forth in the zoning ordinance. In establishing terms for the completion, restoration, reconstruction, extension, or substitution of nonconforming uses different classes of nonconforming uses may be established in the ordinance with different requirements applicable to each class.
- 3. The township may acquire, by purchase, condemnation, or otherwise private property or an interest in private property for the removal of nonconforming uses. The cost and expense, or a portion thereof, of acquiring the private property may be paid from general funds or assessed to a special district in accordance with the applicable statutory provisions relating to the creation and operation of special assessment districts for public improvements in townships. The elimination of the nonconforming uses and structures in a zoning district is declared to be for a public purpose and for a public use. The township board may institute and prosecute proceedings for condemnation of nonconforming uses and structures under the power of eminent domain in accordance with PA 149 of 1911, as amended.
- 4. Nonconforming uses are considered to present a greater public burden than nonconforming buildings, structures or lots. Therefore the intent of this Ordinance is to gradually eliminate non-conforming uses, decrease their nonconforming status, and discourage their expansion or enlargement.

**B. Non-conforming buildings and structures** - Where a lawful building or structure exists at the effective date of this Ordinance, or any subsequent amendments to this Ordinance, that could not be built under the most recent regulations of this Ordinance because of restrictions on area, lot coverage, height, setbacks, landscape buffer, off-street parking, loading space, or other characteristics of the structure or its location on the lot, such building or structure may continue to be used, provided it remains otherwise lawful, subject to the following provisions:

1. **Permitted building or structure improvements** - A residential building or structure which is nonconforming may be altered or rehabilitated if such activity will make it more conforming to the regulations of this Ordinance.
  2. **Minor expansion of residential buildings or structures** - The Zoning Administrator may approve the expansion of a residential nonconforming building or structure provided the expansion does not increase the nonconforming aspect of the structure, or the expansion complies with the required setback, height and lot coverage requirements for the zone in which it is located. The expansion shall not increase, by more than 50%, the established footprint of the nonconforming building or structure.
  3. **Major expansion of residential buildings and structures** - Any expansion determined not to be in compliance with Section 10.5.B.2 above shall be prohibited unless a variance is granted by the Zoning Board of Appeals.
  4. **Expansion of nonresidential non conforming buildings or structures** – Nonresidential nonconforming buildings or structures shall not be expanded except to the extent permitted by the Zoning Board of Appeals pursuant to the authority granted in Section 10.4 of this Ordinance.
  5. **Permitted repairs** - Nothing in this Ordinance shall prevent the repair, reinforcement, reconstruction or other such improvements of a legal nonconforming building or structure, or part thereof, rendered necessary by wear and tear, deterioration, flood, fire or vandalism, provided the repair does not increase the established footprint or cubic content of the original nonconforming structure.
  6. **Permitted replacement** - Legal nonconforming buildings, and accessory structures or uses, that become uninhabitable by means of flood, fire, vandalism, or demolition, shall be reconstructed in compliance with setback, height and lot coverage requirements for the zone in which it is located when the geometry of the lot can accommodate said reconstruction. If the geometry of the lot does not allow reconstruction in compliance with this Ordinance, reconstruction of the nonconforming building or structure shall be prohibited unless a variance is granted by the Zoning Board of Appeals. If a variance is granted by the Zoning Board of Appeals, such reconstruction shall be completed within 2 (two) years of the date of the decision.
- C. Nonconforming lots of record.** - In any district, notwithstanding limitations imposed by other provisions of this Ordinance, buildings and structures may be erected upon any lot or parcel of land which was a single lot or parcel of record at the effective date of this Ordinance or any subsequent amendments to this Ordinance. This provision shall apply even though the lot fails to meet the requirements for area, width, or both, that are generally applicable to the district in which the lot is located. Further, all buildings and structures constructed on nonconforming lots shall comply with the district setback, height and lot coverage regulations unless a variance is obtained pursuant to Article 10.4 of this Ordinance.
- D. Changes in Nonconforming uses** - No nonconforming use shall be changed to any other nonconforming use; and any nonconforming use changed to a conforming use shall not thereafter revert to any nonconforming use.
- E. Abandonment of nonconforming use or structure** - If a property owner has an 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 intent of the property owner to abandon a nonconforming use or structure, the Zoning Administrator shall consider the following:
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. Other information or action that evidence an intention on the part of the property owner to abandon the nonconforming use or structure.

## SECTION 10.6 VIOLATION AS NUISANCE PER SE

- A. Nuisance Per Se.** Any building or structure which is erected, moved, placed, reconstructed, razed, extended, enlarged, altered, maintained or used, and any use of a lot or land which is begun, continued, or changed in violation of any term or provision of this Ordinance, is hereby declared to be a nuisance per se subject to abatement pursuant to MCL 125.3407 and as otherwise provided by law.
- B. Violation.** Any person, partnership, limited liability company, corporation or association who violates, disobeys, neglects or refuses to comply with any provision of this Ordinance, any administrative decision made under this Ordinance, or any permit or approval issued under this Ordinance, including any conditions imposed thereon, or who causes, allows or consents to any of the same, shall be deemed to be responsible for a violation of this Ordinance. Any person, partnership, limited liability company, corporation or association responsible for a violation of this Ordinance, whether as an owner (by deed or land contract), lessee, licensee, agent, contractor, servant, employee, or otherwise, shall be liable as a principal. Each day that a violation exists shall constitute a separate offense.
- C. Municipal Civil Infraction.** A violation of this Ordinance is a municipal civil infraction as defined by Michigan statute and shall be punishable by a civil fine determined in accordance with the following schedule:

First Offense	\$100.00
Second Offense	
Within two (2) years of the first offense	\$250.00
Third or Subsequent Offense	
Within two (2) years of the date of the first offense	\$500.00

Additionally, the violator shall pay costs which may include all expenses, direct and indirect, which the Township of Leelanau has incurred in connection with the municipal civil infraction. In no case, however, shall costs of less than \$9.00 nor more than \$500.00 be ordered.

- D. Remedial Action.** Any violation of this Ordinance shall constitute a basis for injunctive relief or other appropriate remedy in any court of competent jurisdiction to compel compliance with this Ordinance and enforce the provisions thereof.
- E. Enforcement.** The Township Zoning Administrator and the Township Supervisor are hereby designated as the authorized Township officials to issue municipal civil infraction citations for violations of this Ordinance.

## SECTION 10.7 ZONING AMENDMENT PROCEDURES AND REQUIRED PUBLIC HEARING NOTIFICATION REQUIREMENTS.

- A. Rezoning Criteria** – The Planning Commission shall consider not less than the following criteria in its evaluation of a petition to rezone property within the Township prior to making its recommendation to the Township Board in accordance with Article IV of Act 110 of the Public Acts of Michigan of 2006, as amended.
1. The Planning Commission should first consider whether or not the map change is appropriate; that is, whether the proposed use could be better accommodated by amending the zoning ordinance text itself to allow the use as permitted use or as a special condition land use.

2. The applicant should demonstrate that there is evidence of a changed condition. This evidence can be provided in terms of an evaluation of land use trends in the vicinity or through the submittal of a marketing study.
3. The rezoning request should be evaluated for consistency with the adopted master plan. This includes the future land use plan map, any adopted sub-area development plan, as well as for consistency with the master plan narrative.
4. The proposed zoning should be evaluated for its compatibility with the existing land use pattern. The community should ask itself if uses in the proposed zone are equally, less, or better suited to the area.
5. The evaluation of the rezoning should also consider if the proposed use could be built on the subject site if it were to be rezoned. Is the parcel size sufficient? Are there environmental restrictions (i.e., soils, wetlands, floodplains, etc.) that would make the site nonbuildable or are they showing that the property cannot be used as presently zoned due to these limitations?
6. Is the site served by adequate public facilities or is the petitioner able to provide them?
7. Are there sites nearby already properly zoned that can be used for the intended purposes?
8. Is the proposal consistent with the established zoning pattern or does it represent spot zoning? For purposes of this Ordinance, spot zoning shall be defined as the assignment of a zoning classification different from the surrounding zoning classifications to a relatively small land parcel, intended to benefit a particular property owner, which is incompatible with the surrounding area and is also in violation of the community's master plan.
9. Would a lesser district classification be more appropriate? The petitioner may want a R-3 district; however, a R-2 district may permit the proposed use.
10. The community should evaluate whether other local remedies are available which are better suited to the circumstances of the petition.

**B. Amendments or supplements** to the zoning ordinance shall be adopted in the same manner as provided under 2006 PA 110 for the adoption of the original ordinance.

1. A public hearing shall be noticed and held by the Planning Commission. Notice of the public hearing shall be published in a newspaper of general circulation in the Township not less than 15 days before the date of the hearing.
2. Notice shall be provided to the owners of property that is subject of the request. Notice shall also be given to all persons to whom real property is assessed within 300 feet of the property that is subject of the request and to the occupants of all structures within 300 feet of the subject property regardless of whether the property or structure is located in the Township. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different persons, one occupant of each unit or spatial area shall be given notice. If a single structure contains more than four dwelling units or other distinct spatial areas owned or leased by different persons, 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.
3. The notice under Section 10.7.B. 2 is considered to be given when personally delivered or when deposited during normal business hours for delivery with the U.S. Postal Service or other public or private delivery service. The notice shall be given not less than 15 days before the date the request will be considered. If the name of the occupant is not known, the term "occupant" may be used for the intended recipient of the notice.
4. A notice under this Section shall do all the following:
  - a. Describe the nature of the request.
  - b. Indicate the property that is subject to the request. The notice 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.

- c. State when and where the request will be considered.
  - d. Indicate when and where written comments will be received concerning the request.
5. For any group of adjacent properties numbering 11 or more that is proposed for rezoning, the requirement of Section 10.7.B. 2 and the requirement of Section 10.7.B. 4.b that street addresses be listed do not apply to that group of adjacent properties.
  6. Following the required public hearing, the Planning Commission shall transmit a summary of comments received at the hearing and its proposed zoning ordinance, including any zoning maps and recommendations, to the Township Board. The Township Board may hold a public hearing it considers necessary or if otherwise required. Notice of such hearing shall be provided as required by Section 10.7.B, subsections 1-5, described above.
  7. The Township Board shall grant a public hearing on a proposed ordinance provision to an interested property owner who requests such a hearing by certified mail, addressed to the Township Clerk. A hearing so granted is not subject to the requirements of Section 10.7, subsections 1-5, described above, except that notice of the hearing shall be given to the interested property owner in the manner described in Section 10.7.B, subsection 3 and 4, above.
  8. The Township Board may refer any proposed amendments to the Planning Commission for consideration and comment within a time specified by the Township Board.
  9. After any required proceedings, the Township Board shall consider and vote upon the adoption of a zoning ordinance, with or without amendments. A zoning ordinance and any amendments shall be approved by majority vote of the members of the Township Board.
  10. Except as otherwise provided under Section 402 of 2006 PA 110 for “protest petitions”, a zoning ordinance shall take effect upon the expiration of seven days after publication of the Notice of Ordinance adoption as specified by Section 10.7.B.11 below, or at a later date after publication as may be specified by the Township Board or charter.
  11. Following adoption of a zoning ordinance or any subsequent amendments by the Township Board, the zoning ordinance or any subsequent amendment shall be filed with the Township Clerk, and a Notice of Ordinance Adoption shall be published in a newspaper of general circulation in the Township within 15 days after adoption.
  12. A Notice of Ordinance Adoption required by Section 10.7.B. 11 shall include all of the following information:
    - a. In the case of a newly adopted zoning ordinance, the following statement: “A zoning ordinance regulating the development and use of land has been adopted by the Township Board of Leelanau Township.”
    - b. In the case of an amendment to an existing zoning ordinance, either a summary of the regulatory effect of the amendment, including the geographic area affected, or the text of the amendment.
    - c. The effective date of the zoning ordinance or the amendment.
    - d. The place where and time when a copy of the ordinance may be purchased or inspected.
  13. The filing and publication requirements of Section 10.7.B, subsections 11 and 12, supersede any other statutory or charter requirements relating to the filing and publication of Township ordinances.
  14. An amendment to conform a provision of the zoning ordinance to the decree of a court of competent jurisdiction as to any specific lands may be adopted by the Township Board and the Notice of Ordinance Adoption published without referring the amendment to any other board or agency provided under 2006 PA 100.

- C. Upon receipt of a completed application for a Special Land Use** which requires a discretionary decision submitted in accordance with Section 12.4, the Planning Commission shall hold a public hearing. Notice of the public hearing shall be provided in accordance with the requirements of Section 10.7.B, subsections 1-4, above.
- D. Upon receipt of a completed application for a Planned Unit Development** submitted in accordance with Section 14.7.B, the Planning Commission shall hold a public hearing. Notice of the public hearing shall be provided in accordance with the requirements of Section 10.7.B, subsection 1-4, above.

## **SECTION 10.8 PUBLIC NOTICE**

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

- A. Responsibility:** When the provisions of this Ordinance or the Michigan Zoning Enabling Act require that notice be published, the Zoning Administrator shall be responsible for preparing the content of the notice, having it published in a newspaper of general circulation in Leelanau Township and mailed or delivered as provided in this Section.
- B. Content:** All mail, personal and newspaper notices for public hearings shall:
1. Describe nature of the request: Identify whether the request is for a rezoning, text amendment, special land use, planned unit development, variance, appeal, ordinance interpretation or other purpose.
  2. Location: Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the subject property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used such as a tax parcel identification number, identifying the nearest cross street, or including a map showing the location of the property. No street addresses must be listed when eleven (11) or more adjacent properties are proposed for rezoning, or when the request is for an ordinance interpretation not involving a specific property.
  3. When and where the request will be considered: Indicate the date, time and place of the public hearing(s).
  4. Written comments: Include a statement describing when and where written comments will be received concerning the request. Include a statement that the public may appear at the public hearing in person or by counsel.
  5. Handicap access: Information concerning how handicap access will be accommodated if the meeting facility is not handicap accessible.

### **C. Personal and Mailed Notice**

- 1. General:** When the provisions of this Ordinance or state law require that personal or mailed notice be provided, notice shall be provided to:
- a. The owners of property for which approval is being considered, and the applicant, if different than the owner(s) of the property.
  - b. Except for rezoning requests involving eleven (11) or more adjacent properties or an ordinance interpretation request that does not involve a specific property; to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property subject to the request, regardless of whether the property or occupant is located within the boundaries of Leelanau Township. 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 organizations, one (1) 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.

c. All neighborhood organizations, public utility companies, railroads and other persons which have requested to receive notice pursuant to Section 10.E.2, Registration to Receive Notice by Mail.

d. Abutting governmental units.

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

**D. Timing of Notice:** Unless otherwise provided in the Michigan Zoning Enabling Act, PA 110 of 2006, or this Ordinance where applicable, notice of a public hearing shall be provided as follows:

**1.** For a public hearing on an application for a rezoning, text amendment, special land use, planned unit development, variance, appeal, or ordinance interpretation: not less than fifteen (15) days before the date the application will be considered for approval.

**E. Registration to Receive Notice by Mail:**

**1. General:** Any neighborhood organization, public utility company, railroad or any other person may register with the Zoning Administrator to receive written notice of all applications for development approval pursuant to Section 10.8.C.c., Personal and Mailed Notice, or written notice of all applications for development approval within the zoning district in which they are located. The Zoning Administrator shall be responsible for providing this notification. Fees may be assessed for the provision of this notice, as established by the legislative body.

**2. Requirements:** The requesting party must provide the Zoning Administrator information on an official form to ensure notification can be made. All registered persons must re-register bi-annually to continue to receive notification pursuant to this Section.

#### Amendment History

Reformatted and adopted by the Board 06/08/04, Ord 3 of 2004,; Pub. 06/17/04, Eff. 06/24/04

Amended 06/14/05, Ord 3 of 2005; Pub. 06/23/05; Eff. 06/30/05

Amended 04/10/07, Ord 3 of 2007; Pub. 04/19/07; Eff. 04/27/07

Amended 07/08/08, Ord 3 of 2008; Pub 07/17/08; Eff 07/25/08

Amended 11/11/08, Ord 5 of 2008, Pub 11/20/08, Eff 11/28/08

Amended 08/10/10, Ord 3 of 2010, Amend 10.2.B, Pub 08/19/10, Eff 08/27/10



## **ARTICLE 11 SITE PLAN REVIEW**

**SECTION 11.1 PURPOSE AND SCOPE** - This article establishes the requirement for submission and approval of a site plan before authorization of a land use or regulated activity. It specifies the official, Commission or Board charged with reviewing site plans and granting approval, and procedures and requirements for submission and approval of site plans.

### **SECTION 11.2 REQUIRED SITE PLANS**

- A. Special Land Uses and Planned Unit Developments** - Site plan submission, review and approval shall be required for special land uses (Article 12) and planned unit developments (PUD) (Article 14).
- B. Industrial and Commercial Districts** - Site plan submission, review and approval shall be required for any use in the Industrial (Article 8), and in the Commercial and Commercial Resort (Article 7) districts.
- C. Open Space Residential Development** - Site Plan submission and review and approval shall be required for Open Space Residential Developments (Article 13) except for the limited waiver described in Section 13.4.B.
- D. Other** - Site plan submission, review and approval shall be required for any use or development for which the submission of a site plan is required by any provision of this Ordinance.
- E. Environmentally Sensitive Areas** - If a parcel contains environmentally sensitive areas as defined in Article 2 of this Ordinance, the requirements of Article 15, Environmentally Sensitive Areas, shall be incorporated in the site plan review process for the application.

**SECTION 11.3 SUBMISSION** - Site plan includes the documents and drawings required by this Ordinance to insure that a proposed land use or activity is in compliance with the local and state and federal statutes. The site plan, and application for site plan review, shall be submitted to the Township Zoning Administrator (TZA), in the number of copies called for in the application forms.

### **SECTION 11.4 APPLICATION FOR SITE PLAN REVIEW**

- A. General Application requirements** - The complete application shall at a minimum, include the following information:
  1. The applicant's name, address, and phone number in full;
  2. Proof of property ownership, and whether there are any options on the property;
  3. A signed statement that the applicant is the owner of the property or a designated agent;
  4. The name and address of the owner(s) of record;
  5. The address and/or parcel number of the property, complete legal description and dimensions of land width, length, acreage and frontage;
  6. Name and address of the developer(s) (if different from the applicant);
  7. Name and address of the engineer, architect, and/or land surveyor;
  8. Project title or name of the proposed development;
  9. Project description, including the total number of structures, units, bedrooms, offices, square feet, total and usable floor area, parking spaces, carports or garages, employees by shift, amount of recreation and open space, type of recreation facilities to be provided, and related information as pertinent or otherwise required by the Ordinance;
  10. A vicinity map drawn to scale of approximately 1"=2000' or such other appropriate scale so as to demonstrate the location of the project in the Township with north point indicated;

11. The gross and net acreage of all parcels in the project;
12. Land uses, zoning classification and existing structures on the subject parcel and adjoining parcels;
13. Statement of intent of proposed use of land, project completion schedule/development phases;
14. Written statement relative to project impacts on existing infrastructure (including traffic capacity of roads, streets, schools, and existing utilities) and project impacts on the natural environment as described and defined in Article 15 of this Ordinance.

**B. Additional Requirements for Major Projects** - The site plan for a Major Project, as defined in Section 2.2.B, shall consist of an accurate, reproducible drawing at a scale of 1"=100' or less, showing the site and all land within 300' of the site. If multiple sheets are used, each shall be labeled and the preparer identified.

Each site plan shall depict the following:

1. Location of proposed and/or existing property lines, dimensions, legal descriptions, setback lines and monument locations;
2. Existing topographic elevations at two-foot contour intervals;
3. For developments on steep slopes, a report by a certified soil or geotechnical engineer stating that the steep slope can be safely developed together with plans limiting the development of the area comprised of steep slopes to 20% of such area and including specific measures for the stabilization and erosion control of such slopes during and following construction.
4. Grading and drainage plans showing proposed elevations and grading changes and including buildings and parking lots; drainage flows; the size and location of retention basins and the methods to be employed to control soil erosion;
5. Location and type of significant existing vegetation and wildlife habitat;
6. Location and elevations of existing water courses and water bodies, including county drains and man-made surface drainage ways, flood plains, wetlands;
7. Location of sand dunes, if any;
8. Location of existing and proposed buildings and intended uses thereof, as well as the length, width, and height of each proposed building or building envelope and typical front elevation views of proposed structures;
9. Proposed location of accessory structures, buildings and uses, including but not limited to light poles, bulkheads, docks, storage sheds greater than 100 square feet, transformers, air conditioners, generators and similar equipment, and the method of screening where applicable;
10. Location of existing public roads, rights-of-way and private easements of record, and abutting streets;
11. Location of and dimensions of proposed streets, drives, curb cuts, and access easements, as well as acceleration, deceleration and passing lanes (if any) serving the development. Details of entry should be separately depicted with an elevation view;
12. Location, design, and dimensions of existing and/or proposed curbing, barrier free access, carports, parking areas (including indication of all spaces and method of surfacing), fire lanes and all lighting thereof;
13. Location, size, and characteristics of all loading and unloading areas;
14. Location and design of all sidewalks, walkways, bicycle paths and areas for public use;
15. Location of water supply lines and/or wells, including fire hydrants and shut off valves, and the location and design of storm sewers, retention or detention ponds, waste water lines,

- clean out locations, connections points and treatment systems, including septic systems if applicable;
16. Location of all other utilities on the site including but not limited to natural gas, electric, cable TV, and telephone;
  17. Proposed location, dimensions and details of common open spaces and common facilities such as community buildings, tennis courts or swimming pools if applicable;
  18. Location, size and specifications of all signs and advertising features with cross sections;
  19. Exterior lighting locations with area of illumination illustrated as well as the type of light fixtures and shielding to be used;
  20. Location and specifications for all fences, walls, and other screening features with cross sections;
  21. Location and specifications for all proposed perimeter and internal landscaping, other buffering features, and screening of all trash receptacles and other solid waste disposal facilities. For all new shrubbery and trees, the proposed size at the time of planting shall be indicated. Vegetation to be retained on the site must also be indicated, as well as size or range of sizes, as appropriate;
  22. Location and specifications for any existing or proposed above or below ground storage facilities for any chemicals, salts, flammable materials, or hazardous materials as well as any containment structures or clear zones required by county, state or federal government authorities;
  23. Identification of any significant site amenities or unique natural features and whether they will be preserved;
  24. Identification of any significant views onto or from the site to or from adjoining areas and whether they will be preserved;
  25. North arrow, scale and date of original submittal and last revision; and,
  26. Identification of the person(s) who prepared the plan, as well as their name, address and phone number.

### **C. Waiver of requirements**

1. **Waiver of requirements for Minor Projects** - The site plan for Minor Projects, as defined in Section 2.2.B, shall meet the same requirements as for Major Projects except that the Zoning Administrator shall have the authority to waive any site plan requirements that are not applicable to a specific Minor Project.
2. **Waiver of requirements for Major Projects** - Any site plan requirements that are determined not applicable to a specific Major Project by both the Zoning Administrator and a member of the Planning Commission designated by the Chairperson may be waived.

## **SECTION 11.5 MINOR PROJECTS SITE PLAN REVIEW AND APPROVAL**

**A. Authority** - The Zoning Administrator shall have authority to approve Minor Projects as defined in Article 2.

### **B. Procedures**

1. **Optional pre-application conference.** The applicant may at his/her discretion, prepare a generalized site plan for presentation to the Zoning Administrator which addresses the questions of use, density, integration with existing development in the area and impacts on and the availability of public infrastructure. At this meeting the applicant or his/her representative shall be presented with the applicable procedures required by the Ordinance for approval of the

proposed development and with any special problems or steps that might have to be followed, such as requests to the Board of Appeals for variances.

2. **Site plan review.** The applicant shall submit the required applications and site plans to the Zoning Administrator for approval in accordance with Section 11.3. If the site plan meets all of the requirements of the zoning district in which it is located, the Zoning Administrator shall approve the site plan. If the site plan does not meet the application requirements of 11.4.A, or does not meet the requirements of the zoning district in which it is located, the Zoning Administrator shall notify the applicant in writing, specifying the areas of deficiency, or may deny the application as incomplete. Once a complete application is received, the Zoning Administrator shall approve, approve with conditions, or deny, in writing, the application within 30 days of the date the complete application is received.
3. **Optional referral to Planning Commission.** In the event the Zoning Administrator is uncertain about whether a Minor Project meets the Ordinance intent or is consistent with the requirements of the Ordinance, the Zoning Administrator may refer the matter to the Planning Commission for decision. The Zoning Administrator shall inform the applicant of his/her intent to refer the matter to the Planning Commission and request the additional copies of the application necessary for distribution to the Planning Commission. The application shall be placed on the next regularly scheduled Planning Commission meeting agenda. If the Planning Commission finds that the site plan meets all of the requirements of the zoning district in which it is located, the Planning Commission shall approve, or approve with conditions, the site plan. If incomplete or does not meet the requirements of the zoning district in which it is located, the Planning Commission shall deny the site plan.

## **SECTION 11.6 MAJOR PROJECTS SITE PLAN REVIEW AND APPROVAL**

**A. Authority** - The Zoning Administrator shall forward any site plan received for a Major Project to the Planning Commission for their approval when it complies with the following standards:

1. The proposed development is consistent with the goals, policies and intent of the Township Master Plan.
2. The proposed development meets all requirements of the zoning district in which it is located and other applicable requirements of this Ordinance.
3. The proposed development will have no significant adverse effect on the neighborhood area surrounding the site.
4. The proposed development will not significantly increase the cost and delivery of public services by the Township.
5. The proposed development will not have a significant adverse effect on the protection and management of the natural environment.
6. Applications have been made for approvals and/or permits from other regulatory agencies or governmental bodies as may be required by township, county state or federal law; including but not limited to the County Health Department, the County Drain Commissioner, the Michigan Departments of Environmental Quality, Natural Resources, and/or Transportation, the County Road Commission, the County Soil Erosion and Sedimentation Officer, and the Leelanau Township Board.
7. The proposed development will not have a significant effect on the health, welfare and safety of the residents of the Township. Each action taken with reference to site plan review shall be duly recorded in the official record of action in the minutes of the Planning Commission. Prior to any

final decision, the Planning Commission may seek the recommendations of planning and/or engineering consultants, Fire Chief, and others, as appropriate.

## B. Procedures

1. **Optional Pre-application conference.** The applicant may at his/her discretion, prepare a generalized site plan for presentation to the Planning Commission and/or the Zoning Administrator which addresses the questions of use, density, integration with existing development in the area and impacts on and the availability of public infrastructure. At this meeting the applicant or his/her representative shall be presented with the applicable procedures required by the Ordinance for approval of the proposed development and with any special problems or steps that might have to be followed, such as requests to the Board of Appeals for variances.
2. **Application.** Copies of the application and site plan shall be submitted to the Zoning Administrator in accordance with Section 11.3 at least 30 days prior to the date the application is scheduled to be viewed by the Planning Commission.
3. **Zoning Administrator review.** The Zoning Administrator shall review the application and site plan to determine whether they are complete in accordance with the requirements of Section 11.4. In the event the application does not meet the requirements of 11.4, the Zoning Administrator shall notify the applicant in writing specifying the areas of deficiency. If the applicant fails to rectify the deficiencies of the application within 90 days, the Zoning Administrator may deny the application on the basis that it is incomplete. When complete, the Zoning Administrator shall forward the application and site plan to the Planning Commission.
4. **Zoning Administrator report.** The Zoning Administrator or planning consultant to the Township shall prepare a report of each site plan submitted in accordance with this section, containing a synopsis together with the proposed determination. The report shall be presented at the Planning Commission meeting at which the site plan is to be considered.
5. **Agency distribution.** The applicant shall distribute copies of the application to applicable County, State and Federal agencies.
6. **Planning Commission review.** The Planning Commission shall review the application, the report and comments received and approve, approve with conditions, or disapprove the site plan within 90 days of the receipt of a complete application, or within 120 days of receipt of a complete application if a public hearing is required in connection with a Special Land Use or Planned Unit Development.
7. **Planning Commission response.**
  - a. **Approval without conditions.** Upon determination by the Planning Commission that a site plan is in compliance with the requirements of Section 11.6 A it shall be approved, so indicated on the site plan, recorded in the Planning Commission minutes and communicated to the applicant in writing including reference to the date on which it will become null and void.
  - b. **Approval with conditions.** When a site plan has been determined to meet all requirements except for necessary minor revisions, it shall be approved with conditions. These conditions shall be recorded in the Planning Commission minutes and communicated to the applicant in writing. When the necessary changes have been made, the applicant shall resubmit the site plan to the Zoning Administrator for determination of the adequacy of the revisions. When the conditions are determined to be fully satisfied, notification of approval shall be made to the applicant as in 11.6.B.7.a above. Section 11.10 presents cases calling for conditional approval.

- c. **Disapproval.** If substantial revisions to the site plan are necessary to meet the Zoning Ordinance, and other applicable regulations, the site plan shall be disapproved and the applicant requested to prepare an alternate site plan. The “disapproval” shall be recorded in the Planning Commission minutes and communicated to the applicant in writing.
- 8. **Conformity with Approved Plan.** Following approval of a site plan by the Planning Commission, the applicant shall construct the site plan improvements in complete conformity with the approved plan. Failure to do so shall be a violation of this Ordinance and subject to the penalties of 10.6 B.

#### **SECTION 11.7 APPEALS OF SITE PLANS.**

- A. Any person aggrieved by a decision of the Planning Commission or Zoning Administrator in granting or denying approval of a site plan or an extension of a site plan may appeal the decision to the Zoning Board of Appeals. The appeal must be filed within seven (7) days of the decision and shall state the factual basis for the appeal. An appeal shall stay action on the issuance of any Land Use Permit pursuant to an approved site plan.
- B. The Zoning Board of Appeals shall review the record of action taken on the site plan and shall determine whether the record supports the action taken. No new evidence shall be presented. The Zoning Board of Appeals shall approve the site plan if the requirements of this Article and other applicable Ordinance requirements are met. The Zoning Board of Appeals shall make written findings in support of its opinion on the appeal.

**SECTION 11.8 LAND USE PERMIT** - After the seven (7) day waiting period for appeals, the applicant shall apply for the appropriate Township, County and or State permits as may be required by said agencies and present appropriate plans and specifications as may be required by such agencies.

**SECTION 11.9 FAILURE TO PERFORM** – If significant site development and/or construction of the first building has not been initiated within 24 months of the site plan approval, the site plan shall automatically become null and void. If a Land Use Permit has been issued, the County Building Inspector and Health Department shall be notified to withhold any permits until a new site plan is approved. The applicant may request an extension of the two-year limit by presenting justification for such an extension to the Planning Commission. After reviewing the information provided, the Planning Commission will determine if an extension of time, not to exceed one year, is warranted. *Amended 072508*

**SECTION 11.10 RESUBMISSION** - Any resubmission shall be processed as a new request for site plan review with new fees.

#### **SECTION 11.11 CONDITIONAL APPROVAL**

**A. Other standards.** The Planning Commission or Zoning Administrator may condition approval of a site plan on conformance with the standards of another local, county or state agency, such as but not limited to a County Drain Commission, County Road Commission, County Health Department, County Soil Conservation District, or the State Department of Transportation, Department of Environmental Quality or Natural Resources.

**B. This Ordinance.**

1. The Planning Commission or Zoning Administrator may conditionally approve a site plan on conformance with fencing, screening, buffering or landscaping requirements of Article 17 of this Ordinance and may collect a performance guarantee consistent with the requirements of Article 11.12 to insure conformance. When so doing, the Planning Commission or Zoning Administrator shall find and document as part of the review process that such fencing, screening, buffering or landscaping would mitigate negative effects of noise, dust, lighting, vehicular or pedestrian traffic, loading or unloading, parking or other similar impacts on adjoining parcels.
2. The Planning Commission or Zoning Administrator, depending on the authority specified for the development, may grant conditional approval of a site plan on compliance with any of the applicable requirements of the Zoning Ordinance.

**SECTION 11.12 PERFORMANCE GUARANTEE REQUIRED.**

**A. Purpose** - The Planning Commission or Zoning Administrator may require the applicant to deposit a performance guarantee as set forth herein. The purposes are to insure completion of improvements connected with the proposed use as required by this Ordinance, and/or restoration of the site in the event site grading, clearing and grubbing is commenced and then ceased by the applicant for a period of at least six months without signs of progress, and/or maintenance of utility or drainage systems.

**B. Performance guarantee.** - Performance guarantee as used herein shall mean a cash deposit, certified check, irrevocable bank letter of credit or corporate surety bond in the amount of the estimated cost of the improvements plus the cost of site restoration to be made as determined by the applicant and verified by the Zoning Administrator plus 10% for contingency. The Township shall have the authority to establish the amount of the guarantee based on information to be provided by the applicant and/or the Township engineer.

**C. Deposit** - The performance guarantee, when required, shall be deposited with the Township Treasurer prior to the issuance of a land use permit by the Zoning Administrator for the development and use of the land. The Township shall deposit the performance guarantee, if in the form of a cash deposit or certified check, in an interest-bearing account to the benefit of the applicant.

**D. Time** - An approved site plan shall also prescribe the period of time within which the improvements for which the performance guarantee has been required are to be completed. The period will begin from the date of the issuance of the Land Use or building permit as applicable.

**E. Return and rebate.** - Upon the satisfactory completion of the improvement for which the performance guarantee was required, as determined by the Zoning Administrator, the Treasurer shall return to the applicant the performance guarantee deposited and any interest earned thereon. In the event the performance guarantee deposited is a cash deposit or certified check, the Township shall rebate to the applicant fifty (50) percent of the deposited funds when sixty (60) percent of the required improvements are completed as confirmed by the Zoning Administrator, and the remaining fifty (50) percent of the deposited funds when one hundred (100) percent of the required improvements are completed as confirmed by the Zoning Administrator. If a request is made by the applicant for a temporary certificate of occupancy without completion of required exterior improvements, the performance guarantee herein required for the completion of improvements may be applied by said applicant to assure compliance with the Zoning Ordinance standards and the specifications of the approved site plan.

**F. Defaults.** - In the event the applicant defaults in making the improvements for which the performance guarantee was required within the time period established by the Planning Commission or Zoning Administrator, the Township shall have the right to use the performance guarantee deposited and any interest earned thereon to complete the improvements and/or restore the site to its original state through contract or

otherwise, including specifically the right to enter upon the subject property to make the improvements. If the performance guarantee is not sufficient to allow the Township to complete the improvements and/or site restoration for which it was posted, the applicant shall be required to pay the Township the amounts by which the costs of completing the improvements exceeds the amount of the performance guarantee deposited. Should the Township use the performance guarantee or a portion thereof, to complete the required improvements and/or site restoration, any amounts remaining after said completion shall be applied first to Township administrative costs in completing the improvement with any balance remaining being refunded to the applicant. If the applicant has been required to post a performance guarantee or bond with another governmental agency other than the Township to insure completion of an improvement associated with the proposed use prior to receiving conditional site plan approval, the applicant shall not be required to deposit with the Township a performance guarantee for that specific improvement. At the time the performance guarantee is deposited with the Township and prior to the issuance of a land use permit; the applicant shall enter an agreement incorporating the provisions hereof with the Township regarding the performance guarantee.

### **SECTION 11.13 AMENDMENTS TO APPROVED SITE PLANS.**

- A. Significant modifications to an approved site plan may be approved after a review and approval procedure as specified in Section 11.6. Minor changes to an approved site plan may be approved by the Zoning Administrator.
- B. If the Zoning Administrator finds that a proposed amendment to an approved site plan does not qualify as a minor change, he or she shall immediately notify the permit holder, and the Leelanau County Inspections Department in writing that site plan approval has been suspended pending approval by the Planning Commission, as applicable, of the proposed amendment. The permit holder's notice shall be delivered by certified mail, restricted delivery, return receipt requested. If construction has begun, a stop work order shall be issued by the Zoning Administrator for that portion of the project which is not in compliance with the Ordinance. Once site plan approval for a project has been suspended, the permit holder has the option of changing the project plans to conform with the Ordinance requirements, or of restarting the Site Plan Review process. When the issue has been resolved, the Zoning Administrator shall send a written notice to the permit holder, and the Leelanau County Inspections Department, that the project's site plan has again been approved. This provision is not to be construed to prohibit phased development of a project, provided that each phase is developed in accordance with an approved site plan.

**SECTION 11.14 AS-BUILT SITE PLAN** - Upon completion of the installation of required improvements as shown on the approved site plan, the property owner shall submit to the Zoning Administrator two (2) copies of an "as built" site plan, certified by the engineer or surveyor, prior to the anticipated occupancy of any building. The Zoning Administrator shall circulate the as built plans among the Township's planning and engineering personnel, as appropriate, for review to insure conformity with the approved site plan and other Township requirements.

**SECTION 11.15 LAND ALTERATION WITHOUT APPROVAL** - No person shall undertake or carry out any such activity or use, including any grading, filling, and/or excavating associated with site plan approval until a Land Use Permit has been issued by the Township. Any violation of this provision is subject to the fines and penalties prescribed in Article 10.6 B of this Ordinance for each day of the violation from the day of discovery of the incident until an approved Restoration plan, or an approved site plan is granted.

#### Amendment History

Reformatted and adopted by the Board, Ord 3 of 2004, 06/08/04; Pub. 06/17/04; Eff. 06/24/04

Amended 03/14/06, Ord 6-3 of 2006; Pub 03/23/06; Eff. 03/31/06



Amended 04/10/07, Ord 3 of 2007; Pub. 04/19/07; Eff. 04/27/07  
Amended 04/08/08, ref to PSO, Ord 1 of 2008, Pub 04/17/08, Eff 04/25/08  
Amended 07/08/08, Ord 2 of 2008, Pub 07/17/08, Eff 07/25/08  
Amended 11/11/08, Ord 6 of 2008, Pub 11/20/08, Eff 11/28/08

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**SECTION 12.3 AUTHORITY** - The Township Planning Commission shall have the authority to approve, deny, or approve with conditions applications for Special Land Uses. Their decision, considered to be final, may be appealed to the Leelanau County Circuit Court.

#### **SECTION 12.4 APPLICATION**

**A. Submittal** - A Special Land Use application shall be submitted to the Planning Commission via the Zoning Administrator. Applications are to be made by the owner of the property related to the Special Land Use. The application is to be accompanied by payment of a non-refundable fee set by the Township Board.

**B. Application contents** - Each application form shall contain, as a minimum:

1. Name of applicant.
2. Mailing address of applicant for receipt of notices
3. Full legal description of the lot on which the proposed Special Land Use is to exist or be conducted.
4. Listing of names and addresses of all lot owners located within three hundred (300) feet of the lot lines on which the proposed Special Land Use is to exist or be conducted.
5. Detailed description of the proposed Special Land Use.
6. Each application form shall be accompanied by the following information and data:
  - a. A site plan, plot plan, or development plan drawn to a scale sufficient to show the lot on which the proposed Special Land Use is to exist or be conducted and which meets the requirements of Article 11 - Site Plan.
  - b. A statement, which may be included in the site plan referenced in 12.4 B 6 indicating the height of existing and proposed structures, and the total lot acreage.
  - c. An area map signed by the applicant and showing, to the best of the applicant's knowledge, the uses of lots located within three hundred (300) feet of the lot on which the proposed Special Land Use is to exist or be conducted.
  - d. A map with accompanying signed statement indicating the absence or location of creeks, streams, lakes or wetlands areas within one thousand five hundred (1,500) feet of the reference lot.

#### **SECTION 12.5 REVIEW AND APPROVAL**

**A. Transfer of Application** - The Zoning Administrator shall review the application for completeness (in accordance with section 12.4.B) and forward the application to the Planning Commission.

**B. Decision** - The decision by the Planning Commission to approve, or approve with conditions, or to deny a request for Special Land Use shall be incorporated in a statement. The statement containing the conclusions relative to the Special Land Use under consideration shall also specify the basis for the decision, and any conditions imposed.

#### **SECTION 12.6 CRITERIA AND STANDARDS FOR APPROVAL**

**A. Compliance with other regulations** - The proposed Special Land Use is to comply with this Ordinance, as well as other applicable ordinances, County, State and Federal statutes.

**B. Standards** - The planning commission shall review each application for the purpose of determining that the proposed Special Land Use meets the following standards, and that there is adequate evidence that each use on the proposed location will:

1. Be designed, constructed, operated, and maintained so that such use will not change the essential character of the district classification in which it is proposed.

2. Be served adequately by essential public facilities and service, including highways, streets, police, fire protection, drainage district, refuse disposal, water and sewage facilities, and schools.
3. Show that the capacities of public services and facilities affected by the proposed Special Land Use will not be unduly burdened nor result in excessive additional public cost for the creation of facilities and services not otherwise available.
4. Not adversely affect the natural environment, and more particularly, shall have no adverse affect on any creek, stream, lake or wetlands area.
5. Not adversely affect farmland.
6. Show that there exists in the site plan sufficient protection to ensure that there will be no additional storm water run-off created by said Special Land Use, or that adequate and full protection has been made to accommodate such storm water run-off on the proposed site location. For purposes of this standard, the storm water run-off shall be that as designated by the ten-year rain standard.
7. Show that the proposed Special Land Use meets all of the specific requirements for Special Land Uses in the district for which the Special Land Use is proposed.

**C. Conditions and safeguards** - The Planning Commission may impose reasonable conditions necessary to ensure that public services and facilities affected by a proposed Special Land Use will be capable of accommodating increased activity, to protect the natural environment, and conserve natural resources and energy, to ensure compatibility with adjacent uses of land, and to promote the use of the land in a socially and economically desirable manner. Said conditions maybe imposed in the event that the proposed Special Land Use cannot meet all of the standards set forth in the preceding section, but that the Planning Commission, based on the evidence and data received during the course of the public hearing, believes the same to be in the best interests of Township residents. Any condition so imposed shall meet the following requirements:

1. Be designed to protect natural resources, including modification of setback requirements or limitation on total area development of the lot on which the proposed Special Land Use is to exist or be conducted.
2. Be designed to protect the health, safety and welfare, social and economic well-being of those who will be using the proposed Special Land Use under consideration.
3. Be designed to protect residents and lot owners adjoining the proposed Special Land Use or activity, including limitations such as "screening" or the erection of natural or artificial barriers or limitations on the time of alteration and duration of the Special Land Use activity.
4. Be necessary to meet the intent and purposes of this Ordinance, and be related to the standards established for the Special Land Use under consideration.
5. Such other conditions as may be necessary to ensure compliance with the application received by the Planning Commission.

**SECTION 12.7 BINDING EFFECT** - Any Special Land Use approved by the Planning Commission shall be binding between the parties, and the approved Special Land Use shall not be modified, altered, expanded or otherwise changed except through and with the consent of the Planning Commission by re-application. The conditions of the approved Special Land Use shall run with the land, and be binding on the land owner, his successor, heirs, and assigns.

#### **SECTION 12.8 FAILURE TO PERFORM**

**A. Development within one year** - The Special Land Use permit shall be considered null and void if the applicant fails to develop the lot within one (1) year, in accordance with the Special Land Use permit as

approved. The Commission may provide for a longer than one (1) year period for completion of the development if it determines that a longer period of time is in the interest of the residents of the Township and such provision is made at the time of original approval.

**B. Improper use** - If at any time during the existence of the Special Land Use permit, the lot and/or structures are used contrary to the conditions and provisions of the permit, such use shall be deemed a zoning violation and the permit shall be considered revoked.

Amendment History

Reformatted and adopted by Board 06/08/04, Ord 3 of 2004; Pub. 06/17/04; Eff. 06/24/04

Amended 04/10/07, Ord 3 of 2007; Pub. 04/19/07; Eff. 04/27/07

Amended 07/08/08, Ord 3 of 2008, Pub 07/17/08; Eff 07/25/08

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## **ARTICLE 13**

### **OPEN SPACE RESIDENTIAL DEVELOPMENTS**

#### **SECTION 13.1 PURPOSE AND SCOPE**

A. The purpose of this Article is to encourage rural and suburban home sites which are sensitive to the natural environment and character of the Township. In order to insure compatibility with the existing primarily rural character, homes should be located to be a part of the landscape while being relatively unseen from public roads. Lots should fit the natural contour of the land and preserve the elements of rural, cultural, and historic character. In order to obtain these benefits for present and future residents, this Article includes incentives in the form of increased density for landowners.

B. This Article is intended to comply with the open space preservation provisions of Act 110 of 2006, which allows, at the option of the landowner, the creation of an open space residential development. In such a development, a minimum of fifty (50) percent of the total area of the site shall be set aside as dedicated open space.

C. This Article establishes the procedures required for application, review, and approval; as well as the requirements and standards upon which approval decisions shall be made.

#### **SECTION 13.2 ELIGIBILITY**

A. An open space multi-unit residential development may be considered in any one of the following zoning districts:

- R-1 Residential Low Density
- R-2 Residential Medium Density
- R-3S Residential High Density Single Family
- R-3A Residential High Density Multi-family dwelling District
- R-3M Residential High Density Mobile Home Park
- RC Residential Conservation District
- A Agricultural

#### **SECTION 13.3 MINIMUM STANDARDS**

A. A minimum of fifty (50) percent of the total area in an Open Space Residential Development shall be set aside as dedicated open space as defined in Article 2.

B. The type of residential structures allowed is the same as for the underlying zoning districts as shown in Article 5 - Section 5.7. Single-family detached residences are allowed in all residential districts except R3A. In District R2 where two, three or four unit dwellings are allowed, the structure must be divided vertically between dwelling units and must have independent, ground floor entrances for each dwelling unit. Where two multiple dwellings unit buildings are located side-by-side, a minimum thirty-five (35) foot spacing between buildings shall be maintained. A minimum thirty-five (35) foot building setback from the side perimeter of the development is required.

C. Regulation of building height and setbacks in the above referenced zoning districts shall remain in effect. All other area and bulk regulations for the principal residence structures, including lot coverage, front lot width and length to width ratio, in the above referenced zoning districts may be waived or modified to encourage

flexibility and creativity with the open space development provided that no deleterious impacts are foreseen by the Planning Commission from any such deviations.

D. Minimum Lot Size:

		<u>Without central water and sewer system</u>	<u>With central water and sewer system</u>
R-1	Residential Low Density	½ acre (21,780 sq. ft)	½ acre (21,780 sq. ft)
R-2	Residential Medium Density	½ acre (21,780 sq. ft)	½ acre (21,780 sq. ft)
R-3S	Residential High Density	½ acre (21,780 sq. ft)	12,000 sq. ft.
R-3A	Residential High Density	½ acre (21,780 sq. ft)	5,500 sq. ft.
R-3M	Residential High Density	½ acre (21,780 sq. ft)	5,500 sq. ft.
RC	Residential Conservation	½ acre (21,780 sq. ft)	½ acre (21,780 sq. ft)
A	Agricultural	½ acre (21,780 sq. ft)	½ acre (21,780 sq. ft)

If there is public water or sewer service available to the site on which an Open Space Residential Development is proposed, the Planning Commission may require connection to the system.

**SECTION 13.4 APPLICATION AND APPROVAL PROCEDURES**

A. Except as described in 13.4B, the application and approval process for all projects shall be as outlined in Article 11, Site Plan Review for Major Projects, except that the Optional Pre-application Conference referenced in Section 11.5 B1 is mandatory for this Article. Following the pre-application Conference, the applicant may submit an application to the Zoning Administrator, which fulfills the requirements of Section 11.4 and this Article. When the Zoning Administrator determines that all application requirements have been met, the application will be forwarded to the Planning Commission for approval consideration.

B. Developments in the Agricultural and RC districts of twenty (20) acres or less may be approved by the Zoning Administrator without Planning Commission site plan review as specified in Section 11.6.

C. Number of Dwelling Units: The number of dwelling units in an Open Space Development shall be as specified in the underlying zoning district except that additional units may be permitted if the parcel being considered for development contains a minimum of 10 (ten) acres and meets the applicable requirements of Section 13.4.D. For developments complying with Section 13.4.D, the total number of dwelling units shall not exceed the values obtained by multiplying the total acreage by the following factors:

**Table 13.4.C**

District	Multiplier
R1, R2	0.70
R3A, R3S	1.50
R3M	0.20
RC	0.20
A	0.15

Resulting fractional dwelling units shall be rounded up if equal to or greater than 0.5, and rounded down if less than 0.5.

D. In addition to the specific requirements contained in Article 11, Site Plan Review, Minor or Major Projects, applications for additional units in an Open Space Residential Development, as described in 13.4.C, shall meet the following requirements:

1. Roads and Driveways. Driveways with access to public roads shall be in compliance with County Road Commission or Department of Transportation (MDOT) standards as applicable. Where more than one access is necessary, there shall be no more than one (1) driveway per six- hundred sixty (660) feet of road frontage. Private roadways within an open space development must meet the requirements of the Leelanau Township Private Access Road Ordinance. Where private roads serving more than three residences are to be provided, a maintenance plan guaranteeing assessments from the affected property owners shall be received and approved by the Township Board.
2. Views from Public Roads. The visibility of structures from existing public roads, particularly the Heritage Route, shall be minimized by the use of the natural topography and existing or new vegetation. As a part of the application, the applicant shall include a plan showing how this will be accomplished.
3. All utilities, public or private, shall be installed underground.
4. Individual wastewater septic systems or on-site community sanitary systems shall be provided. Holding tanks and raised mound septic systems shall not be allowed.
5. Grading, other than that required for the construction of roads or driveways, or that necessary for the construction of an approved structure, or for the specific purpose of constructing recreational facilities as listed in 13.4 D 9, shall not be permitted.
6. Developments involving ridgelines shall comply with the provisions of Article 15, Section 15.5G, Dominant Ridgeline.
7. Natural Resources - The open space shall be configured to protect resources including mature woodlots, shorelands, steep slopes, wetlands, dunes, significant wildlife habitat and interconnected corridors, scenic vistas or similar features, and land suitable for farming.

#### **SECTION 13.5 DEDICATED OPEN SPACE:**

- A. All lands not intended to be conveyed to individual dwelling units, condominium sites, building envelopes or lots shall be dedicated open space and owned, administered and maintained by one of the following or similar entities at the discretion of the original landowner:
  1. Conveyance to a homeowners association.
  2. Conveyance to a condominium association.
  3. Conveyance to a conservation organization.
  4. Conveyance to Leelanau Township, if acceptable to the Township Board of Leelanau Township.
  5. Conveyance to an individual with an ownership interest in the project.
- B. This dedication of open space shall be in the form of a conservation easement, plat dedication, restrictive covenant or other legal means that runs with the land and is recorded by the Leelanau County Register of Deeds.



**SECTION 13.6 INITIATION OF CONSTRUCTION.**

If construction has not commenced within twenty-four (24) months of approval, all Township approvals become null and void. The applicant may apply in writing to the Planning Commission for an extension, not to exceed twelve (12) months.

**SECTION 13.7 PERFORMANCE GUARANTEE.**

The Planning Commission may require that a performance guarantee be deposited with the Township to insure completion of improvements.

**SECTION 13.8 FEE**

The application is to be accompanied by payment of a non-refundable fee set by the Township Board.

**SECTION 13.9 COMPLIANCE WITH PARCEL DIVISION ORDINANCE AND/OR SUBDIVISION/SITE CONDOMINIUM ORDINANCE.**

An Open Space Residential Development shall also comply with the Leelanau Township Parcel Division ordinance and/or the Leelanau Township Subdivision/Site Condominium Ordinance, as applicable.

**Amendment History**

Adopted by Board 04/08/08, Ord 1 of 2008, Pub 04/17/08, Eff 04/25/08

Amended by adding 13.9, adopted by Board 12/8/09, Ord 5 of 2009, Pub 12/17/09, Eff 12/25/09

Amended by deleting 13.4.D.7, adopted by Board 02/09/10, Ord 1 of 2010, Pub 02/18/10, Eff 02/25/10

Amended Sec 13.4.B, C and deleted 13.4.D.8 08/10/10, Ord 3 of 2010, Pub 08/19/10, Eff 08/27/10

**ARTICLE 14  
PLANNED UNIT DEVELOPMENT**

**SECTION 14.1 PURPOSE AND SCOPE**

**A. Planned Unit Development** - Planned Unit Development (PUD) includes such terms as cluster housing, planned development, community unit plan, planned residential development as defined in Article 2, Section 2.2 of this Ordinance.

**B. Purpose** - The purpose of PUD is to permit flexibility in the regulation of land development; encourage innovation in land use and variety of design, layout and type of structures constructed; achieve efficiency in the use of land, natural resources, energy, and the provision of public services and utilities; encourage useful open space; and provide better housing, employment, and shopping opportunities particularly suited to the needs of residents in the Township in accordance with Section 503 of PA 110 of 2006, as amended.

**C. Scope** - This article specifies the procedures required for application and review for planned unit developments. It also specifies the body or official which will review and approve planned unit development requests; the conditions which create planned unit development eligibility, the participants in the review process, and the requirements and standards upon which applications will be judged and approval granted.

**SECTION 14.2 PLANNED UNIT DEVELOPMENT** - Planned Unit Developments shall only be permitted in the R1, R2, R3A, R3S, RC, and C Districts.

**SECTION 14.3 AUTHORITY** - The Township Planning Commission shall have the authority to approve, deny, or approve with conditions applications for PUD projects.

**SECTION 14.4 QUALIFYING CONDITIONS** - In order to qualify for PUD consideration, the following conditions shall be met to the satisfaction of the Planning Commission:

**A. Recognizable benefits.**

The PUD shall result in recognizable and substantial benefits to the ultimate users of the project and to the community, where such benefits would otherwise be unlikely to be achieved under the regulations of the underlying zoning districts. The following benefits shall accrue from the PUD:

1. The permanent protection and preservation of open space, valuable natural resources, and wildlife habitat.
2. Efficient use of land and natural resources.
3. The efficient arrangement of utilities and design of traffic circulation systems including limitations on the number of vehicular access points along the existing road network, thus minimizing traffic conflicts while satisfying emergency needs.

4. Structures are sited so as to preserve important visual, ecological, recreational and agricultural resources.
5. Protection and preservation of the existing natural and rural character and appearance of the Township, as viewed from roadways, through appropriate location, screening and setback of new structures from road corridors.
6. The separation of development areas from active agricultural operations to minimize conflicts between these uses while allowing for the continuation of farming activities.
7. Residential amenities to serve residents of the PUD, such as playground areas, hiking trails, tennis courts and other outdoor recreational facilities.
8. In Planned Unit Developments of 20 or more residential units, affordable housing shall be provided, the number of affordable dwelling units to be determined by a study of the Township's needs. This mandatory requirement shall not exceed five percent of the total dwelling units of the PUD. The applicant may voluntarily provide affordable housing in any amount exceeding the number mandated. Affordable housing units shall be provided concurrently with sales of homes in the development.

**B. Site Area and Control** - The minimum site area necessary to be considered for a PUD shall be forty acres (40). If the PUD consists of multiple parcels, they must be contiguous. The existence of a public road dividing parcels or lots included in the proposed development shall not be a basis for the disqualification of contiguity. 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 the Ordinance and the specifications of the PUD approval.

**C. Mixed use** - The PUD shall consist of at least two permitted zoning district principal uses to qualify for consideration. Two or more different types of housing, including, but not limited to, single-family dwellings and multiple family dwellings, may qualify as a PUD. A minimum of 50% of the land area not preserved as dedicated open space, shall consist of residential uses.

**SECTION 14.5 PERMITTED USES AND SPECIAL USES SUBJECT TO ARTICLE 12 - SPECIAL LAND USES** - Any principal, accessory, or special use land use permitted in an underlying zoning district may be permitted in a PUD provided the public health, safety and welfare are not impaired and the essential character of the proposed PUD meets its general intent. Uses permitted by the underlying districts may be permitted as part of a PUD in the same proportions as the underlying districts, though variations may be approved by the Planning Commission, or granted through bonuses detailed in this Article.

#### **SECTION 14.6 PROJECT DESIGN STANDARDS**

- A. General Site Development Requirements and Standards** - Within a PUD project, regulations relating to lot sizes, height limits, building setbacks, required facilities and appurtenances, buffers, open space areas, and density shall, in the first instance, be based on the design standards of the zoning district regulation to which the use is most similar in the underlying zoning district. However, the Planning Commission may consider and permit flexibility in the regulation of land development to: encourage innovation in land use and variety in design, layout, and type of structures constructed; achieve economy and efficiency in the use of land, available infrastructure, natural resources, energy, and the provision of public services and utilities while continuing to meet goals and objectives of the Township's Land Use Plan (Master Plan); encourage useful open space; provide better housing, employment, and shopping

opportunities particularly suited to the needs of the residents of the Township; and/or respond to market conditions provided any variation granted would also result in the overall design being compatible with neighboring development and zoning. In such instances, building and/or site improvement requirements and standards need not be uniform with regard to each type of land use provided. Such variation(s) shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land use.

**B. Residential Density Bonuses** - Densities in excess of those specified by the underlying zoning districts within which the PUD is to be located may be permitted by the Planning Commission. Such increased density may be interspersed throughout the development.

To qualify for density bonuses, the applicant must present and describe examples of benefits to the residents of the development and/or the citizens of the Township. By way of example, such benefits may include one or more that:

- 1) augment the Section 14.4A.1 through 8 minimum standards required by the Planning Commission.
- 2) provide economic, environmental, or social benefits apart from those required by this Ordinance.
- 3) enhance new or ongoing cultural activities.
- 4) provide opportunities for the enhancement of public education.
- 5) implement the Leadership in Energy and Environmental Design (LEED) green building principles in the design, construction, and operation of structures.

**Table 14.6.B RESIDENTIAL DENSITY BONUSES**

	R1	R2	R3A	R3S	RC
Bonus	30%	30%	20%	20%	20%

**C. Dedicated Open space Requirements**

1. Minimum area requirements: The dedicated open space shall not be less than fifty percent (50%) of the total area.
2. Components of the dedicated open space shall be within the PUD site and contiguous or connected insofar as the site allows.
3. Irrevocable Conveyance: The required open space shall be set aside by the owner/applicant by irrevocable conveyance as shall be agreed upon between the Township and the applicant. Irrevocable conveyance shall include recorded deed restrictions, protective covenants, and conservation easements. (PA 451 of 1994, as amended, the Natural Resources and Environmental Protection Act.) At the Township’s discretion, the conservation easement may be managed by a third party, such as a conservancy. The irrevocable conveyance shall:
  - a. Provide for the privately-owned open space to be maintained by private property owners with an interest in the open space, and provide for assessment of the private property owners by

- the Township for the cost of maintenance of the open space in the event that it is inadequately maintained or becomes a public nuisance.
- b. Provide maintenance standards and a maintenance schedule.

## **SECTION 14.7 APPLICATION: PRELIMINARY PROJECT PLAN**

**A. Pre-application conference** - The applicant shall hold a pre-application meeting with the Zoning Administrator prior to the submission of an application. The purpose of the meeting will be to inform the Zoning Administrator of the applicant's intent and to determine whether the minimum eligibility requirements for a PUD are satisfied, and to provide the potential applicant with information regarding land development policies, procedures, standards and requirements of the Township as they might bear on the proposed PUD. At the pre-application meeting the applicant may present a general sketch plan of the proposed PUD, which provides overview of the proposed project.

**B. Application Submittal** - An application for a PUD shall be made on forms provided by the Zoning Administrator, and in the number of copies specified with that form. The application shall be submitted by the owner, or the owner's authorized agent, to the Zoning Administrator who shall review the materials. The application is to be accompanied by payment of a non-refundable fee set by the Township Board.

**C. Application Contents** - Each application form shall contain, as a minimum:

1. Name of applicant.
2. Mailing address of applicant for receipt of notices.
3. Full legal description of the lot(s) on which the PUD is to exist
4. Listing of names and addresses of all lot owners located within three hundred (300) feet of the lot lines on which the proposed PUD is to exist.
5. Development plans and maps drawn to scale and including:
  - a. Existing Conditions.  
Description of existing conditions including site topography, drainage patterns, non-buildable areas, floodplains, woodlands and other vegetated areas, existing land use and structures, existing zoning and such other information as may have a relationship to the subject property. The number of acres broken down into buildable areas, non-buildable areas and areas of public road right-of-way shall be part of the description.
  - b. Proposed conditions.
    1. Location, number, density and height of any proposed residential units; location, height and approximate floor area of non-residential uses; and approximate number of acres to be occupied by each specific use.
    2. Approximate road and utility locations and sizes.
    3. Generalized grading and drainage plans showing major cuts and fills and how and where drainage will be accommodated.

4. Number of acres and the location of areas to be preserved as open or recreational space and/or for natural features, historical and archaeological and wildlife habitat preservation.
  5. Description of the uses to be made of common open space, proposed ownership and response to the requirements in 14.6.C.3.
  6. Illustration of the proposed character of the development and the concepts and relationships of the buildings to each other, to roads, to parking and to common open space areas and the proposed architectural style.
  7. Generalized landscaping plans.
  8. Generalized plans for signage and lighting including the location, size, and character of signs and the type and character of lighting proposed.
6. A narrative giving the justification for the type and amount of uses included in the proposed PUD
  7. A word description of how the recognizable benefits of 14.4A, 1 through 8, will be achieved.
  8. Clarification of administrative issues including:
    - a. Any requested variations from underlying zoning district standards and the rationale for approval of said variations.
    - b. A plan for the phasing of the development together with a projected timing schedule for each phase.
    - c. Statement of the covenants or other restrictions proposed for the regulation and governance of the development.
    - d. Listing of other governmental approvals that are required or pending and the status of these approval processes. (see Section 11.6.A.6 for examples)
    - e. Community Impact Statement: This document should include the following components:

**Traffic Impact Study:** An analysis of the existing traffic volumes and patterns, forecast of traffic volumes and patterns based on the proposed development and expected development of surrounding properties, analysis of turning movements and volumes at site access points and nearby intersections, and analysis of the existing and proposed level of service at the proposed access points and adjacent roadways, prepared and sealed by a registered Professional Engineer (PE).

**Natural Resources Analysis:** An evaluation of the effect on existing natural features, including wetlands, floodplains, ponds, lakes, drainageways, steep slopes, endangered species, wildlife habitat, or woodlots.

**Capital Facilities Analysis:** An analysis of the effect on public sanitary sewer and water systems in terms of consumption or capacity utilized, and consequences of such use to the utility of land uses.

**Site Performance Report:** An assessment of the activities, processes, materials, equipment and conditions of operation that may result, including lighting limits, noise, odor, smoke, trash and debris, and vibration.

**Community Services Analysis:** An analysis of whether the PUD project will be adequately served by public services and facilities such as police and fire protection, refuse disposal, and public schools.

f. An analysis, materials and documentation to demonstrate the applicant has the financial capacity to complete the project.

**D. Waivers** - The Planning Commission may waive any development plan requirements that are determined not applicable to a specific project.

## **SECTION 14.8 REVIEW AND APPROVAL: PRELIMINARY PROJECT PLAN**

**A. Transfer of Application** - After confirming that the application is complete (and in accordance to Section 14.7.C), the Zoning Administrator shall forward copies of the complete application to the Planning Commission for review and action.

**B. Public Hearing** - After receipt of the completed application, the Planning Commission shall hold a public hearing in accordance with Article 10 – Administration, Permits and Appeals.

**C. Review and action** - The Planning Commission shall review the Preliminary Project Plan application and public hearing comments pursuant to the following standards:

**1. Approval standards.** A Preliminary Project Plan for a proposed PUD shall not be approved by the Planning Commission unless it conforms to the following standards:

- a. All elements of the PUD shall be compatible in scale and efficiently organized in relation to existing topography and the character of the adjoining property. The PUD shall be developed so as not to impede the normal and orderly use, development or improvement of surrounding property.
- b. The landscape and contours shall be generally preserved, insofar as practical.
- c. The design of the PUD shall provide visual and sound privacy for all dwelling units surrounding the development, including appropriate perimeter setbacks and screening. Fences, walls, screening, buffers and landscaping shall be used as appropriate and shall conform to the requirements of Article 17, Parking, Landscaping, Road-end Access.
- d. The configuration of buildings, driveways, and other improvements shall permit emergency access by some practical means. Every structure or dwelling unit shall have access to an approved street, walkway, or other area dedicated to common use.
- e. Loading docks and outside storage areas, including storage of trash, shall not be visible from residences or streets.
- f. Signage, lighting, and building materials shall reflect an integrated development. Exterior lighting shall be arranged so that it is deflected downward and away from adjacent properties and streets. In addition, exterior lighting must conform to all lighting regulations of Leelanau Township Ordinances.

g. 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 Leelanau Township Private Access Road Ordinance (No. 90-1, as amended).

h. All utilities serving a PUD, including electric, telephone, cable television lines, and natural gas and propane gas lines, shall be placed underground.

i. The project shall be consistent with the design standards of Article 15, Environmental Sensitive Areas.

j. The project shall comply with the regulations of Article 23, Common Riparian Parcel Access.

**2. 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 PUD and residents of the surrounding area.

**3. Conditions** - The Planning Commission may attach conditions to the approval of a Preliminary Project Plan when such conditions:

a. Are necessary to insure that public services and facilities affected by the PUD will be capable of accommodating the increased service and facility loads caused by the PUD.

b. Will protect the natural environment and conserve natural resources.

c. Will ensure compatibility with the adjacent uses of land.

d. Will promote the use of land in a socially and economically desirable manner.

**D. Approval** - Following the review and public hearing described above, the Planning Commission shall approve, approve with conditions, or deny the Preliminary Project Plan. The Planning Commission's decision and the basis for its decision shall be recorded in a Preliminary Project Plan Document which shall include: a) the pertinent site plan drawings, b) the findings of fact relative to the requirements of this Article and all related requirements of the Zoning Ordinance and any waivers granted by the Planning Commission, c) any conditions imposed on an affirmative decision d) a written acceptance in recordable form of the PUD approval, including all conditions imposed by the Planning Commission. The Preliminary Project Plan Document **or** a memorandum giving notice of the same in a form approved by the Planning Commission shall be recorded with the Leelanau County Register of Deeds.

Once an applicant for a PUD receives Preliminary Project Plan Approval, all further applications for approval of the PUD under this Ordinance (e.g., Final Project Plan, Land Use Permit) shall be evaluated on the basis of the provisions and standards in effect as of the date of the Preliminary Project Plan approval.



## **SECTION 14.9 FINAL PROJECT PLAN APPLICATION AND REVIEW PROCEDURES.**

**A. Submittal** - A Final Project Plan, which presents detail information describing and drawings showing how each of the requirements and conditions set forth in the Preliminary Project Plan Document will be implemented, shall be submitted to the Zoning Administrator. The application is to be accompanied by payment of a non-refundable fee set by the Township Board. The Zoning Administrator shall review the materials to determine whether they provide the information described above and are in substantial compliance with the approved Preliminary Project Plan Document. Substantial compliance shall mean the following:

1. The floor area of any individual building has not been increased from that approved in the Preliminary Project Plan Document.
2. There has been no increase in the number of units or in the number of stories in any building.
3. Open space has not been decreased or altered to change its design or intended use as shown in the approved Preliminary Project Plan Document.
4. All conditions attached to the Preliminary Project Plan Document by the Planning Commission have been incorporated into the Final Project Plan.
5. Permits or approvals have been received from all applicable regulatory agencies or governmental bodies as may be required by Township, County, State, or Federal regulations.

**B. Transfer to the Planning Commission** - When the application is determined to be complete and in substantial compliance to the Preliminary Project Plan Document, the Zoning Administrator shall forward it to the Planning Commission for review and action.

**C. Review and action** - The Planning Commission shall review the Final Project Plan material and shall approve, approve with conditions, or deny the Final Project Plan. The Planning Commission's decision and the basis for its decision shall be recorded in a Final Project Plan Document which shall include: a) the pertinent site plan drawings, b) the findings of fact relative to the requirements of this Article and all related requirements of the Zoning Ordinance and any waivers approved by the Planning Commission in the Preliminary Project Plan, c) any conditions imposed on an affirmative decision, and d) a written acceptance in recordable form of the PUD approval, including all conditions imposed by the Planning Commission. The Final Project Plan Document or a memorandum giving notice of the same in a form approved by the Planning Commission shall be recorded with the Leelanau County Register of Deeds and shall be the agreement between the Township and the developer that governs the execution of the project.

**D. Lack of Compliance** - If the Final Project Plan is deemed by the Zoning Administrator not to be in substantial compliance with the Preliminary Project Plan Document, the Zoning Administrator shall notify the applicant in writing specifying the deficiencies. If the applicant fails to correct the deficiencies within ninety (90) days of such notification, the project must be resubmitted as a new Preliminary Project Plan.

**E. Failure to Perform** - If the Zoning Administrator does not receive an application for Final Project approval that meets the requirements of 14.9A and 14.9B within two (2) years following the date of the Preliminary

Project Plan approval, the Preliminary Plan Project approval shall automatically become null and void. Any re-submission after the two-year period shall be processed as a new request with new fees. The applicant may request an extension of the two-year time limit by presenting justification for such an extension to the Planning Commission. After reviewing the information provided, the Planning Commission will determine if an extension of time, not to exceed one year, is warranted

**F. Simultaneous submittals** - Applicants may combine the Preliminary Project Plan and the Final Project Plan approvals for review by the Planning Commission by submitting all information required for both simultaneously.

**G. Compliance with parcel division ordinance and/or subdivision/site condominium ordinance.** A Planned Unit Development shall also comply with the Leelanau Township Parcel Division ordinance and/or the Leelanau Township Subdivision/Site Condominium Ordinance, as applicable.

**H. Modifications to an approved Final Project Plan** - Minor changes to the approved Final Project Plan may be approved by the Zoning Administrator after review by the Zoning Administrator and with the concurrence of a designee from the Planning Commission appointed by the Planning Commission Chairperson. Any significant modifications to the Final Project Plan Document shall be made in the same manner and following the same procedures required for the original review and approval of a PUD.

**SECTION 14.10 PERFORMANCE GUARANTEE** - The Planning Commission may require the applicant to deposit a performance guarantee in accordance with Article 11 – Site Plan Review.

**SECTION 14.11 FAILURE TO PERFORM** – The Final Project Plan and the Preliminary Project Plan upon which it is based shall become null and void if significant site development and/or construction of the first building has not been initiated within 24 months of the Final Project Plan approval and an extension has not been applied for. The applicant may request an extension of the two-year limit by presenting justification as set forth below for such an extension to the Planning Commission. The extension shall not exceed a period of 1 year, but may upon application to the Planning Commission be annually renewed thereafter for not more than 2 additional one-year periods. The request for an extension or a renewal thereof shall be granted by the Planning Commission if the Planning Commission determines, in its sole reasonable discretion, that the applicant has demonstrated that each of the following criteria are met (*Amended 082710*):

- A. The delay in commencing significant site development and/or building construction was due to circumstances beyond the reasonable control of the applicant.
- B. There is a strong likelihood that significant site development and/or construction will commence within the period of extension or any renewal thereof.
- C. There has been no material change in circumstances that would render the approved Final Project Plan incompatible with other uses in the surrounding area.
- D. The applicant has confirmed in writing that all agreements with the Township concerning the

subject PUD project (including, but not limited to, sewer agreements, construction easements, performance guarantees and acceptance of Planning Commission conditions to PUD Project Plan approval) remain in full force and effect.

- E. All monies owed by the applicant to the Township in connection with the PUD approval process have been paid.

**SECTION 14.12 ASSIGNMENT AND ASSUMPTION** - The landowner shall have the right to sell, assign, or transfer their approval of a PUD project with all their rights, title and interests therein to any person, firm or corporation at any time during the term identified in the Final Project Plan Document. The conditions and covenants set forth in it shall run with the land and the benefits and burdens shall bind and inure to the benefit of the parties. The landowner shall provide the Planning Commission with written notice of any intent to sell, assign, or transfer all or a portion of the subject property at least ninety (90) days in advance of such action. Such notice requirement shall not apply to the sale of five (5) or fewer parcels or lots to an individual or entity in a single transaction. Such notice to the Township shall be accompanied by documentation which demonstrates such purchaser, assignee, or transferee has the financial capacity to complete the project in accordance with the terms of Project approval, as well as a description of the legal means by which the terms of the Final Project Plan Document shall attach to a subsequent purchaser, assignee, or transferee. The express written assumption by such purchaser, assignee or transferee, of the obligations and other terms and conditions, of the Final Project Plan Document with respect to the subject property or such portion thereof sold, assigned or transferred, shall relieve the landowner selling, assigning or transferring such interest of such obligations so expressly assumed.

**SECTION 14.13 DEFAULT** - Failure or delay by the landowner to perform any term or provision of the Final Project Plan Document shall constitute default and grounds for termination of the PUD project. Termination of the PUD Project may take place only after a public hearing before the Planning Commission noticed in accordance with Section 103 of state PA 110 of 2006, as may be amended. The notice shall include a statement of the reasons for the proposed termination. The decision of the Planning Commission shall be put in written form with a statement of the reason(s) for the decision and shall be served in person or by first class mail on the landowner.

#### Amendment History

Reformatted and adopted by Board 08/14/04, Ord 14 of 2004; Pub. 08/19/04; Eff. 08/27/04

Amended 04/10/07, Ord 2 of 2007; Pub. 04/19/07; Eff. 04/27/07

Amended in its entirety and adopted by Board 07/08/08, Ord 2 of 2008, Pub 07/17/08, Eff 07/25/08

Amended 11/11/08, Ord 6 of 2008, Pub 11/20/08, Eff 11/28/08

Amended 14.9.G, Ord 5 of 2009, Pub 12/17/09, Eff 12/25/09

Amended 14.11 08/10/10, Ord 3 of 2010, Pub 08/19/10, Eff 08/27/10

## ARTICLE 15

### ENVIRONMENTALLY SENSITIVE AREAS

**SECTION 15.1 PURPOSE AND SCOPE** - The purpose of this article is to identify and protect those areas of the Township that are considered to be environmentally sensitive to the effects of development due to soil types, drainage, vegetation, wildlife habitats; or other factors such as historic or scenic values, that are subject to being polluted, degraded, impaired, or destroyed if allowed to be developed in a manner inconsistent with their conservation.

These regulations shall be considered in addition to use regulations or other applicable regulations for each zoning district, and shall be considered as an integral portion of the zoning application. All uses allowable in zoning districts of this Ordinance shall comply with the standards set forth in this article.

**SECTION 15.2 ESTABLISHMENT OF CRITERIA THAT DEFINE ENVIRONMENTALLY SENSITIVE AREAS** - Any proposed development parcel that contains Environmentally Sensitive Areas as defined in this Ordinance, shall subject the entire parcel and proposed development and/or site plan to the regulations and conditions of this Article and shall be conducted as part of the site plan review process as outlined in Article 11, Section 11.2 G. Additionally, areas of historic or archeological value and natural habitat as referred to in section 15.1 and 15.6.B.2b. & c shall be considered environmentally sensitive. Refer to Sections 15.4 for General Requirements and Section 15.5 For Special Requirements within this Article. (see also Article 2, Definitions)

- A. Wetlands** - Any area defined as a Wetland by the Michigan Natural Resources and Environmental Protection Act, P.A. 451 of 1994, as amended.
- B. Dunelands** - Dunelands include any of the following:
  - 1. Those areas defined as "designated sand dune areas" and "critical dunes" within the State of Michigan Critical Sand Dune Atlas, Michigan Department of Environmental Quality, Geological Survey Division, April 1996, pp. 39-40 and 43.
  - 2. Sand Dune areas designated by the Michigan Department of Environmental Quality pursuant to Part 637, Natural Resources and Environmental Protection Act of 1994, as amended.
- C. Inland Lakes and Streams Areas** - Inland Lakes and Streams Areas shall be defined as those areas lying within one hundred fifty feet (150 ') of a stream, pond, or inland lake. For the purpose of this Ordinance, the measurement shall be taken from the Ordinary High Water Mark.
- D. Lake Michigan Shoreland**
  - 1. Shorelands shall be defined as those areas lying within five hundred feet (500') of the waterfront setback datum.
  - 2. Other areas designated by the Michigan Department of Environmental Quality as Areas of Environmental Sensitivity, including but not limited to:
    - a. "Environmental Areas" pursuant to Natural Resources and Environmental Protection Act (NREPA), P.A. 451 of 1994, as Amended; and its administrative rules (Note: There are no areas currently so designated in our Township.)
    - b. "High Risk Areas" pursuant to P.A. 451 of 1994, as amended; and its administrative rules.

**E. Flood Plains and Floodways** - Flood Plains and Floodways shall be those areas subject to inundation in a one hundred year flood and are designated as such in Federal map (FIRM FEMA maps) available in the Township office.

**F. Dominant Ridgeline** - The Dominant Ridgeline is defined as a line, including vegetation, at the top of a hill or hills, which background is open sky as seen from a public road, at elevation above six hundred fifty feet (650')MSL (mean sea level) as defined by the USGS Quadrangle map.

**G. Regulated Shoreline Bluffs** - The Shoreline Bluff Area is a non-continuous series of elevated lands above the beach that generally parallel the Lake Michigan shore, extends landward from the beach, and includes bluffs perpendicular to the shoreline. Regulated Shoreline Bluffs are only located in those areas designated as Lake Bluff (Lk) in the Soil Survey of Leelanau County issued in 1973, by the United States Department of Agriculture Soil Conservation Service. Any Shoreline Bluff described in section 15.2(D) (2b) of this Article and regulated as high risk erosion (HREA by MDEQ) is not subject to the regulations of this section.

Definitions associated with these bluffs are as follows:

1. Shoreline Bluffs are defined as a rise of land above the Lake Michigan Shoreline measured from the top of the bluff to the toe of the bluff with a height of 20' or more and a grade of 50% or more.
2. Height: The vertical distance from the top of the bluff to the toe of the bluff expressed in feet.
3. Grade: The rise of land expressed as a percent slope as measured from the toe of the bluff to the top of the bluff. It is the vertical height of a slope per one hundred feet of horizontal run.
4. Toe of the Bluff: The point where the slope away from Lake Michigan first exceeds a grade of 33%
5. Top of the Bluff: The point where the slope away from Lake Michigan first decreases to a grade of less than 33%.
6. Bluff Face: The entirety of the area of land surface between the top of the bluff and the toe of the bluff.
7. Setback Line: The line which is the required setback distance landward from the top of the bluff. This is the lakeward limit for the construction or placement of structures.

**SECTION 15.3 RECOGNITION OF RESPONSIBILITY AND AUTHORITY** - Evidence of necessary approvals required by Federal, State and County governments must be provided to the Zoning Administrator prior to Township approval of a land use. This Ordinance recognizes the authority and responsibility of Federal, State, and County governments to regulate the following:

- |                             |                                                                                                |
|-----------------------------|------------------------------------------------------------------------------------------------|
| A. wetlands                 | D. Lake Michigan Shoreland                                                                     |
| B. dunelands                | E. floodplains and floodways                                                                   |
| C. inland lakes and streams | F. soil erosion                                                                                |
|                             | G. The composition and use of fertilizers, pesticides, and herbicides. ( <i>Added 082710</i> ) |

**SECTION 15.4 GENERAL REQUIREMENTS** - All land use applicants for uses within any Environmentally Sensitive Area, regardless of the size of that area, shall:

- A. Provide copies of a Site Survey determination or copies of permits, as applicable, indicating that the proposed use will conform to the provisions of such Leelanau County Soil Erosion, Sedimentation and Storm Runoff Control (SESSRC) Ordinances that may be in effect and/or Part 91: Soil Erosion and Sedimentation Control Act of NREPA, P.A. 451 of 1994, as amended.
- B. Provide copies of permits indicating that the Benzie-Leelanau County Health Department or the Michigan Department of Environmental Quality, (MDEQ) has approved a sewage treatment or disposal system and/or a potable water system.

- C. Provide copies of applicable permits or other documentation from appropriate regulatory agencies, such as the MDEQ and the Leelanau County Drain Commissioner indicating compliance with applicable regulations administered by those agencies.
- D. Provide scaled site plans sufficient to indicate what measures will be taken to limit clearing/cutting of trees. No clear cutting is allowed except for the footprint area of approved development plus a 10' construction perimeter, except for the access side of the development where an area sufficient to allow for the maneuvering of construction equipment may be cleared. Provide plans showing the grading limits for construction including a statement certifying what efforts will be made during and after construction to retain vegetation in such a manner as to: preserve scenic qualities and natural buffering and/or screening of structures and vehicles as visible from the water and public roadways; to protect endangered plant species; and to avoid erosion.
- E. Provide scaled plans indicating compliance with setback provisions listed in the Special Requirements Section 15.5 of this Ordinance.

### **SECTION 15.5 SPECIAL REQUIREMENTS**

- A. Wetlands which are regulated by the MDEQ - Permits must be obtained as required by that department.
- B. Dunelands which are regulated by the MDEQ - Permits must be obtained as required by that department.
- C. Setback area for Inland Lakes and Streams, Lake Michigan Shorelines and Regulated Shoreline Bluff Areas:  
All shoreline construction and use is subject to the following shoreline setback restrictions:
  1. Inland Lakes, Streams and Ponds – Setbacks shall be determined from the ordinary high water mark as defined in Article 2 – Definitions.
  2. Lake Michigan Shoreline – Setbacks shall be determined from the waterfront setback datum as provided in Article 2 – Definitions.
  3. Regulated Shoreline Bluff Areas - Setbacks shall be as described in Section 15.5.H of this Article.
  4. Permissible disturbance of the required setback area is limited to ten feet (10') within the setback area measured from the construction.
  5. Requirements of the Leelanau County Soil Erosion, Sedimentation and Storm Runoff Control (SESSRC) Ordinance shall be adhered to.
  6. No impervious surfaces shall be allowed within the setback.
  7. Any areas within shoreline setbacks with vegetation disturbed by construction activity shall be replanted with vegetation chosen from “The Source Guide of Michigan Native Plants”, published by the Michigan Native Plant Producers Association, a copy of which shall be provided by the Zoning Administrator.
  8. No clear cutting of vegetation other than lawn grass shall be allowed within the setback. No clear cutting of vegetation on the bluff face shall be allowed.
  9. No leaves, compost, brush, or other yard debris shall be deposited within the setback, except for brush which is placed to stabilize steep slopes or bluffs.
  10. Removal of dead, diseased, and dying trees within the setback is allowed but stumps and root masses shall remain in the soil. Trimming of existing trees and shrubs so as to provide a screened view of the water shall be allowed in the setback. Invasive

species and trees/bushes that threaten the spread of disease (as determined by a professional forester) may be completely removed.

11. A storm water runoff control plan shall be designed for any Shoreline Bluff development to direct water, generated from impervious surfaces, including roofs, driveway, sidewalks and patios, to retention basins located outside of the setback area and as far away from the top of the bluff as possible, during and after construction.

**D. Inland Lakes, Streams, and Ponds Areas** - All requirements, restrictions, and proscriptions applying to the Lake Michigan Shoreline shall apply to the shores of year round or intermittent Inland Lakes, Streams, or Ponds.

**E. Lake Michigan Shoreline** - Setbacks of structures on parcels designated by the MDEQ as high risk erosion areas shall be established according to MDEQ criteria.

**F. Flood Plains and Floodways** - All uses must comply with the Federal Emergency Management Agency (FEMA) National Flood Insurance Program.

1. The dumping in the flood plain of hazardous waste materials of any type is prohibited
2. The storage of buoyant, flammable, explosive, or hazardous materials in the floodplain is prohibited except for that required for residential heating and normal household use.

**G. Dominant Ridgeline**

1. The purpose of the following requirements is to naturally reduce the pronounced appearance of structures on a dominant ridgeline without interfering with the scenic views from within those structures. On dominant ridgelines that are treed, and those trees form a background for the roofline of a structure, no additional vegetation is required. No clear cutting, except for the footprint area of approved development plus a 10' construction perimeter, except for the access side of the development where an area sufficient to allow for the maneuvering of construction equipment may be cleared, shall be allowed at any time for any purpose other than agricultural as permitted by the Right To Farm Act (PA 93 of 1981)
2. Structures shall be placed downgrade of the dominant ridgeline, unless said structures are screened with background and / or lateral plantings so as not to be the primary ridgeline element seen from a public road during the first week of July. Planned or existing screening vegetation shall be clearly indicated on the site plan submitted for a land use permit. At a minimum, trees to be planted for screening purposes must be 5 to 7 feet for conifers and 2-inch caliper DBH (diameter at breast height – approximately four feet above grade) for deciduous trees.
3. Exempted are towers permitted in Articles 18 and 19 of this Ordinance, and agricultural barns and silos.
4. Acceptable Structure Placement: The following photos illustrate the goal of this Section. Trees remain the dominate feature of the ridgeline after the placement of the home. The home naturally blends into the ridgeline landscape.



5. Unacceptable Structure Placements: The following photos illustrate the unacceptable placement of the home on the very top of the ridge and without benefit of any trees to blend the structure into the natural landscape. In these photos, the structure becomes the dominant feature of the ridgeline. Placements of homes and other structures within this context is not acceptable in this Section.





**H. Regulated Shoreline Bluff** - Setbacks for Regulated Shoreline Bluffs are established with the following intent: to protect the natural environment and the integrity of the Shoreline Bluffs which are distinctive and valuable natural features of Leelanau Township's Lake Michigan Shoreline; to recognize the potential for hazards to health and safety to property and persons from bluff development; to protect the stability of Shoreline Bluffs, thereby reduce the risks of erosion, undermining, slumping, or collapse of the bluffs; and to protect the waters of Lake Michigan from sedimentation.

The Regulated Shoreline Bluff areas are best determined by an on-site survey. The bluff setback requirements shown below are based on a mathematical formula combining bluff height and grade, and recognize the fact that the higher and steeper the bluff, the more unstable it is likely to be.

Lots, units or parcels that are located in residential developments containing bluff setbacks which have previously been approved by the Township are not subject to the setback requirements of this Section 15.5 H. Such lots, units, or parcels must comply with the setbacks approved by the township for the specific development.

1. A bluff 20 to 70 feet in height and a grade of 60% or less, the setback is 15 feet.
2. A bluff more than 70 feet in height with a grade between 50% and 60% inclusive, or a bluff more than 20 feet in height with a grade more than 60%, the setback equals the height in feet multiplied by the percent grade, but in no event less than 15 feet or more than 120 feet.
3. For bluffs under a height of 100 feet, and a grade of 70% or less, a property owner may request a setback reduction from the Planning Commission. The amount of setback reduction would require the submittal of a site stability evaluation prepared by the Township Zoning Administrator together with the County Soil & Erosion Control Officer. This report shall consider historic, current or foreseeable bluff erosion; the extent of vegetation on the bluff face; and shall include a reasonable assurance that the proposed activity will neither create nor contribute significantly to erosion problems or instability of the site or surrounding area.
4. In addition, the property owner may choose to pursue a setback reduction by the process described in Section 15.5.H.4. In no case shall the setback requirement be reduced to less than the 15 foot minimum.
5. For bluffs over 100 feet in height and a grade of more than 70%, the Planning Commission shall allow a setback reduction of up to 50%, if supported by engineering plans/report signed and sealed by a Michigan Registered Professional Engineer with a civil engineering degree who shall take into account the intent and concerns of this Ordinance.

The engineering plans/report shall consider: historic, current and foreseeable erosion; site topography,

soil characteristics, vegetative cover, wave action, ground and surface water conditions and variations, including changes caused by development; the effect of the proposed development including siting and design of structures, septic system, landscaping, drainage, grading, and impacts of construction activity on the stability of the site and adjacent area; as well as any other factors identified in the engineering study that may affect bluff stability.

The engineering plan/ report shall include an opinion that external influences affecting the site will not cause any significant hazard for the proposed use; or if they may cause such hazards, an opinion that those hazards may be overcome, together with a reasonably detailed description of how it is proposed to overcome them.

6. The Planning Commission may require, at the property owner's expense, an independent engineer's opinion of the engineering plan/report as described in Section 15.5.H.4, if it finds that the proposed project poses an unresolved concern.
7. Upon completion of any activity described in section 15.5. H.4 above, a Michigan Registered Professional Engineer with a civil engineering degree shall certify that all work has been done in accordance with the approved site plan. Such certification shall be provided to the Township Zoning Administrator within forty-five (45) days of the completion of the work.

## **SECTION 15.6 ENVIRONMENTAL REVIEW AND ASSESSMENT**

### **A. Objective**

1. The objective of an environmental review and assessment is to determine the reasonably foreseeable impacts of a development proposal for the consideration of the Planning Commission and the public, and to encourage the development of those projects in ways that mitigate undesirable impacts and thereby protect and enhance the environmental quality of the project area by conserving its natural resources.
2. The environmental review and assessment process is not to be construed as bureaucratic mechanism for frustrating development. Its purpose is to evaluate in detail the cumulative impact of a proposed project on the environmental quality of the project area and adjacent lands and waters, and to ensure that necessary attention is devoted to the prevention of environmental damage.
3. The assessment will serve as a guide to both the Planning Commission and the developer for effecting changes in plans, if necessary.

### **B. Initial Environmental Review.**

1. Prior to the issuance of a land use permit the Planning Commission shall perform an Environmental Review, at no additional expense to the applicant, for all development in the Commercial and Industrial Districts and for all new development of three (3) or more residences in an Environmentally Sensitive area.
2. The environmental review shall include, but not be limited to, the following elements:
  - a. Whether the use proposed may incorporate any potentially harmful chemicals or other suspect products
  - b. Whether the building site is known or suspected to host any endangered, threatened, or candidate species of animal, fowl, fish, or vegetation
  - c. Whether the site is known to be the location of any burial grounds or settlement site, or is otherwise known to be of particular historic, cultural, or archeological significance.
  - d. Whether there are possible mitigations which might reduce environmental impact. Such mitigations shall be required.

3. Upon conclusion of its environmental review, if it finds that development of the project as proposed poses an unresolved environmental risk, the Planning Commission shall require the submittal of an Environmental Assessment as described in section 15.6.C. If no such finding is made, Environmental Assessment shall not be required.

**C. Environmental Assessment** - If the environmental review reveals the likelihood of a development polluting, impairing, degrading or destroying the environmentally sensitive natural features on the subject parcel, and mitigations of those impacts have not been achieved, an Environmental Assessment prepared by a qualified environmental engineer or other professional acceptable to the Planning Commission shall be required to be performed, at the applicant's expense. The site plan review process specified in Article 11 will apply also when it is determined that an Environmental Assessment is required. An Environmental Assessment shall include the following:

1. An evaluation of likely short and long term effects upon:
  - a. soils, geology and topography
  - b. adjacent parcels
  - c. historic and cultural resources
  - d. land use patterns
  - e. waterways and hydrologic systems and wetlands
  - f. vegetation, wildlife, and fisheries.
  - g. scenic and recreational resources
  - h. infrastructure and utility requirements
2. A presentation of alternative development configurations, densities, uses, or construction methods.

The Planning Commission may place conditions to be met prior to approval of a project, or may require changes in order to mitigate the impact of the proposed development based upon the information provided in the Environmental Assessment.

#### Amendment History

Orig. as Article 21

Public Hearing to amend, December 11, 2003

Rewritten, reformatted as Art 15 by Board 10/12/04, Ord 21 of 2004; Pub. 10/21/04; Eff. 10/29/04

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Amended 15.5.C.7, 05/12/09, Ord 2 of 2009, Pub 05/21/09, Eff 05/28/09

Amended by repealing 15.5.C.7, 12/08/09, Ord 5 of 2009, Pub 12/17/09, Eff 12/25/09

Amended by adding 154.3.G, 08/10/10, Ord 3 of 2010, Pub 08/19/10, Eff 08/27/10

**ARTICLE 16**

**HOME BASED OCCUPATIONS AND BUSINESSES**

**SECTION 16.1 PURPOSE AND SCOPE** - This article establishes the procedures for approval of home based occupations and businesses which activities are compatible with the characteristics of the neighborhood or district in which they are located. The existence of a home based business shall not be considered an adequate reason for rezoning either the property on which it is located or neighboring properties. In accordance with PA 110 of 2006, as amended, the use of a single family residence by an occupant of that residence for a home occupation to give instruction in a craft or fine art within the residence shall not be prohibited.

**SECTION 16.2 HOME OCCUPATIONS AND BUSINESSES**

**A. Applicability** - Table 16.2.A presents the applicability of Home Businesses and Occupations.

**Table 16.2.A Home Occupations and Businesses**

Applicability of Home Occupations and Businesses													
District	A	R1	R2	R3A	R3M	R3S	R4	RC	G	C	CR	I	IC
Section	4.3	5.7	5.7	5.7	5.7	5.7	5.7	5.7	-	-	-	-	9.2B
Home Occupations	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No	No	No	Yes
Home Businesses	Yes	Yes	No	No	No	No	No	Yes	No	No	No	No	Yes

**B. Occupancy and area restrictions** - Table 16.2.B presents the occupancy, parking, and area restrictions.

**Table 16.2.B Occupancy, Parking and Area Restrictions**

	Maximum persons engaged	Maximum vehicles parked	Maximum % total area (1)	Maximum area in ft <sup>2</sup> (2)
Home occupations	Residents (3)	(4)	25% (5)	600
Home Businesses	3 (6)	(4)	25% (7)	600
Special Home Businesses	4	(8)	25% (7)	2400

**Footnotes:**

1. For activities within the dwelling
2. For activities in existing accessory building
3. Owner or immediate family members residing in the dwelling
4. Parking space for all vehicles present during business operations
5. Based on ground floor or basement total area
6. Owner(s), partner or business associate or employees or volunteers
7. Based on the total dwelling area
8. Established by the Planning Commission during the approval process based on neighborhood traffic considerations, number of workers, nature of the business and number of customers to be served at a time.

**C. General Conditions** - The following conditions apply to each of the three business activities in the Home Business Group:

1. They must be conducted entirely within the dwelling, which is the actual residence of the owner, or within an existing accessory building located on the same lot or parcel.
2. All storage must be within the interior of the dwelling or the accessory building.
3. No changes may be made to the exterior of the dwelling or accessory building, or to the yard, which would adversely affect the character of the neighborhood.
4. Identifying signs, including those on vehicles used in the business, must conform with Leelanau Township Sign Ordinance 91-1.
5. The home occupation or business shall not produce noise, fumes, odor, dust, glare, or electrical interference which can be detected beyond the boundaries of the property on which it is located, other than that which can be associated with normally accepted residential or household use both, in intensity and duration.
6. Parking space shall be located and/or screened to avoid the appearance of a parking lot as viewed from either the road or neighboring properties.
7. Personal service occupations shall serve no more than four customers at a time.
8. Limited retail sales may be permitted on the premises as an incidental part, rather than a principal part, of a home occupation. (*amended 033012*)
9. No personal service operations are permitted in any location in which the land area per dwelling unit is less than one acre.

### **SECTION 16.3 HOME OCCUPATION AND BUSINESS PERMIT PROCEDURE**

**A. Submittal** - All applications shall be submitted to the Township Zoning Administrator in the number of copies specified by the Zoning Administrator. The applications are to be accompanied by payment of a non-refundable fee set by the Township Board.

**B. Application contents** - The permit application shall include:

1. the name of the owner
2. the names of any partners or business associates
3. number of persons engaged in business (including volunteers, owner, partners, associates etc.),
4. a description of the business activity planned
5. a plot plan clearly showing where the business is to be conducted, including storage and parking areas.

**C. Review and Approval**

1. **Home Occupations** - The Zoning Administrator shall issue said permit provided that the proposed occupation complies with the applicable conditions specified in Sections 16.2, and will remain in effect as long as the terms and conditions are met, as defined in this Article.
2. **Home Businesses** - The Zoning Administrator shall issue said permit provided that the proposed business complies with the applicable conditions specified in Sections 16.2, and will remain in effect as long as the terms and conditions are met, as defined in this Article. The Zoning Administrator may, if considered appropriate, request that the Planning Commission limit the hours of operation of a particular business.
3. **Special Home Businesses** - The Zoning Administrator shall submit the application following its review for completeness together with a staff report to the Planning

Commission for their review and approval following a Public Hearing. The standards for approval are the applicable conditions of Section 16.2 and a determination that the business operation would be compatible with the neighboring properties. The permit will remain in effect as long as the terms and conditions are met, as defined in this Article. The Planning Commission may, as a condition of the permit approval, limit the business operating hours.

**SECTION 16.4 ENFORCEMENT** - Home Occupations and Businesses activities are permitted based on the assumption by the Township that such occupations and businesses will be conducted in a manner so as not to create a nuisance or affect the character of the District in which they are located. Whenever a Home Business Group operation violates this premise or violates any of the conditions established either in this Article or in the permit approval process, the Zoning Administrator shall declare it in violation of the Zoning Ordinance and subject to the enforcement penalties of Article 10.

Amendment History

Reformatted and adopted by Board 08/10/04; Pub. 08/19/04; Eff. 08/27/04

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## **ARTICLE 17**

### **PARKING, LANDSCAPING, ROAD-END WATER ACCESS**

**SECTION 17.1 PURPOSE AND SCOPE** - This article presents requirements for off-street parking; landscaping and fencing; and road end water access sites.

**SECTION 17.2 OFF-STREET PARKING AND LOADING CONDITIONS.**

**A. Table 17.2.A presents the minimum number of parking spaces to be provided.**

**Table 17.2.A Minimum Number of Parking Spaces**

Auditoriums, Stadiums, Theatres	1 per 3 seats + 5 for employees	
Automobile repair, service, sales	3 per service bay + 1 per 300 sq. feet usable area	
Banquet Facilities	1 per 35 sq. feet of gross area	or 1 per 10 lineal feet of benches
Bowling alleys	4 per alley	Plus required parking area for other uses
Churches	1 per 5 seats in main sanctuary	or 1 per 10 lineal feet of pews or benches
Convention Facilities	1 per 5 seats in main auditorium	
Docking - Charter Services	1 per 2 passenger capacity + 1 per employee	
Docking - ferry boats services	1 per 4 passenger capacity + 1 per employee	
Golf Courses	1 per 2 employees, plus 4 per hole	Plus required parking area for other uses
Libraries and Museums	1 per 250 sq. feet gross area	
Manufacturing Buildings	1 per employee	Plus required parking area for other uses
Marinas	1 per 4 slips + 1 per 750 sq. feet dry boat storage + 1 per employee	
Medical offices, dental, clinics	2 per examining room + 1 per employee	
Mortuaries	1 per 35 sq. feet of gross area	
Motels, tourist homes	1 per room	Without cooking facilities
Motels, tourist homes	2 per unit	With cooking facilities
Post offices	1 per 250 sq. feet gross area	
Residential: Muti-family dwelling	2 per family unit	Garage spaces and non-ingress, non-egress drive area included.
Restaurants and clubs	1 per 3 occupants	Occupants determined by State Building Codes
Roadside stand	2 spaces	located off road Right-of-Way in non-ingress, non-egress area.
Schools: elementary, junior high	1 per classroom + 1 per 5 auditorium seats	if auditorium seats are not fixed, then 1 per 35 sq. feet of seating area
Schools: pre-school, day care, nursery care	1 per staff + 1 per 5 children	or 1 per 10 children if adequate drop-off facilities provided
Schools: Senior high; colleges	5 per classroom + 1 per 5 auditorium seats	if auditorium seats are not fixed, then 1 per 35 sq. feet of seating area
Stores: retail, department, personal service & Supermarkets	1 per 200 sq. feet usable area	

1. Area in calculations. Unless noted otherwise the area used for the calculations is the floor area.
2. Mixed Uses. In the case of mixed uses in the same building, the amount of parking space for each use specified shall be provided and the space for one use shall not be considered as providing required spaces for any other use except for churches and auditoriums incidental to public and parochial schools.
3. Building not listed. In the case of building whose uses are not specifically mentioned, off-street parking requirements shall be those applied to the above mentioned use which is most similar in terms of parking demands.
4. Parking Calculations. Where calculations in accordance with above Table 17.2.A result in requiring a fractional space, any fraction less than one half (1/2) shall be disregarded and any fraction of one half (1/2) or more shall require one space.

**B. Location Requirements** - Required off-street parking shall be provided on the base lot, or on a contiguous lot unbroken by easement, right-of-way, or thoroughfare. (Off street parking is defined to be

an area of definite length and width fully accessible for the storage or parking of permitted vehicles on a lot or parcel, but not within a public highway or public or private street right-of-way – see Article 2.).

**C. Prohibited Uses** - The use of any required parking space for the storage of any motor vehicle for sale, or for any other purpose other than the parking of motor vehicles is prohibited.

**D. Minimum Design Standards** - The following minimum design standards shall be observed in laying out off-street parking facilities:

Parking angle (*)	Stall width (**)	Aisle Width (**)	Stall Length	Curb to Curb (***)
0 to 15 deg.	9 ft.	11 ft.	23 ft.	30 ft.
16 to 37 deg.	10 ft.	12 ft.	19 ft.	47 ft.
38 to 57 deg.	10 ft.	13 ft.	19 ft.	54 ft.
58 to 74 deg.	10 ft.	18 ft.	19 ft.	61 ft.
75 to 90 deg.	10 ft.	24 ft.	19 ft.	63 ft.

(\*) 0 deg. is parallel (or tangential) to the curb; 90 deg. is perpendicular to the curb

(\*\*) Stall width is the maximum width provided for the vehicle; aisle width is the width between the stalls

(\*\*\*) Curb to curb is the minimum width of the road between its two curbs.

**E. Minimum loading space requirements.** Every lot used for commercial or industrial purposes and having a building or buildings with a total floor area of at least 10,000 sq. feet and every lot used for office or research purposes on which there is a building or buildings having a total floor area of at least 20,000 sq. feet shall be provided with off-street loading space. An additional off-street loading space shall be required for lots used for commercial and industrial purposes where the floor area of buildings exceeds 100,000 sq. feet. Loading spaces required under this section shall be at least 50 feet long and 12 feet wide.

**SECTION 17.3 LANDSCAPING AND FENCING.**

**A. Application.**

1. All sections apply to those uses for which site plan approval is required under Article 11. No site plan shall be approved unless it includes landscaping, greenbelt buffers, fencing and screening consistent with this section.
2. A land use permit is not required for the construction of fences, screening or solid walls used for screening. These uses are exempt from district setbacks, and shall not be considered as structures for the purpose of this Ordinance.
3. Existing uses and uses not requiring site plan approval shall comply with appropriate parts of Sections 17.3.K and 17.3.L.

**B. General Provisions.** The following requirements apply to all uses in all districts:

1. Road/road and road/driveway intersections. No fencing or screening over 30 inches in height shall be placed on the street, thoroughfare, or driveway side of a line drawn between two points, each being twenty 20 feet from:
  - a. The intersection of the rights-of-way of two intersecting streets, or;
  - b. The intersection of a driveway with the right-of-way of a street or thoroughfare.
2. Swimming pools. Any outdoor swimming pool, above ground or in ground, shall be fenced to discourage unsupervised access and use by small children. Such fencing is to be a minimum of 4 feet high and equipped with a self-closing and self-latching gate. Latching devices are to be located at a minimum height of 4 feet. Such fencing may be omitted where



building walls without doorways about the pool area, provided that the entire perimeter of the pool area is secured.

3. No fence shall be approved or constructed which constitutes a fire hazard either of itself or in conjunction with the existing structures in the vicinity, nor which will interfere with the access by the Fire Department or other emergency personnel in the event of a fire or other emergency.
4. Except for the agricultural uses described in Section 17.3.K.5, no fence or wall containing barbed wire, electric charges, or sharp materials at any height less than 6 feet is permitted unless needed to protect the public and approved by the Planning Commission.

**C. Landscape plan required.** A separate detailed landscape plan shall be required to be submitted as part of a site plan review. The landscape plan shall include, but not necessarily be limited to, the following items:

1. Location, spacing, size, and root type (bare root (BR) or balled and burlaped (BB)) and descriptions for each plant type proposed for use within the required landscape area.
2. Minimum scale: 1" = 100'.
3. Existing and proposed contours on-site and 150 feet beyond the site at intervals not to exceed 2 feet.
4. Typical straight cross-section including slope, height, and width of berms and type of ground cover, or height and type of construction of wall or fence, including footings.
5. Significant construction details to resolve specific site conditions, such as tree wells to preserve existing trees or culverts to maintain natural drainage patterns.
6. Planting and staking details in either text or drawing form to ensure proper installation and establishment of proposed plant materials.
7. Identification of existing trees and vegetative cover to be preserved.
8. Identification of grass and other ground cover and method of planting.
9. Identification of landscape maintenance program including statement that all diseased, damaged, or dead materials shall be replaced in accordance with standards of this Ordinance.

**D. Parking lot landscaping.** Separate landscaped areas shall be required either within or at the perimeter of parking lots. There shall be one tree for every eight parking spaces, with a minimum landscaped space within a designated parking area of 50 square feet. A minimum distance of 3 feet shall be established between proposed tree or shrub plantings and the backside of the curb or edge of the pavement.

**E. Greenbelt buffers.**

1. A strip of land with a minimum width determined by the front yard setback of its zoning classification shall be located between the abutting right-of-way of a public street, freeway, or major thoroughfare, and shall be landscaped with a minimum of one tree not less than 12 feet in height or a minimum caliper of 2 ½ inches (whichever is greater at the time of planting) for each 30 lineal feet, or major portion thereof, of frontage abutting said right-of-way. The remainder of the greenbelt shall be landscaped in grass, ground cover, shrubs, and/or other natural, living, landscape material.
2. Access ways from public rights-of-way through required landscape strips shall be permitted, but such access ways shall not be subtracted from the lineal dimension used to determine the minimum number of trees required unless such calculation would result in a violation of the spacing requirement set forth in this section.

**F. Site Landscaping.**

1. In addition to any landscape greenbelt and/or parking lot landscaping required by this section, 10% of the site area, excluding existing thoroughfare right-of-way, shall be landscaped.
2. Areas used for storm drainage purposes, such as unfenced drainage courses or retention areas in front or side yards, may be included as a portion of the required landscaped area not to exceed 5% of the site area.
3. Existing healthy vegetation should be retained wherever feasible

**G. Landscape elements.** The following minimum standards shall apply:

1. **Quality.** Plant material and grasses shall be of generally acceptable varieties and species, free of insects and diseases, hardy to Leelanau County, conform to the current minimum standard of the American Association of Nurserymen, and shall have proof of any required governmental regulations and/or inspections.
2. **Composition.** A mixture of plant material, such as evergreen, deciduous trees and shrubs, is recommended as a protective measure against insect and disease infestation. A limited mixture of hardy species is recommended rather than a large quantity of different species to produce a more aesthetic, cohesive design and avoid a disorderly appearing arrangement.
3. **Berms.** Berms shall be constructed with slopes not to exceed a 1:3 gradient with side slopes designed and planted to prevent erosion, and with a rounded surface a minimum of 2 feet in width at the highest point of the berm, extending the length of the berm. Berm slopes shall be protected with sod, seed, shrubs or other form of natural ground cover.
4. **Existing Trees.**
  - a. If existing plant material is labeled "To Remain" on site plans by the applicant or required by the Township, protective techniques, such as, but not limited to, fencing or barriers laced at the drip line around the perimeter of the plant material shall be installed during construction. No vehicle or other construction equipment shall be parked or stored within the drip line of any plant material intended to be saved. Other protective techniques may be used provided such techniques are approved by the Township.
  - b. In the event that healthy trees which are used to meet the minimum requirements of this Ordinance or those labeled to remain are cut down, destroyed, damaged, or excavated at the drip line, as determined by the Township, the Contractor shall replace them with trees which meet Ordinance requirements.

**H. Installation and Maintenance.**

1. All landscaping and landscape elements shall be planted, and earth moving or grading performed, in a sound workmanlike manner and according to accepted good planting and grading procedures.
2. All required landscaping shall be planted prior to obtaining a Certificate of Occupancy or alternatively, cash, letter of credit, or a certified check shall be placed in escrow in the amount of the cost of landscaping to be released only after landscaping is completed.
3. The owner of the property required to be landscaped shall maintain such landscaping in a reasonably healthy condition, free from refuse and debris. All unhealthy and dead material shall be replaced within one year of damage or death or the next appropriate planting period, whichever comes first. All landscaped areas shall be provided with a readily available and acceptable water supply.

**I. Fencing and screening regulations.**

1. **General requirements:**

- a. **For other than single-family residential uses**, or any use in an Industrial land use category except if it abuts a residential area, when located outside of a building, support equipment including air conditioning and heating devices, water and gas meters, but not including plumbing or exhaust vents, or chimneys, are to be screened to the height of the particular piece of equipment, as follows:
    - 1. **Roof-Mounted Equipment:** To be screened by architectural features from the view of abutting streets and parcels.
    - 2. **Equipment at Grade:** When located on, or close to the ground adjacent to a building, mechanical equipment is to be screened by landscaping, a solid wall or fencing from the view of the street or surrounding properties.
  - b. **Outdoor Storage:** To be screened on all sides by a solid wall or fencing.
  - c. **Public Utility Substations:** To be screened on all sides by a solid wall or fencing, and landscaping.
- 2. R1, R2, R3S and R4 Districts:**
- a. Side Yard Fences shall not be greater than 6 feet in height. The height shall be measured from the natural elevation of the fence site, not including berms, to the top of the fence. The height of a fence or wall built on irregular terrain may be measured at intervals of 20 feet or less along its length so that the fence may be “faired in” in order to achieve reasonable construction and appearance. However, the top edge of the fence or wall shall not be higher than an imaginary straight line connecting any two adjacent measurement points. In those locations where the foregoing regulations fail to achieve the intent of reasonable construction and appearance, the Zoning Board of Appeals may grant a variance to the measurement interval specification.
  - b. When the front or rear of the residential lot borders water, no natural fence or fence structure shall be placed closer than 40 feet from the water’s edge. Natural growth, including trees, shrubs, bushes, and similar vegetation need not be removed to conform to the foregoing setback requirement.
  - c. Regardless of 17.3.K.2.b above, solid fencing, not to exceed 6 feet in height, is permitted along the side of a lot bordering a public road that ends at the water’s edge. If a natural fence is planted in this location, its height is not limited. Such a fence or screen must not extend beyond the high water line.
  - d. Fences for pets, swimming pools, Jacuzzis, patios, decks, and similar uses may be built up to 8 feet high but must be located more than 40 feet from either the water’s edge or the front lot line and more than 10 feet from the side and except for single family residences where the side yard setback shall be no less than 5 feet.
- 3. R3A Districts:** The appropriate regulations of 17.3.K.2 shall be applied in the site plan review process by the Planning Commission.
- 4. R3M Districts:** Regulated by rules promulgated by the Michigan Mobile Home Association.
- 5. A and RC Districts:**
- a. Fences used for residential purposes shall satisfy 17.3.K.2.a through 17.3.K.2.d
  - b. Fences used for horticultural or agricultural purposes:
    - 1. Woven wire, chain link, or similar fences used to enclosed parcels are not limited in height.
    - 2. Barbed wire and/or electric pulse fencing are permitted when used for controlling animals.
- 6. G and IC Districts:**

- a. Unless otherwise specified or determined by the Zoning Administrator or Planning Commission at the time of site plan review, fencing and screening is to be 6 feet in height.
- b. The side and rear property lines of all non-residential uses adjacent to residential use or zone are to be screened on all sides by a solid wall or fencing.

**7. C, CR, and I Districts:**

- a. Unless otherwise specified or determined by the Zoning Administrator or Planning Commission at the time of site plan review, fencing and screening is to be 6 feet in height.
- b. A solid wall or fencing is to be located on the side and rear property lines of any site that abuts another zoning district or land use.

**J. Exceptions to fencing and screening requirements.**

- 1. Buildings abutting property lines.** Required screening or fencing may be omitted along any lot line where a building wall exists immediately abutting the lot line.
- 2. Location adjustment.** Where property line fencing or screening is required, the location may be adjusted so the fencing may be constructed at or within the setback line, provided the areas between the fence and the property lines are landscaped, or in rural areas, retained in their natural vegetative state at the discretion of the Planning Commission.
- 3. Existing screening.** Any fence, screen, wall or hedge which does not conform to the provisions of this Section and which is legally existing at the effective date of this Ordinance may be continued and maintained, provided there is no physical change other than necessary maintenance and repair in such fence, screen, wall, or hedge except as permitted in other sections of this Ordinance.
- 4. Planning commission and zoning administrator modification.** Any of the requirements of this Article may be waived or modified through Site Plan approval, provided the Planning Commission or Zoning Administrator first makes a written finding that specifically identified characteristics of the site or site vicinity which would make required fencing or screening unnecessary or ineffective, or where it would impair vision at a driveway or street intersection.
- 5. Zoning Board of Appeals.** The Zoning Board of Appeals may require or waive any fencing, screening, landscaping or buffering as may be provided for in this Section as a condition of a variance or other authorization in whatever manner necessary to achieve an identified public purpose. The Zoning Board of Appeals shall record the reason for the condition and clearly specify what is required in any approval granted.

**K. Materials for Screening Fences.** Fences used as screening between land uses may consist of the following materials:

1. Solid board fences with wood posts not less than (nominally) 4"x4" and solid board cover not less than (nominally) 1 inch thick. Masonry piers may be substituted for wood posts. Posts or piers shall be spaced not more than 8 feet on center. The finished side of the wood shall face abutting properties. Stockade type fencing is not permitted.
2. Wrought iron, open mesh or slatted fencing, provided that the ratio of one part open to six parts of solid fencing is not exceeded.
3. Masonry walls designed and constructed to facilitate maintenance and not modifying natural drainage in such a way as to endanger adjacent property. The outer face of such wall (the face away from the use which is to be screened) to be of clay, brick, stone, embossed or pierced concrete block, or other decorative masonry material.

4. Fences in residential districts or for residential uses may be constructed of wood, woven or chain link fencing, stone, brick, block or decorative metal. Fences using sheet metal or metal piling material are not permitted in residential districts or for residential uses.

#### **SECTION 17.4 ROAD END WATER ACCESS SITES**

**A. Application.** The regulations in this section apply only to the following:

1. Public road end sites defined by the Leelanau County Road Commission as Group 1: Existing, improved roadways that lead, but do not necessarily extend, to the water's edge. In Leelanau Township, examples include Onominee Road, Kehl Road, Lighthouse Road, and Lake Street.
2. Public road end sites defined by the Leelanau County Road Commission as Group 2: Platted roadways that are not suitable for vehicular traffic. Examples include certain of the Fire Lanes from Omena Point Road plus Birch Street, Elm Street, Cedar Avenue, Larch Avenue, and Oak Avenue.
3. Private road end sites on which unrestricted easement rights have been created by a properly accepted dedication.

The intent is to establish regulations that provide for the use of these sites by the public under conditions that are compatible with the land use district in which they are located and, additionally, address the health, safety, and environmental concerns specific to these locations.

**B. Road end site area.** The beach and water access at a road end site is limited to the width of the specific road right-of-way as established by the Leelanau County Road Commission. The length of the site (distance from the shoreline) shall be that distance that can be utilized without interference with the normal use of the roadway.

**C. Permitted and prohibited uses.**

1. **Permitted uses.** Access to and use of the beach and water for riparian purposes. Riparian uses are limited to swimming, boating, and walking on the beach.
2. **Prohibited uses.** Any use which restricts or impairs the direct and convenient use of the site for riparian purposes by the public is prohibited. Such uses include, but are not limited to: vending, permanent mooring or storing of any water craft, parking of any vehicle on the site, or any commercial activity involving water craft such as rental, leasing, or chartering.

**D. Access Site development regulations.** Site Plan approval of any construction or improvement of road end water access sites must be obtained from the Leelanau Township Planning Commission.

**E. Parking and Encroachments.** The parking of any motor vehicle and/or any boat trailer or other encroachment within the area of the road end right-of-way shall be limited to that which can be done while maintaining a safe, unobstructed vehicle and pedestrian route to the road end site.

**F. Environmental protection requirements.** All shorelines are defined as environmentally sensitive areas. All access uses and developments must conform with the appropriate requirements of Article 15 of the Ordinance.

#### Amendment History

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Amended by Board 12/14/10, Ord 6 of 2010, Pub 12/23/10, Eff 12/30/10

## **ARTICLE 18 COMMUNICATION TOWERS**

**SECTION 18.1 PURPOSE** – The general purpose and intent of these regulations is to regulate the establishment of communication towers and antennas in recognition of the public need and demand for advanced telecommunication and information technologies and services balanced against the impacts such facilities may have on properties within the Township. However, these regulations shall not apply to: a tower under ninety (90) feet in height owned and operated by a federally-licensed amateur radio operator; satellite dishes and antennas less than one (1) meter in diameter; and antennas designed to receive local television broadcast signals mounted on masts twelve (12) feet or less above the roofline. It is further the purpose and intent of these regulations to:

- A. Provide for the appropriate location and development criteria for communication towers and antennas within the Township;
- B. Minimize the adverse effects of such facilities through careful design and siting;
- C. Maximize the use of existing and future communication towers and encourage the multiple uses of such facilities;
- D. Protect the character of residential areas throughout the Township from the effects of wireless communication facilities; and,
- E. Promote the public health, safety, and welfare of the Township.

### **SECTION 18.2 ANTENNAS**

- A. To encourage co-location and to minimize the number of communication towers within the Township, antennas shall be considered a permitted accessory use when placed on or attached to any legally established conforming structure or legally established non-conforming structure, including existing communication towers, provided that any antenna shall not extend more than twenty (20) feet above the tallest portion of the structure on or to which it is attached and, provided further, that the height of any antenna shall not exceed one-hundred (100) feet unless:
  - 1. Located on a lawfully existing or approved communication tower; or
  - 2. Located on a structure existing prior to the adoption of this regulation; or
  - 3. Located on a structure which has received a height variance.
- B. Antennas shall require no personnel on the premises except as necessary for maintenance and repair.
- C. If an antenna requires an accessory equipment storage structure, it shall not be greater than fifteen (15) feet in height.

- D. No accessory equipment structure or area shall be allowed in any right-of-way or easement.
- E. An antenna proposed to be located on a National or State registered historic landmark or in a local historic district established in conformance with the Local Historic Districts Act, Public Act 169 or 1970, as amended, may be denied if the antenna would detract from the historic character of the historic landmark or district.
- F. The installation of an antenna in any zoning district shall be approved by the Zoning Administrator through the issuance of a land use permit in accordance with Section 10.3 of this Ordinance. The Zoning Administrator shall approve such requests that meet the requirements of this section. Review by the Zoning Administrator shall be without notice.
- G. This section shall not exempt the applicant from such other governmental review and permitting procedures (i.e., Federal Communication Commission (FCC), Federal Aviation Administration (FAA), etc.).

### **SECTION 18.3 COMMUNICATION TOWERS**

- A. General Standards.
  - 1. A communication tower may be located on a zoning lot containing other principal uses. The communication tower may be located within an area smaller than the minimum lot size of the applicable zoning district provided the zoning lot complies with the applicable minimum lot size for the existing principal use or is a legally established nonconforming lot. The area within which the communication tower is located shall be the area subject to the requirements of this section, rather than the entire zoning lot, unless otherwise provided herein.
  - 2. The communication tower shall meet all requirements of the zoning district in which it is located which are not inconsistent with this section. Minimum yard requirements shall be measured from the boundary of the zoning lot to the closest portion of the communication tower, or the accessory equipment or storage area, whichever is closer.
    - a. The minimum distance between a communication tower and any property line shall be equal to the height of the proposed tower, unless engineering specifications provided dictate otherwise, as determined through a certification by a licensed and registered professional engineer.
    - b. Except as provided below, communication towers must be set back at least twelve hundred (1,200) feet from the right-of-way of any “natural beauty road”, as identified in the adopted Leelanau Township Master Plan. A tower may be located within the required natural beauty road setback under one or more of the following conditions:
      - (i) The applicant has successfully demonstrated to the satisfaction of the Planning Commission that over-the-air reception would otherwise be

impossible or substantially degraded at a tower which is located outside of the natural beauty road setback.

- (ii) The applicant has successfully demonstrated to the satisfaction of the Planning Commission through the submittal of a “sight line analysis” (a study of the viewing angles and the objects anticipated to be observed on site by passerby located within the right-of-way), or similar documented visual evidence, that the distinguishing natural beauty road characteristics would not be materially degraded by the installation of a tower located within the required natural beauty road setback; or,
  - (iii) the applicant has obtained a Declaratory Ruling from the Federal Communications Commission (FCC) or a court of competent jurisdiction which acknowledges that the natural beauty road setback requirement is pre-empted by the Federal Telecommunications Act of 1996, as amended (47 C.F.R. Section 1.4000).
3. All communication towers shall be constructed in compliance with all applicable construction codes, which include the Electronics Industries Association/Telecommunications Industry Association (EIA/TIA) Structural Standards of Steel Antenna Towers and Antenna Supporting Structures.
  4. All communication towers shall not be used for advertising purposes and shall not contain any signage except signage which shall show the identity of the service provider and emergency telephone numbers.
  5. Fencing shall be required to ensure security and safety of a communication tower with accessory equipment structure or storage area. Fences shall consist of durable wood, vinyl, metal or other similar materials and shall not contain barbed wire, razor wire, electric current, or charge of electricity. Fences shall not exceed a height of eight (8) feet.
  6. The communication tower shall have a landscaped buffer so that the base of the communication tower and accessory equipment structure or storage area shall be screened from any right-of-way or residential use. Such landscaped buffer shall be placed on the site in a manner which will maximize the aesthetic and environmental benefits, while at the same time providing the visual buffer required herein. The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the equipment storage area. Quality and composition of landscape elements shall be of generally acceptable evergreen varieties and species of trees and shrubs hardy to Leelanau County. The buffering requirements outlined herein may be waived by the Zoning Administrator or Planning Commission where existing vegetation to be maintained on the site generally accomplishes the same effect.
  7. Communication towers shall not have a shiny or metallic finish.
  8. Not less than one off-street parking space shall be provided on-site for use by service and public safety vehicles.



9. Adequate ingress and egress to the communication tower shall be provided by means of an all-weather durable driveway not less than twelve (12) feet in width.
10. No communication tower shall be placed within a public right-of-way or within an easement.
11. The applicant must include a statement in the application of its good faith intent to allow the co-location of antennas of other entities, provided that the cost of modifying the communication tower to accommodate the co-location is borne by the co-locating entity.
12. All communication towers over one hundred (100) feet in height shall be designed for co-location. If co-location is not part of the application, then the applicant must demonstrate in the application as to why co-location is not possible.
13. All communication towers that utilize guy wires shall have those guy wires clearly marked.

B. Review Process.

1. The installation of a new communication tower in any zoning district which is up to one hundred (100) feet in height shall be approved by the Zoning Administrator through the issuance of a land use permit in accordance with Section 10.3 of this Ordinance. The Zoning Administrator shall approve such requests that meet the requirements of this section. Review by the Zoning Administrator shall be without notice.
2. The installation of a new communication tower in any zoning district which is greater than one hundred (100) feet in height shall be subject to review by the Planning Commission as a special land use in accordance with the procedures specified in Article 12 and after a public hearing. The Planning Commission shall approve such requests that meet the requirements of this section and the criteria and standards for approval of special land uses as outlined in Section 12.6.

C. Review Criteria. A new communication tower shall not be approved unless it can be demonstrated by the applicant that there is a need for the new communication tower which cannot be met by placing an antenna on an existing communication tower, or on another structure, or through the replacement of an existing communication tower. Information concerning the following factors shall be considered in determining that such need exists:

1. Insufficient structural capacity of existing communication towers or other suitable structures and infeasibility of reinforcing or replacing an existing communication tower.
2. Unavailability of suitable locations to accommodate system design or engineering on an existing communication tower or other structures.
3. Radio frequency interference or other signal interference problems at existing communication towers or others structures.

4. The refusal of owners or parties who control communication towers or other structures to permit an antenna to be attached to such communication towers or structures.
  5. Other factors which demonstrate the reasonable need for the new communication tower.
- D. Application Requirements for New Communication Towers. In addition to the application requirements for land use permits as outlined in Section 10.3 or special land uses as outlined in Section 12.4, whichever is applicable, the following additional information shall be submitted.
1. A plan showing the location, size, screening, if required, and design of all buildings and structures, including fences, the location and size of outdoor equipment, and the location, number, and species of proposed landscaping.
  2. A certification by a licensed and registered professional engineer of the applicant with regard to the manner in which the proposed structure will fall.
  3. A map showing existing and known proposed communication towers within the Township, and further showing existing and known communication towers within areas surrounding the borders of the Township in the location, and in the area, which are relevant in terms of potential co-location or in demonstrating the need for the proposed facility.
  4. The name, address, and phone number of the person to contact for engineering, maintenance, and other notice purposes. This information shall be continuously updated during all times the communication tower is on the premises.
- E. This section shall not exempt the applicant from such other governmental review and permitting procedures (i.e., Federal Communication Commission (FCC), Federal Aviation Administration (FAA), etc.).

**SECTION 18.4 REPLACEMENT OF EXISTING COMMUNICATION TOWERS** – An existing communication tower which was lawful at the time of its construction may be replaced for purposes of accommodating co-location of additional antenna, or otherwise, provided that:

- A. The replacement communication tower shall not exceed the prior approved height.
- B. The replacement communication tower shall be located within the same zoning lot as the existing communication tower and shall be located so as to maximize compliance with existing minimum yard requirements.
- C. The applicant shall cause the existing communication tower to be removed within ninety (90) days of completion of the replacement communication tower and the relocation or installation of the antenna. In any event, the existing communication tower shall be removed within one hundred eighty (180) days of the Township's final construction inspection of the replacement communication tower.

- D. If the location of the replacement communication tower is such that the existing communication tower must be moved before the replacement communication tower is constructed, temporary portable antenna support facilities may be used, but must be removed within ninety (90) days of the completion of the replacement communication tower and the relocation or installation of the antenna. In any event, the temporary portable antenna facilities must be removed within one hundred eighty (180) days of the Township's final construction inspection of the replacement communication tower.
- E. The replacement communication tower shall meet the general standards found in Section 18.3,(A).
- F. The installation of a replacement communication tower in any zoning district shall be approved by the Zoning Administrator through the issuance of a land use permit in accordance with Section 10.3 of this Ordinance. The Zoning Administrator shall approve such requests that meet the requirements of this section. Review by the Zoning Administrator shall be without notice.
- G. This section shall not exempt the applicant from such other governmental review and permitting procedures (i.e., Federal Communication Commission (FCC), Federal Aviation Administration (FAA), etc.).

**SECTION 18.5 REMOVAL OF ABANDONED COMMUNICATION TOWERS** – Any communication tower which is abandoned shall immediately be removed or demolished. For the purposes of this section, abandoned shall mean that no antenna or other commercial antenna has been operational and located on the communication tower for one hundred eighty (180) days or more. Where the removal or demolition of an abandoned communication tower has not been lawfully completed within sixty (60) days of the applicable deadline, and after at least thirty (30) days written notice, the Township may remove or secure the removal of the facility or required portions thereof. The Township may place a lien on the property to cover costs for the removal of the communication tower. A lien on the property shall be superior to all other liens except taxes.

**SECTION 18.6 VARIANCES AND APPEALS** – Variances from this section may be requested from the Zoning Board of Appeals. Requests for additional height to any permitted or previously approved communication tower may be granted by the Planning Commission to provide for the co-location of additional antenna so long as such additional height does not exceed thirty (30) feet. Appeals of a Planning Commission decision shall be taken to the Zoning Board of Appeals.

Amendment history

Article 18 rewritten in its entirety - Adopted by Board 03/13812, Ord 3 of 2012, Pub 03/22/12, Eff 03/30/12

## ARTICLE 19

### WIND ENERGY CONVERSION SYSTEMS

**SECTION 19.1 INTENT** – Leelanau Township finds that wind energy is an abundant, renewable and nonpolluting energy resource and that its conversion to electricity will reduce our dependence on nonrenewable energy resources and decrease the air and water pollution that results from the use of conventional energy sources. The purpose of this section is to provide a regulatory scheme for the designation of properties suitable for the location, construction and operation of an on-site wind energy conversion system (WECS) in Leelanau Township, to protect the health, welfare, safety, and quality of life of the general public, and to ensure compatible land uses in the vicinity of the areas affected by on-site wind energy conversion systems.

**SECTION 19.2 SCOPE OF REQUIREMENTS** – On-Site Wind Energy Conversion Systems, as defined in this Article, may be allowed as an accessory use in all districts, subject to requirements of this Article.

#### SECTION 19.3 DEFINITIONS

- A. **Temporary Anemometer Tower:** A structure, including all accessory facilities, temporarily erected, on which an instrument for measuring and recording the speed of the wind is mounted for the purpose of documenting whether a site has wind resources sufficient for the operation of a wind energy conversion system.
- B. **Wind Energy Conversion System (WECS):** A system which converts wind energy into electricity through the use of a wind turbine generator and includes the turbine, blades, and tower as well as related electrical equipment. This does not include wiring to connect the wind energy system to the grid.
- C. **Wind Energy Conversion System, On-Site:** A wind energy conversion system that is primarily intended to reduce on-site consumption of utility power.

**SECTION 19.4 TEMPORARY ANEMOMETER TOWERS** – A temporary anemometer tower, as defined in this Article, may be allowed as an accessory use in all districts, subject to the following:

- A. Prior to the installation of a temporary anemometer tower, a land use permit shall be obtained from the Zoning Administrator in accordance with Section 10.3 of this Ordinance.
- B. To the extent feasible, a temporary anemometer tower shall be placed on private property in the least conspicuous location available to minimize disturbance to any neighboring property owner, resident or use. In no instance shall a temporary anemometer tower be located within any public easement or right-of-way or in a manner that endangers the safety of persons or property in its immediate vicinity, blocks or interferes with the safe ingress and egress to dwellings, prevents access to essential services, or impedes public safety operations.
- C. The applicant shall be required to remove the temporary anemometer tower and restore the site after completion of the wind site assessment, which shall not exceed a six (6) month period from the date of land use permit approval. Not more than one, six (6) month extension may be approved by the Zoning Administrator. Where the removal has not been lawfully completed at

this deadline, and after at least thirty (30) days written notice, the Township may remove or secure the removal of the temporary anemometer tower and may place a lien on the property to cover costs for its removal.

## **SECTION 19.5 GENERAL REQUIREMENTS**

- A. Class of On-Site WECS. Two classes of on-site wind energy conversion systems shall be allowed within Leelanau Township as follows:
  - 1. Agricultural Use On-Site Wind Energy Conversion Systems. This shall include an on-site WECS accessory to a farm, as defined in this Ordinance, which has a rated capacity of not more than 150 kilowatts (kW).
  - 2. Non-Agricultural Use On-Site Wind Energy Conversion Systems. This shall include an on-site WECS not accessory to a farm, as defined in this Ordinance, which has a rated capacity of not more than 20 kilowatts (kW).
- B. Maximum Height. An on-site WECS shall have a maximum height of one hundred fifty (150) feet, measured from the base of the system to the top of the blade in its vertical position. An on-site WECS of greater height, but not more than two hundred (200) feet, shall be approved by the Planning Commission as a special land use in accordance with the procedures specified in Article 12 and after a public hearing. In reviewing the special land use request, the Planning Commission shall find that a greater height is necessary for the intended application of the on-site WECS **or** where obstacles to the prevailing wind flow are demonstrated to exist within three-hundred (300) feet of the proposed on-site WECS that would prevent a thirty (30) feet clearance from the top of such obstacle to the bottom of the blade in its vertical position.
- C. Rooftop Mounted On-Site Wind Energy Conversion Systems. Rooftop mounted on-site wind energy conversion systems shall be prohibited within Leelanau Township.
- D. Number. Properties ten (10) or less acres in size shall be limited to one (1) on-site WECS. For each whole ten (10) acres in excess of the first ten (10) acres, an additional one (1) on-site WECS shall be permitted. Agricultural use on-site wind energy conversion systems shall be exempt from this provision.
- E. Visual Impact.
  - 1. An on-site WECS tower may be of monopole, lattice-style, or tilt-up construction. Guy wires may be permitted as part of the on-site WECS.
  - 2. No advertising or graphics shall be on any part of the tower, hub, or blades. However, appropriate warning signs and owner identification may be allowed on buildings or other structures associated with on-site wind-powered generators.
  - 3. On-site wind energy conversion systems shall be finished in a non-obtrusive, non-reflective matte color.
  - 4. Electrical controls, control wiring and power lines shall be wireless or underground except where such wiring is brought together for connection to the transmission or distribution network, adjacent to that network.
  - 5. Illumination. No illumination of the turbine or tower shall be allowed unless required by the Federal Aviation Association (FAA).
- F. Setbacks.

1. The distance between an on-site WECS tower and any property lines, overhead utility or transmission lines, other on-site WECS towers, electrical substations, and meteorological towers shall be equal to the height of the tower including the top of the blade in its vertical position. A lesser setback may be approved by the Zoning Administrator upon certification by a State of Michigan licensed and registered professional engineer with regard to the manner in which the proposed tower will fall. Such certification, along with other criteria such as applicable regulation for the district in question, shall be used in determining the appropriate setback to be required for the on-site WECS tower.
  2. No part of an on-site WECS, including guy wire anchors, may extend closer than ten (10) feet to any property line.
- G. Sound Pressure Level Standards. An on-site WECS shall not exceed fifty-five (55) dBA at the property line closest to the on-site WECS. This sound pressure level may be exceeded during short-term events such as utility outages and/or severe wind storms. If the ambient sound pressure level exceeds fifty-five (55) dBA, the standard shall be ambient dBA plus five (5) dBA.
- H. Safety Standards.
1. An on-site WECS shall have automatic braking, governing, or a feathering system to prevent uncontrolled rotation or over-speeding.
  2. An on-site WECS shall be equipped with lightning protection.
  3. The minimum vertical blade tip clearance from grade shall be twenty (20) feet for an on-site WECS employing a horizontal axis rotor.
  4. All on-site WECS towers must be unclimbable by design or protected by anti-climbing measures such as fences.
  5. An on-site WECS with exposed guy wires shall have the guy wires clearly marked.
- I. Construction Codes and Interconnection Standards.
1. An on-site WECS shall comply with all applicable state construction and electrical codes and local building permit requirements.
  2. An on-site WECS shall comply with Federal Aviation Administration (FAA) requirements; the Michigan Airport Zoning Act (PA 23 of 1950); the Michigan Tall Structures Act (PA 259 of 1959); and any other state or federal regulations.
  3. If the on-site WECS will be interconnected to the local utility distribution system, the interconnection and operation shall meet the requirements of the local electric utility in addition to the Michigan Public Service Commission and Federal Energy Regulatory Commission standards.
- J. Unsafe Condition. An on-site WECS found by the Township to be unsafe and/or inoperable shall be repaired by the owner to meet local, state and federal safety standards or shall be removed by the owner. Such repair or removal shall occur within one-hundred eighty (180) days of being notified by the Township of such need for repair. Where the repair or removal of the on-site WECS has not been lawfully completed within one-hundred eighty (180) days, the Township may remove or secure the removal of the on-site WECS and may place a lien on the property to cover costs for the removal of the on-site WECS.
- K. Existing On-Site WECS. An on-site WECS constructed prior to the effective date of this Article shall not be required to meet the requirements of this Article, provided that any physical modification to an existing on-site WECS that materially alters the size, type and number of on-site WECS or other equipment shall comply with the provisions of this Article.

**SECTION 19.6 REVIEW PROCESS** – Prior to the establishment of an on-site WECS, a land use permit shall be obtained from the Zoning Administrator in accordance with Section 10.3 of this Ordinance. In addition to the requirements of Section 10.3 of this Ordinance, the following information shall be submitted to the Zoning Administrator:

- A. Evidence that the proposed on-site WECS will comply with the sound pressure level, construction code, tower, interconnection and safety requirements of this Article.
- B. Plans showing the location of proposed turbine towers, underground and overhead wiring, access roads, proposed structures, fencing and all new infrastructure above ground related to the project.
- C. Standard drawings of the wind turbine structure and stamped engineered drawings of the tower, base, footings, and/or foundation as provided by the manufacturer.
- D. Line drawings of the electrical components, as supplied by the manufacturer, in sufficient detail to allow for a determination that the manner of installation conforms to applicable electrical codes.
- E. Certifications that the applicant has complied or will comply with all applicable local, state and federal laws and regulations.

**ARTICLE 20**

**EXTRACTION OPERATIONS**

**SECTION 20.1 PURPOSE AND SCOPE** - This article presents the procedures required for application, review and approval of extraction operations, including mining and natural resource extractions, except for those controlled under state or federal regulations..

**SECTION 20.2 APPROVAL AUTHORITY** - Approval shall be as a special land use, in accordance with Article 12, Special Land Use (and Article 11, Site Plan Review, Major Projects). Amendments to an approved site plan also shall be considered a major change and follow such procedures as outlined in Article 11, Site Plan Review, Major Projects.

**SECTION 20.3 APPLICABILITY**

A. Table 20.3 shows the districts in which extractions may be applied.

**Table 20.3 Applicability of Extraction Operations**

APPLICABILITY OF EXTRACTION ACTIVITIES												
A	R1	R2	R3A	R3M	R3S	R4	RC	G	C	CR	I	IC
yes	no	no	no	no	no	no	no	yes	yes	no	yes	no

B. Application for a special land use for the purposes of extraction shall not be required while excavating, grading or leveling in connection with the development of a real estate subdivision, condominium, or other development pursuant to Public Act 288 of 1967.

**SECTION 20.4 APPLICATION AND APPROVAL PROCEDURES**

**A. In addition to the application requirements of Article 11, Site Plan Review and Article 12, Special Land Uses, each application shall be made in writing to the Township Zoning Administrator and shall contain the following information:**

1. Topographical survey map drawn to a scale of one (1) inch equals one hundred (100) feet showing existing grades on a two (2) foot contour interval of the land prior to any excavation, the grades of the proposed excavations and the finished grades, to be prepared and sealed by a Registered Civil Engineer.
2. The names, descriptions and extent of any material that is proposed to be extracted and whether or not the same is to be processed and/or removed from the premises or redeposited thereon.
3. Whether or not any fill is required and if so the type and extent thereof and whether or not such fill would prevent the immediate use of the land.
4. Projected date of commencement of the proposed project, duration thereof, hours of operation, and projected future use of the area involved and estimated time of completion and/or utilization thereof.



5. The Planning Commission may also at the time of approval require evidence or insurance bond to insure that the applicant has suitable financial basis to carry out the alterations, modifications or changes to their completion, and that adequate rehabilitation of the site to an conforming character of the underlying district can be assured by the applicant.

**B. Creation or alteration of waterways.** If the proposed operation involves the creation of lagoons, slips, waterways, lakes, bays, canals or streams which are not now in existence, and such creation or alteration would include but not be limited to excavating to permanently exposed subterranean waters and/or by impounding surface waters and/or relocating it on the site, the applicant shall submit the following additional information and engineering detail:

1. A topographical survey with the proposed outline of the bodies of water to be exposed or altered, drawn to scale (Minimum scale of 100 ft. to the inch), in the exact locations upon the site, and prepared by a Registered Professional Civil Engineer.
2. Such topographical survey shall contain the proposed grades of land and/or water bodies, at elevation intervals no greater than 2 feet. In no event shall the banks of any finished grade, whether above or below any waterline, exceed a 12 degree slope.
3. Drilling reports which show the composition of the soils of the area to be excavated or altered to form such pond, lake or other waterway.
4. Certifications by a Laboratorian (graduate of a college of recognized standing in bacteriology) and Registered Professional Civil Engineer that the water to be exposed or impounded is not adulterated or impure and is not likely to become such from any nearby industry or other artificial or natural source so as to be a hazard to public health, welfare and safety.
5. Certification by a Registered Professional Engineer, Geophysicist or other qualified specialist in the field of hydrostatics that the exposure of subterranean water and/or the impoundment of surface waters where permitted will establish a stable water level at the level(s) proposed and will not interfere with existing subterranean water and cause harm to the general public.
6. A detailed engineering plan for the disposition by controlled flow or controlled drainage of any excess water into established drains (or drains to be established during the development) or watercourses, and which shall demonstrate that the facilities of such drain or watercourse shall not be unduly taxed by the additional flow to the detriment or damage of high or low riparian property owners, or neighboring properties.

**C. Method of approval.** Before considering the application for approval, the Planning Commission shall conduct a public hearing concerning each application, in accordance with the procedures in Article 12.5.C, Special Land Uses and in compliance with PA 110 of 2006, as amended. In addition, the Planning Commission shall consider the following aspects of the application in relationship to the community. The findings of such consideration shall be in writing.

1. effect on public health, safety and general welfare;
2. effect of the extraction and/or exploitation of natural resources;
3. effect of the existing streets and highways;
4. effect on existing or proposed sewage system, natural and/or municipal water supply, gas, electric and telegraphic utilities;
5. effect on recreation areas within the Township;
6. effect on the particular character of the Township or portion thereof and the suitability of such proposed project in terms of such factors as the trend in land and population development within the Township:

7. effect on present natural ecology of the area and the proposed method of providing for the preservation of the natural and desired ecology thereof.
- D. Surety Bond Requirement.** The Planning Commission shall require the applicant to furnish a Surety Bond executed by a reputable Surety Company authorized to do business in the State of Michigan, in an amount determined by the Planning Commission. In fixing the amount of such Surety Bond, the Planning Commission shall take into account the size and scope of the proposed operation, current prevailing cost of rehabilitating the premises upon default of the operator, estimated expenses to compel operator to comply by Court Decree and such other factors and conditions as might be relevant in determining the sum reasonable in the light of all facts and circumstances surrounding each application.
- E. Bond Release.** Upon completion of the alterations, modifications or changes in the time set by the Planning Commission and in condition satisfactory to the Planning Commission and if all other requirements of the Ordinance are met where applicable, the bond shall be canceled and the applicant given a certificate of completion. If the work is not completed in the time specified by the Planning Commission, the surety on the bond shall perform the work of rehabilitating the land in the conditions prescribed by the Planning Commission.
- F. Disposition of application.** After the Planning Commission has reviewed all information submitted by the applicant, the recommendations and input of the planning commission and public, and any other information that the Planning Commission may deem necessary, it shall determine whether or not all requirements of this Article have been met and if there is probable cause to believe that the applicant can perform in strict accordance with the provisions and conditions of this Article and the application. Only after such time as the Planning Commission has found in favor of the application and its conditions shall approval be granted.
- G. Right of Inspection.** The application shall include a statement that an engineer hired by the Township shall have the right to inspect the development site at any reasonable time or frequency (during both the development and operational periods) with fees to be paid by the applicant in such amount as established by resolution of the Planning Commission.
- H. Other approvals.** Written approval and/or recommendation of the proposed project from the U.S. Department of Agriculture, Soil Conservation Service, Michigan Department of Natural Resources, as well as the Leelanau County Road Commission, which shall indicate approval not only of the method to be employed for extraction and/or relocation, but also of finished product, grades and slopes, and recommended ground cover and permanent plantings.

**SECTION 20.5 SITE DEVELOPMENT AND OPERATION** - Site development requirements for sand or gravel pits, quarries, lakes, waterways, etc., are as follows:

- A. Fencing.** All permitted installations shall be enclosed by a fence six feet or more in height for the entire periphery of the development. Fences shall be adequate to prevent trespass and shall be placed no closer than 50 feet to the edge of any excavation or slope.
- B. Rehabilitation.** All areas within any single development shall be rehabilitated progressively, as they are worked out or abandoned, to a condition of being entirely lacking of hazards, inconspicuous, and blended with the general surrounding ground form so as to appear reasonably natural, conforming with the character of the underlying district.
- C. Maintenance.** All installations shall be maintained in a neat, orderly condition so as to prevent the creation of a health hazard and to prevent injury to any single property and/or individual, or to the Township in general.

**SECTION 20.6 PERFORMANCE STANDARDS** - In carrying on of any alteration, modifications or changes in geographical or geological structures or the creation or alteration of waterways, canals, etc., for either immediate use or for removal to other places, the performance standards for sound, vibration, etc., shall be complied with as set forth in the following:

- A. Sound.** The intensity level of sound shall not exceed the following decibel levels when adjacent to the following types of uses:
1. Residential, 75 dBA measured at the common lot line
  2. Commercial, 85 dBA measured at the common lot line
  3. Industrial, 95 dBA measured at the common lot line and other (i.e. Ag.)

The sound levels shall be measured with a type of audio output meter approved by the National Institute of Science and Technology. Objectionable noises due to intermittence, beat, frequency, shrillness, shall be muffled so as not to become a nuisance to adjacent uses.

- B. Vibrations.** All machinery shall be so mounted and operated as to prevent transmission of ground vibration exceeding a displacement of .003 inches measured at any lot line of its source.
- C. Odors.** The emission of noxious, odorous matter in such quantities as to be readily detectable at any point along lot lines, when diluted in the ratio of one volume of odorous air to four volumes of clean air, or as to produce a public nuisance or hazard beyond lot lines, is prohibited.
- D. Gases.** The escape of or emission of any gas which is injurious or destructive or explosive shall be unlawful and may be summarily caused to be abated.
- E. Any operation producing intensive glare** or heat shall be performed within an enclosure so as to completely obscure and shield such operation from direct view from any point along the lot line, except during the period of construction of the facilities to be used and occupied.
- F. Light.** Exterior lighting shall be so installed that the surface of the source of light shall not be visible from any bedroom window, and shall be so arranged as far as practical to reflect light away from any residential use, and in no case shall more than one foot candle power of light cross a lot line five feet above the ground in areas of residential use.
- G. Electromagnetic radiation.** Applicable rules and regulations of the Federal Communication Commission in regards to propagation of electromagnetic radiation are hereby made a part of this Article, and shall be on file in the Township Office.
- H. Drifted and blown material.** The drifting or air-borne transmission beyond the lot line of dust, particles, or debris from any open stockpile shall be unlawful and may be summarily caused to be abated. The recommendations of the U.S. Dept. of Agriculture, Soil Conservation Service, shall be taken into consideration, and if appropriate, may be incorporated as a provision of the Special Land Use granted herein, so as to reduce the hazard of uncontrolled erosion and transmission of dust, particles, or debris.
- I. Radioactive materials.** Radioactive materials shall not be emitted to exceed quantities established as safe by the National Institute of Science and Technology, as amended from time to time.

Amendment History

Reformatted and adopted by Board 10/12/04, Ord 23 of 2004; Pub. 10/21/04; Eff. 10/29/04

Amended 04/10/07, Ord 3 of 2007; Pub 04/19/07; Eff. 04/27/07

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## **ARTICLE 21 CONDITIONAL REZONING**

### **SECTION 21.1 INTENT**

It is recognized that there are certain instances where it would be in the best interests of the Township, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed by property owners as part of a request for a rezoning. It is the intent of this Section to provide a process consistent with the provisions of the PA 110 of 2006, as amended, by which an owner seeking a rezoning may voluntarily propose conditions or limitations regarding the use and/or development of land as part of the rezoning request.

### **SECTION 21.2 APPLICATION AND OFFER OF CONDITIONS**

- A. An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process.
- B. The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this Section.
- C. The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.
- D. Any use or development proposed as part of an offer of conditions that would require a special land use permit under the terms of this Ordinance may only be commenced if a special land use permit for such use or development is ultimately granted in accordance with the provisions of this Ordinance.
- E. Any use or development proposed as part of an offer of conditions that would require a variance under the terms of this Ordinance may only be commenced if a variance for such use or development is ultimately granted in accordance with the provisions of this Ordinance.
- F. Any use or development proposed as part of an offer of conditions that would require site plan approval under the terms of this Ordinance may only be commenced if site plan approval for such use or development is ultimately granted in accordance with the provisions of this Ordinance.
- G. The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action of the Township Board provided that, if such withdrawal occurs subsequent to the Planning Commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the Planning Commission for a new public hearing with appropriate notice and a new recommendation.
- H. The Township may not consider an offer of conditions for property subject to a decree of a court of competent jurisdiction unless such authorization is expressly permitted by such court decree.

### **SECTION 21.3 PLANNING COMMISSION REVIEW**

The Planning Commission, after a public hearing and based on its written findings of fact, and in consideration of the factors for rezoning set forth in Article 10 of this Ordinance, may recommend approval, approval with recommended changes or denial of the rezoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner.

## **SECTION 21.4 TOWNSHIP BOARD REVIEW**

Following its public hearing, the Planning Commission shall transmit to the Leelanau County Planning Commission for review and recommendation, and ultimately the Leelanau Township Board: a summary of the comments received at the public hearing; its finding of fact and supporting materials; its recommendation on the proposed change to a zone classification or zoning district boundary for one or more properties upon the zoning districts map; and its recommendation on any offer of conditions. After receipt of the Planning Commission's recommendations, the Township Board shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request. The Township Board's deliberations shall include, but not be limited to, a consideration of the factors for rezoning set forth in Article 10 of this Ordinance. Should the Township Board consider amendments to the proposed conditional rezoning advisable and if such contemplated amendments to the offer of conditions are acceptable to and thereafter offered by the owner, then the Township Board shall, in accordance with PA 110 of 2006, as amended, refer such amendments to the Planning Commission for a report thereon within a time specified by the Township Board and proceed thereafter in accordance with said statute to deny or approve the conditional rezoning with or without amendments.

## **SECTION 21.4 APPROVAL**

- A. If the Township Board finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written Statement of Conditions acceptable to the owner and conforming in form to the provisions of this Section. The Statement of Conditions shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the Township Board to accomplish the requested rezoning.
- B. The Statement of Conditions shall:
  1. Be in a form recordable with the Leelanau County Register of Deeds or, in the alternative, be accompanied by a recordable Affidavit or Memorandum prepared and signed by the owner giving notice of the Statement of Conditions in a manner acceptable to the Township Board.
  2. Contain a legal description of the land to which it pertains.
  3. Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding upon successor owners of the land.
  4. Incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the Statement of Conditions. If any such documents are incorporated by reference, the reference shall specify where the document may be examined.
  5. Contain a statement acknowledging that the Statement of Conditions or an Affidavit or Memorandum giving notice thereof shall be recorded by the applicant with the Leelanau County Register of Deeds.
  6. Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the Statement of Conditions.
- C. Upon the rezoning taking effect, the Zoning Map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a Statement of Conditions. The Zoning Administrator shall file a copy of the Statement of Conditions in the corresponding permanent property file.
- D. The approved Statement of Conditions or an Affidavit or Memorandum giving notice thereof shall be filed by the applicant with the Leelanau County Register of Deeds. The Township Board shall have authority to waive this requirement if it determines that, given the nature of the conditions and/or the

time frame within which the conditions are to be satisfied, the recording of such a document would be of no material benefit to the Township or to any subsequent owner of the land.

- E. Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all of the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the Statement of Conditions.

#### **SECTION 21.6 COMPLIANCE WITH CONDITIONS**

- A. Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the Statement of Conditions. Any failure to comply with a condition contained within the Statement of Conditions shall constitute a violation of this Zoning Ordinance and be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law.
- B. No permit or approval shall be granted under this Ordinance for any use or development that is contrary to an applicable Statement of Conditions.

#### **SECTION 21.7 TIME PERIOD FOR ESTABLISHING DEVELOPMENT OR USE**

Unless another time period is specified in the Ordinance rezoning the subject land, the approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within 18 months after the rezoning took effect and thereafter proceed diligently to completion. This time limitation may upon written request be extended by the Township Board if:

- A. It is demonstrated to the Township Board's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion, and
- B. The Township Board finds that there has not been a change in circumstances that would render the current zoning with Statement of Conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.

#### **SECTION 21.8 REVERSION OF ZONING**

If an approved development and/or use of the rezoned land does not occur within the time frame specified under Section 21.7 above, then the land shall revert to its former zoning classification. The reversion process shall be initiated by the Township Board requesting that the Planning Commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applies to all other rezoning requests.

#### **SECTION 21.9 SUBSEQUENT REZONING OF LAND**

When land that is rezoned with a Statement of Conditions is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no Statement of Conditions, whether as a result of a reversion of zoning pursuant to Section 21.8 above or otherwise, the Statement of Conditions imposed under the former zoning classification shall cease to be in effect. Upon the owner's written request, the Zoning Administrator, at the owner's expense, shall record with the Leelanau County Register of Deeds that the Statement of Conditions is no longer in effect.

**SECTION 21.10 AMENDMENT OF CONDITIONS**

- A. During the time period for commencement of an approved development or use specified pursuant to Section 21.7 above or during any extension thereof granted by the Township Board, the Township shall not add to or alter the conditions in the Statement of Conditions.
- B. The Statement of Conditions may be amended thereafter in the same manner as was prescribed for the original rezoning and Statement of Conditions.

**SECTION 21.11 TOWNSHIP RIGHT TO REZONE**

Nothing in the Statement of Conditions nor in the provisions of this Section shall be deemed to prohibit the Township from rezoning all or any portion of land that is subject to a Statement of Conditions to another zoning classification. Any rezoning shall be conducted in compliance with this Ordinance and the Michigan Zoning Enabling Act, PA 110 of 2006, as amended.

**SECTION 21.12 FAILURE TO OFFER CONDITIONS**

The Township shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this Ordinance.

Adopted by Board 08/10/10, Ord. 4 of 2010; Pub.08/19/10; Eff. 08/27/10